

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 25, 1982. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian Vice-Chairman; Gerald Hyland, John Yaremchuk, and Ann Day.

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The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. DONALD M. & MARY L. SIMPSON, appl. under Sect. 18-406 of the Ord. to allow carport to remain 4.5 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), located 7902 Penn Pl., Hollin Hall Subd., 102-2((2))(17)30, Mt. Vernon Dist., R-3, 12,105 sq. ft., V-81-V-146. (DEFERRED FROM 11/3/81 FOR PRESENTATION BY APPLICANT OR AFFIDAVIT AND FROM 11/24/81 TO ALLOW TIME FOR APPLICANT TO CORRECT VIOLATION NOTICE.)

The Chairman stated that the Board was in receipt of a memorandum dated May 25, 1982 regarding the application from Kathy Parkins, the Senior Zoning Inspector for that district. She made a site inspection on May 6, 1982 and it was verified that a seven foot side yard now exists between the carport on Mr. Simpsons' property and the Hohein property next door (7904 Penn Place, Alexandria). This relocation of the carport cleared the violations of the Zoning Ordinance.

Mr. DiGiulian made a motion that the application be dismissed. Mr. Yaremchuk seconded the motion. The motion passed by unanimous vote.

Page 1, May 25, 1982, Scheduled case of

10:10 A.M. SALVATORE & PONTIP GARGONE, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, with proposed lot 2 having width of 124.20 ft. (150 ft. min. lot width req. by Sect. 3-106), located 4811 Olley Ln., R-1, Annandale Dist., 69-4((1))10, 2.3 acres, V-82-A-044.

David Counts, the agent for the applicants, presented testimony regarding this variance application. He stated that this situation came about because of a building project he was involved in that consists of twenty lots. As a part of that development, he needed to obtain sanitary sewer easements from Mr. Gargone and another neighbor in the area. During negotiations with Mr. Gargone, they had decided that the best solution would be for Mr. Counts to buy half of this 2.3 acre parcel, the half that was needed for the easement. Mr. Counts stated that he was the contract purchaser at that time. He stated that the right-of-way for El James Street was taken from this parcel, and it was a rather unusual configuration because it was taken in an arc. He stated that the only other way to divide this property would be a pipestem lot with a driveway coming from Olley Lane, but Mr. Gargone was not in favor of that.

Two speakers spoke in opposition; Art Smith, 4729 Briarpatch Lane, and Gerry Lujan, 9260 El James Drive. They were concerned about the access to El James Drive because that access only had a fifty-six foot width at the curb. Also, that access was at the most dangerous section at El James Drive, right at the turn at the bottom of two hills. They stated that El James Drive was a frequently used commuter short-cut to Olley Lane and several accidents had already occurred.

During rebuttal, David Counts stated that to put an entrance onto Olley Lane would be a much more dangerous situation. He stated that he wanted to just build one house and it would not create a great amount of traffic. He stated that if this variance was not granted, he would attempt to get the property re-zoned and would build two pipestem lots.

There was no one else to speak in support or opposition to the application.

Page 1, May 25, 1982
SALVATOR & PONTIP GARGONE

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-A-044 by SALVATORE & PONTIP GARGONE under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, with proposed lot 2 having width of 124.20 feet (150 ft. min. width req. by Sect. 3-106), on property located at 4811 Olley Lane, tax map reference 69-4 ((1)) 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 May 25, 1982; 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 2.3 acres.
4. That the applicant's property is long and narrow at El James Drive where it does not meet the width requirements. There is reasonable use of the land; it is a two acre parcel and the Master Plan calls for R-1 and it exceeds that.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

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

Page 2, May 25, 1982, Scheduled case of

10:20 A.M. NARDETH W. & DORIS M. POOLEY, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 3.9 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 8703 Greystone Pl., Sedgewick Forest Subd., R-2, Mt. Vernon Dist., 110-2((8))(1)7, 22,965 sq. ft., V-82-V-047.

The first speaker, Nardeth Pooley, 8703 Greystone Place, presented his application. He stated that he needed a variance to build his garage because of the topographical problems his property has. The house is located on a hill, which makes it hazardous in the winter to walk from the driveway to the house. The back of the property is hilly and slopes toward the north. He stated that the south side of the house is where the proposed two-car garage would be located. He stated that he had owned the property since 1963.

There was no one to speak in support and no one to speak in opposition.

Page 2, May 25, 1982
NARDETH W. & DORIS M. POOLEY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-A-047 by NARDETH W. & DORIS POOLEY under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 3.9 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 8703 Greystone Lane, tax map reference 110-2 ((8)) (1) 7, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 25, 1982; 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 22,965 sq. ft.
4. That the applicant's property has exceptional topographic problems particularly on the side and the rear of the property where the grade is intense. There is an unusual condition in the location of the existing buildings which prevents the applicants from constructing a garage elsewhere.

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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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

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

Page 3, May 25, 1982, Scheduled case of:

10:30 A.M. JOYCE FORMAN, appl. under Sect. 18-401 of the Ord. to allow construction of addition to townhouse to 9.6 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 3-507), located 1619 Park Overlook Dr., Bentana Woods Subd., PRC, Centreville Dist., 18-1((5))(3)34, 2,109 sq. ft., V-82-C-048.

Joyce Forman, 1619 Park Overlook Drive, presented her application. She stated that she wanted to add a greenhouse addition to the rear of her townhouse. She stated that the rear of her property faced a strip of about twenty feet of open cluster space. Directly behind that was wooded parkland. There is a privacy fence separating the next door neighbor from the greenhouse. She stated that the Architectural Review Board had consulted the next door neighbor, Mr. Phillips, who is the only one affected by this addition. She stated that the east wall of the greenhouse facing the woods is glass. This addition would probably help with energy conservation in the house, since it heats itself with a passive solar collector.

There was no one to speak in support and no one to speak in opposition.

Page 3, May 25, 1982
JOYCE FORMAN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-C-048 by JOYCE FORMAN under Section 18-401 of the Zoning Ordinance to allow construction of addition to townhouse to 9.6 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 3-507), on property located at 1619 Park Overlook Drive, tax map reference 18-1((5))(3)34, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 25, 1982; 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 2,109 sq. ft.
4. That the applicant's property is townhouse property, 2,109 sq. ft. The property is narrow and has a wooded public park behind it and no houses.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 - 2 (Mr. Smith and Mr. Hyland).

Page 4, May 25, 1982, Scheduled case of:

10:40 A.M. PRINCE OF PEACE LUTHERN CHURCH, appl. under Sect. 6-303 of the Ord. for a nursery school, located 8304 Old Keene Mill Rd., PRC, Springfield Dist., 79-3(8)3, 3.998 acres, S-82-S-023.

Mary Ann Latelle, 6406 Wyngate Drive, the school director, presented the application. She stated that the Prince of Peace Church had operated a community child care program since 1969. The church currently has an enrollment of 150 children, about 100 children being there at any one time. There are two groups of children, one in the morning and one in the afternoon. She stated that they had been under Special Use Permit, but due to an oversight, it had expired in 1977.

There was no one to speak in support and no one to speak in opposition.

Page 4, May 25, 1982
PRINCE OF PEACE LUTHERN 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-82-S-023 by PRINCE OF PEACE LUTHERAN CHURCH under Section 6-303 of the Fairfax County Zoning Ordinance for a nursery school, located at 8304 Old Keene Mill Road, tax map reference 79-3 ((8)) 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 May 25, 1982; 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 PRC.
3. That the area of the lot is 3.998 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 PRC 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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

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approval of this Board. It shall be the duty of the Permittee to apply to this Board of 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 250 with a maximum of 175 at any one time.

8. The hours of operation shall be 8:30 A.M. to 3:30 P.M. Monday thru Friday from September thru May.

9. This permit is granted as a continuing use with no time limit.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 - 0.

Page 5, May 25, 1982, Scheduled case of:

11:00 A.M. PETER & JOAN OBERHOFF, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 15.0 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 1000 Spencer Rd., Saigon Subd., R-1, Dranesville Dist., 21-3((7))15, 35,754 sq. ft., V-82-D-049.

Peter Oberhoff, 1000 Spencer Road, presented his application. He stated that in the process of remodeling his home, he would like to add a two-car garage. The only practical place is to the north side of the house. The area in the back of the house has a storm drainage easement, and to the south side of the house is the septic field and septic tank. There are no objections from any of the neighbors that have been notified.

There was no one to speak in support and no one to speak in opposition.

Page 5, May 25, 1982
PETER & JOAN OBERHOFF

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-A-049 by PETER & JOAN OBERHOFF under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 15.0 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 1000 Spencer Road, tax map reference 21-3 ((7)) 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 May 25, 1982; 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 35,754 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings. It is not feasible to construct the garage on the south side of the home because of the septic tank and septic field.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 - 1 (Mr. Smith) (Mr. DiGiulian absent).

Page 6, May 25, 1982, Scheduled case of:

11:10 A.M. FREDERICK H. BOWEN, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to townhouse to 10 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-507 & 2-412), located 5466 Mersea Ct., PDH-3, Lake Braddock Subd., Annandale Dist., 78-2((8))74, 1,760 sq. ft., V-82-A-050.

Frederick Bowen, 5466 Mersea Court, presented his application. He stated that the deck would be a second story deck off of the main floor. To the immediate rear of his property is Community Association property with a 200 foot expansion of trees blocking the view of houses on the other side. He stated that the Community Association had received the plans for the deck and has granted their approval. He stated there was a letter of support from them in the file folder. He stated he had owned the property for nine years. His immediate neighbors built a similar deck, but his house was situated in such a manner that he didn't need to obtain a variance to build it.

There was no one to speak in support and no one to speak in opposition.

Page 6, May 25, 1982
FREDERICK H. BOWEN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-A-050 by FREDERICK H. BOWEN under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to townhouse to 10 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-507 & 2-412), on property located at 5466 Mersea Court, tax map reference 78-2 ((8)) 74, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 25, 1982; 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 PDH-3.
3. That the area of the lot is 1,760 sq. ft.
4. That the applicant has presented evidence indicating that to his left there are two property owners one of whom has a deck constructed and the second intends to construct a deck. The Board has received evidence that the applicant's property is located some 8 feet closer to the rear property line whereas the two townhouse located to his left have been placed in such a way that the decks have been added as a matter of right. To the rear of the property is an open area. The Board has received no objection from any abutting property owner, to the contrary, the Board has received testimony indicating support for the proposed construction of the deck addition, particularly by the closest neighbor. The applicant has complied with the requirements within the townhouse community and has processed his proposed addition through the Architectural Review Board and has receive approval for the proposal.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

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

Page 7, May 25, 1982, Scheduled case of:

11:15 A.M. WILLIAM A. JEWETT, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 3 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-207 & 10-105), located 1911 Kenbar Ct., R-2, Dranesville dist., 41-1((24))14, 21,937 sq. ft., V-82-D-038. (DEFERRED FROM 5/4/82 FOR NOTICES)

Timothy McGary, 6736 Old McLean Village Drive, an attorney, represented the applicant. He stated that Mr. Jewetts' lot was relatively narrow in relationship to the size of the house currently on the lot. The side yard that the garage will be built directly behind has only 20.9 ft. The lot itself has a drop-off just into the lot. To build the garage in any other location, it would have to be placed in the middle of the backyard. Currently the house has a one car garage attached to it. The contiguous neighbors to the right and left of the property have no objections to this addition. The lots across the back are shielded by a wooded area. Mr. McGary stated that the lot would be graded and the necessary arrangements would be made so that there would not be any water run-off from Mr. Jewetts' property that would form a pond effect on anyone else's lot.

There was no one to speak in support and no one to speak in opposition.

Page 7, May 25, 1982
WILLIAM A. JEWETT

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-D-038 by WILLIAM A. JEWETT, under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 3 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-207 & 10-105), on property located at 1911 Kenbar Court, tax map reference 41-1 ((24)) 14, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 25, 1982; 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 21,937 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property. The proposed location of the garage is the only feasible one for this lot as a hill behind the house precludes any construction in that position.

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

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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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

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

Page 8, May 25, 1982, Scheduled case of:

11:20 A.M. WILLIAM S. ERVIN, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 5 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 and 10-105), located 2867 Hill Rd., Oakcrest Subd., R-1, Providence Dist., 47-2((3))A1, 22,890 sq. ft., V-82-P-051.

William Ervin, 2867 Hill Road, Vienna, Virginia, presented his application. He stated that his lot was irregular in shape with converging lot lines. The lot is also substandard in area. The minimum lot area for an R-1 lot is 36,000 sq. ft. His lot was 22,890 sq. ft. The septic field on the lot prevents the location of any building anywhere else on the lot.

There was no one to speak in support and no one to speak in opposition.

Page 8, May 25, 1982
WILLIAM S. ERVIN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-P-051 by WILLIAM S. ERVIN, under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 5 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-105), on property located at 2867 Hill Road, tax map reference 47-2 ((3)) A1, 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 May 25, 1982; 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 22,890 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has converging lot lines. The property also has an unusual condition in the location of the existing buildings.

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

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

009

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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

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

Page 9, May 25, 1982, Scheduled case of:

11:30 A.M. DUANE W. BECKHORN, appl. under Sect. 18-401 of the Ord. to allow construction of a 9.6 ft. high shed on a side lot line (15 ft. min. side yard req. by Sects. 3-107 & 10-105), located 7411 Rebecca Dr., Hollin Hills Subd., R-2, Mt. Vernon Dist., 93-3((4))10, 25,066 sq. ft., V-82-V-060.

Bob Lawrence represented the applicant. He presented an architectural drawing showing the details of the shed to the Board Members. The adjoining property owners closest to the location of the shed had signed this drawing to show their concurrence with the design and the location of the shed. He stated that there was a large drainage easement on the northern portion of the property. The configuration of the property is irregular, and the rear portion of the property slopes away from the house to the property line making the shed location about the only reasonable place it could be located.

There was no one to speak in support and no one to speak in opposition.

Page 9, May 25, 1982
DUANE W. BECKHORN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-V-060 by DUANE W. BECKHORN, under Section 18-401 of the Zoning Ordinance to allow construction of a 9.6 ft. high shed on a side lot line (15 ft. min. side yard req. by Sects. 3-107 & 10-105), on property located at 7411 Rebecca Drive, tax map reference 93-3 ((4)) 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 25, 1982; 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 25,066 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow 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.

010

2. This variance shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 - 2 (Mr. Smith) (Mrs. Day).

Page 10, May 25, 1982, Scheduled case of:

11:45 A.M. RICHARD & MARIANNE BROWN, appl. under Sect. 18-401 of the Ord. to allow resubdivision of 2 lots into 4 lots with proposed lots 52A & 52C having width of 15 ft. and proposed lot 52 having width of 30 ft. (100 ft. min. lot width req. by Sects. 3-206), located 7019 & 7021 Woodland Dr., R-2, Annandale Dist., 80-1((4))52 & 52A, 2.14 acres, V-82-A-033. (DEFERRED FROM MAY 11, 1982 FOR VIEWING OF PROPERTY AND FOR DECISION ONLY)

Russel Rosenberger, 9401 Lee Highway, Fairfax, the attorney for the applicant, presented a short review for the Board Members at their request. He stated that there are two existing houses situated on the property. One of those houses is already right on the property line and would require a variance even if just considered by itself. The rationale and the basis for the hardship in regard to this property relates to the shape and the topography of the property. The parcels are long and narrow, and the existing houses which have been situated on the property for some period of time, were built in about the middle of the property. To place a pipestem drive on the property is almost impossible without substantially destroying the beauty of these houses and the trees which provide buffers for these houses. There are currently two driveways on the property now. Each driveway will be extended to serve two homes. Lot 52C backs up to adjoining open space and parkland.

In response to a question from Mr. Hyland, Mr. Rosenberger stated that this area could not be developed without a variance. Mr. Rosenberger stated that in terms of the Zoning that exists on the property, the existing use of the two homes does not recognize the density that would be permitted under the existing zoning of the property. The proposed lots would all be in conformance with the existing R-2 zoning of the property.

There was no one to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-A-033 by RICHARD & MARIANNE BROWN, under Section 18-401 of the Zoning Ordinance to allow resubdivision of 2 lots into 4 lots with proposed lots 52A & 52C having width of 15 ft. and proposed lot 52 having width of 30 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 7019 and 7021 Woodland Drive, tax map reference 80-1 ((4)) 52 & 52A, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 25, 1982; 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 2.14 acres.
4. The Board has received evidence from the applicant and also has received a staff report with several attachments. Based upon the evidence and facts produced, I do not find the requisite justification necessary to support the requested variance. From the evidence and the staff report received it is suggested that the proposed subdivision is unusual. Mr. Stroh's March 26, 1982 memorandum to the Board suggests that there are some environmental concerns with the property. Looking at the proposed plan it does appear to carve up the property in question. I find no hardship as required by the Ordinance to justify the application.

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

011

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.

Mrs Day seconded the motion.

The motion passed by a vote of 5 - 0.

Page 11, May 25, 1982, AFTER AGENDA ITEMS

The Board approved the minutes, as presented, for September 23, 1980 and September 30, 1980.

Page 11, May 25, 1982, AFTER AGENDA ITEMS

BY-LAWS REVISION: At the meeting of May 18, 1982, the Board amended their by-laws to include the increase to seven members. Mr. Hyland made a motion to effectively begin the use of the by-laws at such time as the two extra members are appointed. He indicated that the by-laws should be the subject of another review at that time by the complete Board to make any changes considered necessary. Mr. DiGiulian seconded the motion.

Page 11, May 25, 1982, AFTER AGENDA ITEMS

KING OF KINGS LUTHERAN CHURCH: The Board was in receipt of a request for minor engineering changes in the special use permit granted by the Board. They were in need of more parking than what was shown on the plat. Mr. Hyland made a motion to accept this as a minor engineering change. Mr. DiGiulian seconded the motion.

Page 11, May 25, 1982, AFTER AGENDA ITEMS

ST. MARK'S CHURCH, S-81-C-081: The Board was in receipt of a letter from John M. Harris requesting approval to construct the parking lot in phases and to relocate the building 10 ft. closer to the northern boundary line than what was originally approved. Mr. DiGiulian made a motion that the Board approve the reorientation of the building as a minor engineering change, approve the building of the parking lot in phases with a minimum of 250 parking spaces to be built with the initial phase, and approve the additional parking to be built at such time as needed. Mr. Yaremchuk seconded the motion. The motion passed by unanimous vote.

Page 11, May 25, 1982, AFTER AGENDA ITEMS

ST. LOUIS CATHOLIC CHURCH, S-82-V-005: The Board was in receipt of a letter asking the Board to approve the increase in length of a previously granted special use permit for a gymnasium as a minor engineering change.

The Chairman stated that it was his opinion that when a structure exceeds the size of the structure originally granted, another public hearing would have to be held. He stated that the Board had no authority to grant this as a minor engineering change.

Mr. Hyland made a motion that a ruling should be obtained from the County Attorney as to whether the Board has the authority. Mrs. Day seconded the motion. The vote was unanimous.

Page 11, May 25, 1982, AFTER AGENDA ITEMS

GREENSBORO ASSOCIATES, V-80-C-039: The Board was in receipt of a request from Martin D. Walsh, dated May 21, 1982, for renewal of the above-referenced variance application, which had expired on April 8, 1982. The request for an extension was denied, but Greensboro Associates was granted an out-of-turn hearing for July 20, 1982 at 10:00 A.M.

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

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on February 28, 1984

APPROVED: March 6, 1984
Date

Bank

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013

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 8, 1982. The following Board Members were present: John DiGiulian, Acting Chairman; John Yaremchuk; Gerald Hyland and Ann Day. (Mr. Daniel Smith was absent).

Chairman DiGiulian opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

Chairman DiGiulian called the scheduled 10 o'clock case of:

10:00 MARTIN EUGENE MORRIS, appl. under Sect. 3-E03 of the Ord. to permit a home
A.M. professional office for attorney at law, located 901 Walker Rd., R-E, Dranesville
Dist., 13-1((1))101, 5 acres, S-82-D-026.

Mr. Morris of 901 Walker Road, P. O. Box 559, Great Falls, Va., informed the Board that he was his own representative. He had been a lawyer since 1959 but was interrupted 15 years ago when he became a Fairfax County Judge. He stated that he had retired in 1980 from the bench and desired to have a sole practice. He stated that he had a word processor which eliminated the need for a secretary. He stated that he would be hooked in another system. Mr. Morris stated that because of the decrease of space and by not having a suite of offices, he would be saving energy and fuel. Mr. Morris stated that he had a large lot. The proposed use would not have any impact on Walker Road. He stated that the most clients he would have at any one time would be at settlements and then there would six people. Space was provided for seven cars. Mr. Morris stated that he did not anticipate more than seven cars. He indicated that his clients would cooperate with the hours and parking restrictions. The office entrance was at the rear of the home and could not be seen. The rear of the home was 2,000 ft. from the neighbors at the rear. Between his property and the neighbors to the rear were very thick white pines trees. To the south of his property was another stand of trees and no other house at present.

Mr. Morris informed the Board that he had a letter of support in the file. He was not aware of any opposition. Mr. Hyland noted that the file contained one letter of opposition from Mr. J. Martin Bailey. Mr. Morris stated that his office would be a very quiet use and not a commercial use. The office space would be completely apart from his home. The space occupied for the office was 566 sq. ft. There was an area 18x32 ft. for the office and an unfinished room for filing. Mr. Morris stated that there would not be any adverse effect to the area if the use was granted.

Mr. Yaremchuk inquired as to the proposed hours of operation. Mr. Morris stated that the hours would be 9 A.M. to 5 P.M., five days a week. Mr. Yaremchuk inquired if Mr. Morris anticipated any hours on Saturday. He suggested that the hours be 9 to 5, six days a week.

There was no one else to speak in support and no one to speak in opposition.

Page 13, June 8, 1983
MARTIN EUGENE MORRIS

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-82-D-026 by MARTIN EUGENE MORRIS under Section 3-E03 of the Fairfax County Zoning Ordinance to permit a home professional office for attorney at law, located at 901 Walker Road, tax map reference 13-1((1))101, 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 8, 1982; 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 zonig is R-E.
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,

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

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

014

R E S O L U T I O N

2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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. There shall be additional associates allowed as deemed necessary.

8. The hours of operation shall be 9:00 A.M. to 5:00 P.M., six days a week.

Mr. Hyland seconded the motion.

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

Page 14, June 8, 1982, Scheduled case of

10:15 A.M. LINDA ANNE DELMONTE, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage, 16 ft. 2 in. high, 4 ft. from a side lot line and 10 ft. from the rear lot line (12 ft. min. side yard and 16'2" min. rear yard req. by Sects. 3-307 & 10-105), located 8103 Bullock Ln., R-3, Annandale Dist., 70-4((18))(5)16, 11,616 sq. ft., V-82-A-043.

Ms. Linda Anne Delmonte of 8103 Bullock Lane informed the Board that the reason she was requesting to place the garage 10 ft. off of the side was that it would be impossible to swing into the garage which would be useless and destroy the entire back yard. If the garage were built in accordance with the setback requirements, she would not be able to have a garden nor would there be space for the children to play. In addition, it would not help the resale value of the home either.

Chairman DiGiulian questioned whether Ms. Delmonte would have a hard time turning into the garage if it was built to the line. Ms. Delmonte stated that she would. She informed the Board that she was not aware of any opposition and she had talked to all of her neighbors. She stated that she did not have a basement or an attic. Ms. Delmonte had three children. The garage would be used for her car, Christmas decorations and other storage. Mr. Hyland stated that there was an existing carport but Ms. Delmonte stated there was not any storage space there either. Mr. Hyland questioned the length of the proposed garage as it was 32 ft. He asked what purpose it would serve. Ms. Delmonte stated that she wanted to build a rec room for the children to play in. She planned to make the carport a family room. She stated that she could use the carport for that purpose if she had some place else to put the garage.

There was no one else to speak in support and no one to speak in opposition.

Page 14, June 8, 1982
LINDA ANNE DELMONTE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-A-043 by LINDA ANN DELMONTE under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage, 16.2 ft. high, 4 ft. from a side lot line and 10 ft. from the rear lot line (12 ft. min. side yard and 16.2 ft. rear yard required by Sects. 3-307 & 10-105), on property located at 8103 Bullock Lane, tax map reference 70-4((18))(5)16, 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 8, 1982; and

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

15

R E S O L U T I O N

015

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 11,616 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property which prevents the garage being located elsewhere. The lot is unusually configured because of converging lot lines and the Board has not received any testimony indicating any opposition.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

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

Page 15, June 8, 1982, Scheduled case of

10:30 A.M. PATRICK SINGLETARY, appl. under Sect. 18-401 of the Ord. to allow resubdivision into 2 lots with proposed lot 2B having width of 12 ft. (100 ft. min. lot width req. by Sect. 3-206), located 4031 Guinea Rd., R-2, Annandale Dist., 58-4((7))7E2, 41,474 sq. ft., V-82-A-052. (THIS APPLICATION WAS ADMINISTRATIVELY WITHDRAWN AS IT DID NOT MEET DENSITY REQUIREMENTS).

The Board was informed that the variance application of Patrick Singletary had been administratively withdrawn as it did not meet density requirements.

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Page 15, June 8, 1982, Scheduled case of

10:40 A.M. PORTER E. WARD, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport to garage 10.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1702 Clovelly Ct., Wexford East Subd., R-3, Centreville Dist., 28-4((23))11, 15,791 sq. ft., V-82-C-053.

Mrs. Ward of 1702 Clovelly Court informed the Board that they appreciated the need for the Ordinance as the dwellings should not be too close together. However, they wished to enclose their carport which was 10.1 ft. from the side lot line. She stated that the lot was irregularly shaped. Not all of the proposed garage would be less than 12 ft. from the property line. The garage would house their vehicles and shelter the odds and ends of the house. The enclosure of the carport would make the structure more attractive. Mrs. Ward informed the Board that her house was the only one with a carport at the present time. The garage would be built in accordance with the building code and would match the rest of the house. Since the carport was already 10.1 ft. from the side lot line, enclosing it would not detract or take away from the current side yard. She was unaware of any opposition.

There was no one else to speak in support and no one to speak in opposition.

Page 15, June 8, 1982
PORTER E. WARD

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-C-053 by PORTER E. WARD under Section 18-401 of the Zoning Ordinance to allow enclosure of carport to garage 10.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 1702 tax map reference 28-4((23))11, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

16

R E S O L U T I O N

016

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 8, 1982; 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 15,791 sq. ft.
4. That the applicant's property is exceptionally irregular in shape with converging lot lines and has an unusual condition in the location of several storm sewer easements on the property which makes it unfeasible to build elsewhere on the 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

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

Page 16, June 8, 1982, After Agenda Items

Approval of Minutes: The Board was in receipt of Minutes for October 7, 1980 and October 21, 1980. Mr. Hyland moved that the Minutes be approved. Mrs. Day seconded the motion and it passed by a vote of 4 to 0 (Mr. Smith being absent).

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Page 16, June 8, 1982, After Agenda Items

Scheduling of Special BZA Hearing Dates: The Clerk informed the Board that it was necessary to hold special meetings during the months of July and August in order to accommodate incoming applications within 60 days of the filing date. All applications received by July 13th had to be heard before the summer recess. Therefore, the Clerk reserved special meeting dates of Thursday, July 15, 1982; Thursday, July 22, 1982; Thursday, July 29, 1982 and Thursday, August 5, 1982. It was the consensus of the Board to schedule all of the special meetings in July and August. Mr. Hyland informed the Clerk that he would be absent the last two weeks in July due to military reserve duty.

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Page 16, June 8, 1982, Scheduled case of

10:50 A.M. JUBE B. SHIVER, SR., appl. under Sect. 18-401 of the Ord. to allow subdivision into 5 lots with proposed lots 2, 3 & 4 each having width of 10 ft. (80 ft. min. lot width req. by Sect. 3-306), located 8116 Holland Rd., R-3, Mt. Vernon Dist., 102-1((1))21 & 21B, 84,938 sq. ft., V-82-V-054.

The Board was informed of a discrepancy in the notice requirements. After an explanation by the applicant and the Clerk, Mr. Yaremchuk moved that the notices be accepted. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Mr. Smith being absent).

Mr. Jube Shiver informed the Board that he did not have anything new to add since his hearing on January 12, 1982. He stated that he had submitted amended plats at the last hearing but the advertisement did not reflect the changes in the plat. Therefore, he was going through the procedure to have a five lot subdivision approved by the BZA in lieu of the approval for a four lot subdivision. He stated that he had a piece of land which was irregular in shape

but contained approximately two acres. The zoning allowed 3 to 5 lots per acre. Mr. Shiver stated that the only way he could use the land to its best was to subdivide it into the five lots. Mr. Shiver stated that the Gum Springs Plan had requested that the land remain in single family dwellings!

Mr. Yaremchuk reviewed the new plats. He inquired if by putting the street in whether there would be any land left. Mr. Shiver stated there would not be enough land if he had to build a street. Mr. Yaremchuk inquired as to who would maintain the access road. Mr. Shiver stated that the owners would have to maintain it. Mr. Yaremchuk stated that Mr. Shiver was going to have to let the property owners know that it was their responsibility to maintain the drive. He stated that it would have to be recorded on the plat.

There was no one else to speak in support. Mr. Sonny B. Williams of 8128 Holland Road in Alexandria questioned the Board regarding the variance. He was concerned about the 10 ft. pipestem and whether it would change his property. Mr. Williams stated that he owned lot 17. There was a question over the boundary lines according to Mr. Williams. Mr. Shiver stated that he was unaware there was any question over the boundary lines. There was no one else to speak in opposition. Mr. Shiver did not present any rebuttal.

R E S O L U T I O N

In Application No. V-82-V-054 by JUBE B. SHIVER, SR. under Section 18-401 of the Zoning Ordinance to allow subdivision into 5 lots with proposed lots 2, 3 & 4 each having width of 10 ft. (80 ft. min. lot width req. by Sect. 3-306) on property located at 8116 Holland Road, tax map reference 102-1((1))21 & 21B, 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 8, 1982; 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 84,938 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including long and narrow and if a dedicated street were constructed, the applicant would lose all the lots. The proposed subdivision is in conformance with the R-3 zoning district requirements.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

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

Page 17, June 8, 1982, Scheduled case of

11:00 A.M. EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH, appl. under Sect. 3-203 of the Ord. to amend S-81-P-012 for church and related facilities to permit construction of new rectory replacing the existing one, located 3410 Woodburn Rd., R-2, Providence Dist., 59-1((1))21, 4.7809 acres, S-82-P-027.

Mr. Sheridan, an architect, represented the church. He stated that they were proposing to build a new rectory to the left of the old one. Mr. Sheridan was unaware of any opposition.

17
017

There were not any questions from the Board. There was no one else to speak in support and no one to speak in opposition.

018

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-P-027 by EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-81-P-012 for church and related facilities to permit construction of new rectory replacing the existing one located at 3410 Woodburn Road, tax map reference 59-1((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 June 8, 1982; 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-2.
3. That the area of the lot is 4.7809 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 special permit is subject all other conditions of S-81-P-012.

Mr. Yaremchuk seconded the motion.

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

Flint Hill Driving Range: The Board was in receipt of a request from Mr. J. Morgan Tiller for an out-of-turn hearing on the special permit application for the Flint Hill Driving Range. It was the consensus of the Board to grant the request and schedule the hearing for July 13, 1982 at 12:15 P.M.

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Larry Blose, V-80-P-216: The Board was in receipt of a letter from Mr. Larry Blose requesting an extension of the variance granded on January 6, 1981. Mr. Hyland moved that the Board approve a six month extension. Mrs. Day seconded the motion and it passed by a vote of 4 to 0 (Mr. Smith being absent).

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11:15 RONALD D. SILVERMAN, appl. under Sect. 18-401 of the Ord. to allow construction of A.M. garage addition to dwelling to 2 ft. from edge of flood plan (15 ft. min. distance from edge of flood plan req. by Sect. 2-415), located 8207 Woodland Ave., Mill Creek Park Subd., R-2, Mason Dist., 59-4((2))62A, 20,813 sq. ft., V-82-M-055.

Mr. Carl Kohler of Kohler Associates in Vienna represented Mr. Silverman. The Silvermans were requesting a variance of a distance to 2 ft. to build a garage and a basement 2 ft. from the floodplain line. The Silvermans needed more bedrooms. There was a 100 year floodplain line occupying the property. The 15 ft. restriction made it impossible to accommodate any decent addition to the house other than where Mr. Kohler had shown it. Mr. Kohler informed the Board that the 100 year floodplain limit was an estimated line. During the past 20 years, the site had never been flooded. Mr. Kohler stated that he lived next door and had designed the house. He informed the Board that he had lived at the location since 1959. He was still residing next door in 1977 when the line was established. It was not done through any scientific methods. Mr. Kohler stated that the floor line of the addition was above the grade line and the floodplain line. The addition complied with all other requirements of the zone.

Mrs. Day inquired about the type of footings for the addition. Mr. Kohler stated that the addition had normal footings. It was good firm soil.

There was no one else to speak in support and no one to speak in opposition.

Page 19, June 8, 1982 Board of Zoning Appeals
RONALD D. SILVERMAN

R E S O L U T I O N

In Application No. V-82-M-055 by RONALD D. SILVERMAN under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 2 ft. from edge of floodplain (15 ft. min. distance from edge of floodplain req. by Sect. 2-415) on property located at tax map reference 59-4((2))62A, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 8, 1982; 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 20,813 sq. ft.
4. That the applicant's property has exceptional topographic problems due to floodplain area and storm drainage easement which decreases the buildable area. Design Review has stated that they see no drainage problem as a result of the proposed construction being within 2 ft. of the edge of the 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

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RESOLUTION

Mr. Hyland seconded the motion.

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

Page 20, June 8, 1982, Recess

At 11:20 A.M., the Board recessed for a short break. The Board reconvened at 11:45 A.M. to continue with the scheduled agenda.

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Page 20, June 8, 1982, Scheduled case of

11:30 GREAT FALLS SWIM & TENNIS CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend
A.M. S-82-D-019 for community swim & tennis club to change hours of operation of tennis
courts from 7 A.M. - 9 P.M. to 7 A.M. - 10 P.M., located 761 Walker Rd., R-1,
Dranesville Dist., 13-1((1))27, 5.5244 acres, S-82-D-030.

Mr. Kurt Bradley represented the Great Falls Swim & Tennis Club. He informed the Board that the club had been in existence since 1970. Since 1973, the club had four lighted tennis courts. He stated that in seeking the 10 P.M. closing for tennis, the club was trying to provide for the interests of the club as well as the residents around the club. The club's interest in extending the hours was to allow the working members a reasonable time to use the tennis courts. Mr. Bradley stated that another point to consider was that if the hours were extended, the majority time of use would depend on the time of year. He stated that his third point for the extension was that there were a number of private clubs that had a 10 P.M. closing time for their lights. Majority of the private clubs were located in zoning districts that were denser than the R-1 zoning district. The County Park Authority operated its parks until 11 P.M. and they were located in residential areas. Mr. Bradley informed the BZA that the swim club was taking steps to minimize the impact on the neighbors. They had installed a timer and had investigated means to contain the glare on their own property. They had thought about shields but there were not any fixtures which would cut down on the glare.

Mr. Hyland inquired as to the reason for extending the time for one additional hour. Mr. Bradley stated that the club had a lot of working members. Mr. Bradley did not get himself until 7:30 P.M. The club members wanted the additional time to use the facilities without burdening the citizens. Mr. Hyland stated that Mr. Bradley had mentioned the County parks which were open until 11 P.M. He inquired if there were any close by. Mr. Bradley stated that the nearest County Park was six miles from the club. The nearest private club was Riverbend. Mr. Hyland inquired as to how late Riverbend operated and was informed 11 P.M. Mr. Bradley stated that he had tried to use the tennis courts at the park but they were busy. Mr. Hyland inquired if the county parks tennis courts which were lighted were in close proximity to citizens as was this situation. Mr. Bradley stated that it was hard to find any houses closer than the ones to their tennis club. He stated that the developer had fit the homes in like a glove. They were built right up against the club property. He stated that the tennis courts at Cooper Intermediate were very close to neighboring homes like the club's courts.

Mr. Hyland stated that there was a suggestion that the club had been utilizing the courts beyond the 9 P.M. closing time already. Mr. Bradley stated that had been in the past until the development came in. The club had been out in the country and had never received any complaints. It was not until the development came in that the club was made aware of the problem. Mr. Bradley stated the club was not made aware of any complaint until March 1982 and then they had tried to correct the problem with a timer.

There was no one else to speak in support. Mr. Warren Geesegan of 9805 Thunderhill Court spoke in opposition. He was against the extension of the lights. He explained to the Board that the lighting involved 30 high intensity lights on poles 25 ft. high. There were not any surrounding trees or any dense foliage of any height for shielding the lights from Thunderhill Court. A sizeable area was illuminated by the lights which Mr. Geesegan believed to be at odds with the residential area. Thunderhill Court did not have street lights. Some neighbors had stated that the lights shone into their homes which created a potential impact of saleability. It was true that the club had been existence before the houses were developed. Mr. Geesegan was aware of the facility but understood the hours would conclude at 9 P.M. He stated that earlier in the spring, the neighbors had called attention to the club that the lights were operated behind the 9 P.M. closing. The club had taken action to take care of it by installing a timer. Shortly thereafter, the neighbors became of the application to change the hours. He urged the Board to reject the application to extend the hours. Mr. Geesegan stated that for 14 years, the daily operation until 9 P.M. had been sufficient and he urged the Board to deny the request.

The next speaker in opposition was Harold Blevins of 9807 Thunderhill Court who also represented Mr. John Mahill of 9813 Thunderhill Court. Mr. Blevings was opposed to the lights. Mr. Yaremchuk inquired about the noise factor. Mr. Geesegan stated that there was not any noise problem. His main concern was the lights and the glare. Mr. Yaremchuk inquired if

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whether the approval was given to 10 P.M. if the citizens felt that the time would drag on even longer. Mr. Geesegan stated that he could not project whether the closing would be adhered to.

Mr. Hyland inquired as a point of information whether there was any restriction or control on the amount of light which existed whether or not the hours were extended. Mr. Yaremchuk stated that was a good point.

The next speaker in opposition was Sarah Freelind, a resident at 9809 Thunderhill Court. She presented the Board with a letter and photographs showing how close the lights were to the homes. She informed the Board that she was a realtor with Long & Foster and represented two of the builders there. She stated that the request to extend the hours of the tennis courts was opposed by the homeowners association. The lights were bright and shone into the homes in the court. Mr. Hyland inquired if the glare affected the homes across the court. Ms. Freelind stated that they did not shine into her windows as there was a house that blocked the lights for her house. However, the light was bright. She stated that she was opposed to the extension of hours and that Mr. Geesegan had covered most of the points. She informed the Board that lot 15 was recently sold who would be moving into the home soon. Another lot had also sold and that family would be moving in. They were all affected by the lights and would be affected by the extension of the hours. Mrs. Day inquired if Ms. Freelind heard the noise of the tennis playing. Ms. Freelind stated that the noise was not objectionable. Mr. Hyland inquired if the lights were contained in some manner whether the extension of the hours would still be objectionable. Ms. Freelind stated that she would have to see the plans to correct the lighting. The lights were very high and very bright and there were not enough trees. She did not know whether the situation could be corrected. Mr. Covington stated that no one had checked the site. Mr. Hyland inquired if the BZA had had another application within the last six months with a similar problem of the lights where the club had installed lights and then corrected the problem. Chairman DiGiulian stated that in 1973, the BZA had placed a condition no. 8 on the swim club that all loud noises and lights be confined to the site.

The next speaker in opposition was Bill Barber. He stated that it was impossible to contain the lights because they were so high. If there was proper screening, he stated that he would not have a problem with the lights until 10 P.M.

The next speaker in opposition was Tom Mitchell who owned lot 11 adjacent to the club property. He stated that his home was almost the closest of all the houses to the club facilities. He stated that he had just closed on the house but had not moved in yet. However, prior to signing the contract on the sale of the house, he had discussed what the County regulations were about the tennis courts. He had been told that the lights had to be off at 9 P.M. He was very much opposed to the extension of hours until 10 P.M. He stated that his rear corner of the house was only 75 ft. from the tennis courts. All of the other houses were about 100 to 125 ft. from the lights. If the lights caused the other neighbors problems, he was not looking forward to moving in. Mr. Mitchell stated that the County had permitted the developer to come in and build the homes. Despite what the club said, Mr. Mitchell could not fault the developer even though the swim & tennis club had been there for 12 years.

During rebuttal, Mr. Bradley stated that the club had put in a timer to correct any problems with the lights being on. The timer was locked and controlled. The club recognized that the lights had some off-property glare but there had not been a problem up until now as there was not anyone around them. There was a shield which could be placed on the lights but it would cost \$600 to do that. The club wanted to make sure that the improvements would meet the needs of the neighbors first. It would cost \$9,000 for new lights to reduce all glare. The club was prepared to take that step if necessary. Mr. Bradley stated that the club had been in existence for a long time. He stated that the people next to the courts had some responsibility in that they could block out the lights the few hours that the lights would be on.

Mr. Yaremchuk inquired as to the number of memberships in the club and was informed there were 400 families. Mr. Yaremchuk inquired as to what per centage of the 400 families requested the extra hour for the tennis courts. Mr. Bradley stated that at least half the club had requested it. The plan was initiated through the Board of Directors. There had not been a request from the members. Mr. Hyland inquired as to prior to the time of the development of the adjacent homes, how much were the tennis courts utilized. Mr. Bradley stated the courts were utilized several evenings per week. Mr. Hyland stated that did not seem too great a demand. He asked why the club wanted to extend the time until 10 P.M. Mr. Bradley stated that the club had added a fifth court. They had tennis matches that took place several nights a week.

Mr. Hyland stated that it appeared there were two problems involved in the application. One problem was the glare from the lights shining into the neighbors' homes no matter what hour. Mr. Hyland stated that he felt very strongly that the existing lighting should be examined by the County to determine whether the facility was complying with the conditions of the existing special permit. Secondly, if that problem was corrected, then Mr. Hyland stated that he would not have a problem with extending the hours until 10 P.M.

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Accordingly, Mr. Hyland moved that the Board defer the application until such time as the County inspector could look at the facility and determine whether it was in compliance. At that time, the situation would be reviewed and the Board would make a final decision.

Mr. Geesegain informed the Board that he had no problem with any noise. His only concern was the lights shining into the surrounding area. If the lights were contained to the courts, he stated that he would not have a problem with the extension of hours until 10 P.M. Others who had spoken in opposition indicated that they had young children and would prefer that the extension of hours until 10 P.M. be during the weekend and not during the week.

It was the consensus of the Board to defer the application until July 20, 1982 at 10:00 A.M. for the report from the County inspector on the lighting situation.

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Page 22, June 8, 1982, Scheduled case of

11:45 A.M. TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB, appl. under Sect. 3-103 of the Ord. to amend S-134-78 for community swimming & Tennis club to eliminate parking lot on 1 acre parcel and to permit operation of all existing facilities with existing 138 parking spaces, located 9117 Westerholme Way, R-1, Centreville Dist., 28-4((1))47 & 45A, 6.696 acres, S-82-C-025. (DEFERRED FROM MAY 18, 1982 TO GET MORE INFORMATION FROM DESIGN REVIEW AND THE COUNTY ATTORNEY, AND TO GIVE BOARD MEMBERS AN OPPORTUNITY TO VIEW THE PROPERTY.)

Mr. William Donnelly explained to the Board the progress made during the deferral and stated that there was a letter in the file regarding the feasibility of the construction of the access road and that the road could not be built without encroaching on the property line.

It was the consensus of the Board to defer the application until June 29, 1982 at 9:15 P.M.

// There being no further business, the Board adjourned at 12:35 P.M.

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

Submitted to the Board on February 25, 1984 Approved: March 6, 1984
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, June 15, 1982. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian Vice-Chairman; Gerald Hyland, John Yaremchuk, and Ann Day.

The Chairman opened the meeting at 10:25 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. ELEANOR C. THOMPSON, appl. under Sect. 78-401 of the Ord. to allow subdivision into 4 lots, 3 of which would have width of 6 ft. each (80 ft. min. lot width req. by Sect. 3-306), located 7537 Idylwood Rd., R-3, Providence Dist., 40-3(1)68, 7.3942 acres, V-82-P-056.

Eleanor C. Thompson, 7537 Idylwood Road, presented the application. She stated that the Board of Zoning Appeals had previously granted this variance, but that it had expired because of the difficulty in securing a sewer easement. She stated that her engineer, Charles Huntley, was in the process of trying to secure an easement from Mary Howell, who own the adjacent property. If that could not be accomplished, Mr. Huntley was going to try to go through the cemetery which is also an adjacent property. Mr. Hyland questioned whether or not they would be able to subdivide the property if the variance was granted, since they seemed to have so much difficulty in obtaining the sewer easement. Mrs. Thompson stated that they were doing as much as possible to accomplish this.

The next speaker, Gladys E. Lail, 4921 Seminary Road, Alexandria, Virginia, spoke in opposition. She stated that she was acting as Power of Attorney for Mrs. Elsie Ellmore of 100 Chenango Place, Binghamton, New York. Mrs. Ellmore did not desire a sewer run through the Cemetery which was the resting site of her deceased ancestors, parents and other relatives. Ms. Lail stated that the Cemetery was a part of the original plantation dating back to 1745 and many people were interred there since that time and there was a provision by a Will for any others of that line, for all time. She stated that the property was surveyed and fenced, and the private cemetery was protected by a Will.

Mrs. Thompson stated that her engineer was having problems getting Mrs. Howell to allow an easement through her property. She stated that there should be a way to sewer these lots without going through the cemetery. Mr. Yaremchuk stated that it was up to Mrs. Thompson and her engineer to find an alternative way to sewer this property, and it was not the responsibility of the County. He stated that if it couldn't be done, then she probably shouldn't even ask for a variance. Mr. Yaremchuk stated that the sewer problem should have been explored before trying to subdivide this property.

Mr. Yaremchuk made a motion to defer the application so the engineer could address the Board and show them whether or not it was feasible to sewer the property. Mr. DiGiulian seconded the motion. The variance application was deferred to September 14, 1982 at 10:00 A.M.

Page 23, June 15, 1982, Scheduled case of:

10:15 A.M. KNOLLWOOD BAPTIST CHURCH, appl. under Sect. 6-303 of the Ord. to amend S-133-77 for church and related facilities to permit classrooms addition to existing church building, located 10000 Coffey Woods Rd., Knollwood Subd., PRC, Springfield Dist., 78-3(1)40, 5.00162 acres, S-82-S-028.

Floyd Harris presented the application. He stated that the classrooms would be used for Sunday school, to alleviate overcrowding in the existing structure. The proposed 28' by 36' structure would be structurally and architecturally compatible with the existing structure. He stated that this is the only addition the church anticipated in the near future.

There was no one to speak in support and no one to speak in opposition.

Page 23, June 15, 1982
KNOLLWOOD 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-82-S-028 by KNOLLWOOD BAPTIST CHURCH under Section 6-303 of the Fairfax County Zoning Ordinance TO AMEND S-133-77 for church & related facilities to permit classrooms addition to existing church building, located at 1000 Coffey Woods Road, tax map reference 78-3 ((1)) 40, 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 15, 1982; 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 PRC.
3. That the area of the lot is 5.00162 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 PRC 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 of 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 shall be those of normal church hours.
8. There shall be 45 parking spaces.
9. All conditions set forth in S-133-77 shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0.

Page 24, June 15, 1982, Scheduled case of:

10:30 A.M. FOX MILL WOODS SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-81-C-093 for community recreation facilities to permit change in hours of operation for swimming pool to 8:00 A.M. - 9:00 P.M., located 2634 A Black Fir Ct., Fox Mill Woods Subd., R-2, Centreville Dist., 26-3((10))F2, 5.116 acres, S-82-C-029.

Richard Kotite, Mountain Laurel Place, Reston, Virginia, presented the application. He spoke on behalf of the Board of Directors of the Fox Mill Woods Swim Club and its 240 member-families. He stated that he wished to correct misinformation the Board had received from Mrs. Diana Cook of 2620 Black Fir Court. He stated that plans for the Club were begun in 1973 by three neighbors because there were no community recreation facilities in the area. No homes had yet been constructed when the site was chosen, therefore, the purchasers knew about the Club's location and drawings were available for review prior to placing a deposit on the homes. The Club designed the facility to minimize its impact on future neighbors by placing the tennis courts at the northern end of the site and the pool at the southern end, at least 400 feet from adjoining properties. He stated that it was considerably more expensive to do this, because of the soil conditions at the pool end of the site.

Mr. Kotite stated that policies were established for the Club which included: no permanent public address system, parking restrictions, no members may use radios within the pool enclosure without earphones, access to Club property is limited to the entry road and certain specified paths to deter people from cutting through yards, a lawn maintenance service is hired to service the entire area including one acre that directly borders three neighboring properties, and the Club only holds one annual after-hours event every year after obtaining County approval.

Mr. Kotite stated that the swim team had already been practicing at 8:00 A.M., and the Club was unaware they were in violation of their special use permit. He stated that the pool did not open to the general membership until 11:00 A.M. There are three Saturday morning Northern Virginia Swim League meets a year. It is a rule of that league that meets begin at 9:00 A.M. Mr. Kotite distributed copies of a petition in support signed by 22 of 26 property owners adjacent to the Club.

Kate James of 12205 Lake Drive and Beth Jordan of 2630 Black Fir Court spoke in support of the application. They stated they did not consider an organized activity a nuisance and supported the change in hours of operation.

The next speaker, Dan Maurer, 11905 Blue Spruce Road, spoke in opposition. He stated that this was a commercial activity operating in a residential zone and it should conform closer to the surrounding area. He stated that this club was intruding on the resident's peace and quiet. The club was operating in violation of its special permit, and Mr. Maurer suggested that the Board set the club operating hours starting at noon as punishment to balance the three previous years of violation. Mr. Maurer asked that the Board put some conditions on this permit which included a request that during morning practice no starting pistol could be used and that the visiting swim teams should refrain from honking their horns and yelling when they arrive.

During rebuttal, Mr. Kotite stated that members of the club and residents of the area supported the swim team. He stated that the swim team season is from June 22 to August 1 this year. Every year is different because of weather conditions. The starting gun is only used on Saturday and never during the week.

Mr. Hyland inquired if Mr. Kotite would find it an unreasonable restriction to limit the use of the facility to the swim team six days a week and the swimming instruction to others, adults or youngsters, during the hours of 8 A.M. until the normal opening time which is 11 A.M. Mr. Kotite stated that this would be a reasonable condition. Mr. Hyland stated that he did not see a need to include this restriction in his motion if the club agreed to follow it.

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-S-029 by FOX MILL WOODS SWIM CLUB, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-106-76 and S-81-C-093 for community recreation facilities to permit change in hours of operation for swimming pool to 8:00 A.M. - 9:00 P.M., located at 2634 A Black Fir Court, tax map reference 26-3 ((10)) F2, 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 15, 1982; 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-2.
3. That the area of the lot is 5.116 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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)

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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 of 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 provisions of special permit S--81-C-093 are applicable to this application.

8. The special condition #9 which is contained in S-106-77 as amended by S-81-C-093 is amended as follows. Whereas it now reads from 10:00 A.M. to 9:00 P.M., it shall read as follows. That the hours of operation for the pool shall be from 8:00 A.M. to 9:00 P.M. six days a week, Monday thru Saturday. Implicit in that is that the normal opening hours of the pool which is 11:00 A.M. would be applicable to Sunday.

9. During the hours of 8:00 A.M. to 11:00 A.M., six days a week, the use of the pool will be restricted to the following activities: 1) The swim team which will conduct its practice on those days and/or swim meets which normally occur on Saturdays; 2) The pool will be utilized for the purpose of giving swimming instruction to both youngsters and adults; 3) During the hours of 8:00 A.M. to 11:00 A.M. Monday thru Friday a starting gun will not be utilized in connection with the swimming team conducting its practices.

10. The period of operation of the pool shall be from May 1st to October 1st of each year.

Mr. DiGiulian seconded the motion.

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

Page 26, June 2, 1982, Scheduled case of:

10:40 A.M. REBECCA M. MOSELEY, appl. under Sect. 18-401 of the Ord. to enclose double carport for garage 5.8 ft. from side lot line such that total side yard would be 15.3 ft. (8 ft. min. & total of 20 ft. side yard req. by Sect. 3-307), located 8929 Bald Hill Pl., Signal Hill Subd., R-3(C), Annandale Dist., 78-2((14))186, 8,936 sq. ft., V-82-A-058.

Rebecca Moseley, the applicant, presented the application. She stated that she wanted to enclose her carport into a double car garage. She stated that her lot was irregular in shape with converging lot lines and a sloping rear yard. Also, the garage would protect her cars from vandalism. Most of the homes in the neighborhood were built with garages.

There was no one to speak in support and no one to speak in opposition.

Page 26, June 2, 1982
REBECCA M. MOSELEY

RESOLUTION

In Application No. V-82-A-058 by REBECCA MOSELEY under Section 18-401 of the Zoning Ordinance to enclose double carport for garage 5.8 ft. from side lot line such that total side yard would be 15.3 ft. (8 ft. min. & total of 20 ft. side yard req. by sect. 3-307), on property located at 8929 Bald Hill Place, tax map reference 78-2 ((14)) 186, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 15, 1982; 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 (Cluster).
3. That the area of the lot is 8,936 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and narrows to the rear of the property. It has exceptional topographic problems as the yard slopes to a narrow rear line. The proposed enclosure will encompass the existing area of the present carport thus it will not extend closer to the side lot line. The carport enclosure is located by the side lot line and not to the front yard or corner lot side. The enclosure will be a safety factor as it's been stated the applicant's small child fell off the carport due to a sharp drop in the rear yard.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

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

Page 27, June 2, 1982, Scheduled case of:

10:50 A.M. CAPT. GEORGE J. FENZL, JR., appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport to a garage 7.2 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7823 Anson Ct., West Spfd. Subd., R-3, Springfield Dist., 89-2((4))(8)15, 17,274 sq. ft., V-82-S-059.

Mrs. Roxanna Fenzl presented her application. She stated that she wanted to enclose her carport into a garage for security reasons and to protect her cars and maintenance equipment from the elements. Her house is located at a dead end road with woods and a stream behind it. She stated that the lot had a drainage easement and a converging lot line that reduced the buildable area.

There was no one to speak in support and no one to speak in opposition.

Page 27, June 15, 1982
CAPT. GEORGE J. FENZL, JR.

R E S O L U T I O N

In Application No. V-82-A-059 by CAPT. GEORGE J. FENZL, JR. under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to a garage 7.2 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 7823 Anson Court, tax map reference 89-2 ((4)) (8) 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 June 15, 1982; 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 17,274 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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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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

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

Page 28, June 15, 1982, Scheduled case of

11:00 A.M. JAG MOHAN SETHI, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling 10 ft. from side lot line such that total side yards would be 22 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located 15301 Misty Meadow Way, Pleasant Hill Subd., R-2(C), Springfield Dist., 53-4((5))77, 11047 sq. ft., V-82-S-061.

Jag Sethi presented his application. He stated that his property was located on a cul-de-sac and was unusually shaped. He stated that the lot had converging lot lines and the house was located at an angle which reduced the lot's buildable area.

There was no one to speak in support and no one to speak in opposition.

Page 28, June 15, 1982
JAG MOHAN SETHI

R E S O L U T I O N

In Application No. V-82-A-061 by JAG MOHAN SETHI under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling 10 ft. from side lot line such that total side yards would be 22 ft. (8 ft. min., 24 ft. total min side yard req. by Sect. 3-207), on property located at 15301 Misty Meadow Way, tax map reference 53-4 ((5)) 77, 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 15, 1982; 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 (Cluster).
3. That the area of the lot is 11,047 sq. ft.
4. That the applicant's property has converging lot lines. The house is located at an angle therefore reducing the buildable 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 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

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

Page 29, June 15, 1982, Scheduled case of:

11:10 A.M. MANHATTAN HOMES, INC., appl. under Sect. 18-406 of the Ord. to allow dwelling to remain 4.4 ft. from side lot line such that total side yards would be 43.7 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located 13906 Poplar Tree Rd., Brookfield Subd., R-2(C), Springfield Dist., 44-4((3))66, 11,200 sq. ft., V-82-S-062.

Charles Runyon, the agent for the applicant, presented the application. He stated that this lot backs up to a natural gas pipeline. He stated that when the grading plan was submitted, the house was turned and situated so that it would make a better appearance and have a better driveway approach. Also, the builders changed the style of houses, and used different configurations than what was originally planned. The builders also found it difficult to build on this lot because of the sanitary sewer easement on the front of the property. Mr. Runyon stated that somehow communications between the engineer and the builder had gotten mixed up, and he felt that this existing house fit into the category of an error. He stated that there were 160 lots in the subdivision, and that this one was the only one they had a problem with.

There was no one to speak in support and no one to speak in opposition.

Page 29, June 15, 1982
MANHATTAN HOMES, INC.

R E S O L U T I O N

In Application No. V-82-A-062 by MANHATTAN HOMES, INC. under Section 18-401 of the Zoning Ordinance to allow dwelling to remain 4.4 ft. from side lot line such that total side yards would be 43.7 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), on property located at 13906 Poplar Tree Road, tax map reference 44-4 ((3)) 66, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 15, 1982; and

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

- 1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.

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

- 1. 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.
- 2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonably hardship upon the owner.

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.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 - 0.

Page 29, June 15, 1982, Scheduled case of:

11:20 A.M. ROBERT N. MACGOVERN, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling 25.7 ft. from street line on corner lot (30 ft. min. front yard req. by Sect. 3-307), located 6529 Old Chesterbrook Rd., Broyhill Glen Gary Park Subd., R-3, Dranesville Dist., 30-4((34))2, 12,959 sq. ft., V-82-D-063.

Robert MacGovern, the application, presented his application. He stated that his property was a corner lot with a steep driveway leading to the house. He commented to the Board that this was a moderate variance request, and that the garage would be well screened.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. V-82-A-063 by ROBERT N. MACGOVERN under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling 25.7 ft. from street line on corner lot (30 ft. min. front yard req. by Sect. 3-307), on property located at 6529 Old Chesterbrook Road, tax map reference 30-4 ((34)) 2, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 15, 1982; 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 12,959 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings. Although he has a corner lot the proposed garage extended would be 25.7 ft. from the side lot line and that side on Dempsey would have another 10 ft. of grass before the street. At the side of the garage he would have trees that would screen it. Citing conditions these days the applicant has had an abnormal amount of vandalism due to the driveway being very steep and the cars running down to Old Chesterbrook 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 - 1 (Mr. Smith) (Mr. Hyland being absent).

Page 30, June 15, 1982, Scheduled case of

11:30 A.M. EDNA F. & ANNETTE C. ASHELY, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots, one having width of 170.05 ft. and the other 180.25 ft. (200 ft. min. lot width req. by Sect. 3-E07), located 8700 Old Dominion Dr., R-E, Dranesville Dist., 20-1((1))55, 218,513 sq. ft., V-82-D-064.

George Korte, 7101 Shreve Road, Falls Church, acted as the agent for the applicant and presented the application. He stated that the lot frontage was on Old Dominion Drive. The two proposed building sites would conform to the present zoning of R-E. The soil for the use of a septic field is only available at the front of the property. Any other configuration used to provide building site would be impractical. Mr. Korte stated that the lot was narrow, and there was a fifteen foot bank towards the front of the property. He stated that the two lots would share a common driveway.

There was no one to speak in support an no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-A-064 by EDNA F. & ANNETTE C. ASHELY under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, one having width of 170.05 ft. and the other 180.25 ft. (200 ft. min. lot width req. by Sect. 3-E07), on property located at 8700 Old Dominion Drive, tax map reference 20-1 ((1)) 55, 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 15, 1982; 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 218,513 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 - 1 (Mr. Smith) (Mr. Hyland being absent).

Page 31, June 15, 1982, Scheduled case of:

11:45 A.M. PROVIDENCE PRESBYTERIAN CHURCH, appl. under Sect. 3-103 of the Ord. to permit addition of parking lot to existing church and related facilities, located 9019 Little River TrnPk., R-1, Annandale Dist., 58-4((1))1, 5.65 acres, S-82-A-039.

Jim Forsberg, the agent for the applicant, presented the application. He stated that the original church was constructed in 1966 prior to the requirement for a special permit. The church would like to accommodate a much larger congregation, so they are asking for the addition of 77 parking spaces. The facility will have a total of 167 parking spaces if this application is granted. Mr. Forsberg stated that the church currently has a seating capacity of 260 seats.

There was no one to speak in support and no one to speak in opposition.

Page 31, June 15, 1982
PROVIDENCE PRESBYTERIAN CHURCH

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-82-S-039 by PROVIDENCE PRESBYTERIAN CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit addition of parking lot to existing church and related facilities, located at 9019 Little River Turnpike, tax map reference 58-4 ((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 June 15, 1982; 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. That the present zoning is R-1.
3. That the area of the lot is 5.65 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 PRC 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 of 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.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 0 (Mr. Hyland being absent).

Page 32, June 15, 1982, Scheduled case of:

12:00 NOON	TRIANGLE DEVELOPMENT COMPANY/BARRY M. CASS (contract/owner), appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 2.76 ft. from side lot line (6 ft. min. side yard req. by Sects. 3-307 & 2-412), located 3994 Briarbush Way, Briars of Westchester Subd., R-3, Providence Dist., 58-4((33))20A, 10,970 sq. ft., V-82-P-066.
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Rick Snyder of Triangle Development Company, presented the application. He stated that Triangle Development Company was the current owner of the house in question. Mr. Snyder stated that he was the builder and developer of the project. He stated that the lot was a corner lot with an irregular shape and a small rear yard. The side entry garage prohibits normal backyard activities, so a deck is being requested. A deck could be constructed, but the size would only be six feet. This deck would make the rear yard more usable.

In response to a question from Mrs. Day, Mr. Snyder stated that Mr. Itam was the owner of lot 21A, directly next door to the property in question. He had been contacted and had no objection to the proposed deck.

Mr. Snyder stated that this deck would be one floor above ground at the back. The view from the deck would be the side of Mr. Itams house on lot 21A. On the left of the house is a mature stand of trees, including pine and evergreen trees that are thirty to forty-five feet high.

There was no one to speak in support and no one to speak in opposition.

R E S O L U T I O N

033

In Application No. V-82-A-066 by TRIANGLE DEVELOPMENT COMPANY/BARRY M. CASS (contractor/owner) under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling 2.76 ft. from side lot line (6 ft. min. side yard req. by Sects. 3-307 & 2-412), on property located at 3994 Briarbush Way, tax map reference 58-4 ((33)) 20A, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 15, 1982; 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 10,970 sq. ft.
- 4. That the applicant's property is exceptionally irregular in shape and had an unusual condition in the location of the existing building on the subject property. The proposed deck would face the side of the house on lot 21. There are no windows on that side of the house of lot 21. It is the only feasible place to have a deck and it is a logical one. It's a two story house with sliding glass doors and this is for the most aesthetic reasons.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 - 1 (Mr. Smith) (Mr. Hyland being absent).

Page 33, June 15, 1982, AFTER AGENDA ITEMS

GERALD WALDMAN/V-80-A-125: The Board was in receipt of an extension request from Mr. Waldman regarding variance application V-80-A-125. He indicated that he was having problems installing sanitary sewer, and he was trying to coordinate this with the Board of Supervisors on an easement. It was the consensus of the Board to grant a six month extension. They indicated that this was the last extension they intended to grant on this variance application.

Page 33, June 15, 1982, AFTER AGENDA ITEMS

VICTOR & RUTH LAZAROWITZ: The Board was in receipt of a letter requesting an out-of-turn hearing for a variance application to build a greenhouse. It was the consensus of the Board to deny the request, because the hearing was currently scheduled for July 22, 1982.

Page 33, June 15, 1982, AFTER AGENDA ITEMS

MEADOWBROOK ASSOCIATES/S-306-78: The Board was in receipt of an extension request for the referenced special permit application. It was the consensus of the Board to grant a six month extension.

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034

YULCAN MATERIAL COMPANY S-202-77: Mr. Gilbert Knowlton, the Deputy Zoning Administrator, presented the quarry restoration plan for the quarry site. He wanted to present the Board with up-to-date information on the quarry. He stated that the quarry was now complete and they were no longer taking stone out of it. At the time of the special permit granting, the BZA had required a bond be posted on the property for a total of \$320,000. The owners would now like to get the bond released. Mr. Knowlton stated that at the time of the special permit granting, a restoration plan had been submitted showing how the project was to be left when it was completed. This plan could not now be followed in that exact form, and Mr. Knowlton wanted the Board approval of the revised restoration plan. He stated that the Water Authority would not comment specifically on the plans.

Mr. Knowlton stated that the Board had approved a restoration plan in 1972. There had to be some minor modifications to the plan because of some things that have happened over the last ten years. There was a landslide in the quarry which changed the contour of the land. Mr. Knowlton stated that he was not looking for an amendment to the plan. He was just looking for concurrence that the plan had not changed substantially. He stated that he was prepared to show the Board the five areas that had changed.

The Chairman, Daniel Smith, commented that he would like to have everyone involved present at one of the BZA meetings to have an extensive discussion on the subject. He also questioned as to whether the Board had the authority to release a bond. Mr. Smith suggested that a change in any any permit would require a public hearing and advertisement. He stated that if the County Attorney and Mr. Knowlton felt that this new plan met the general outline and criteria set forth in the original plan, then they had the right to release the bond.

The Board approved the minutes for October 28, 1980, as presented.

//There being no further business, the Board adjourned at 1:30 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on May 8, 1984

APPROVED: May 15, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 29, 1982. The following Board Members were present: Daniel Smith, Chairman; John Yaremchuk; Ann Day and Paul Hammack. (Messrs. DiGiulian, Hyland and Ribble were absent).

The Chairman opened the meeting at 8:00 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8 o'clock case of:

8:00 P.M. CENTER FOR EARLY LEARNING, INC., appl. under Sect. 3-103 of the Ord. to permit a nursery school in existing church, located 8922 Little River Turnpike, R-1, Mason Dist., 58-4((1))61, 3.835 acres, S-82-M-031.

Mr. Charles O'Brien of 8004 Pyracantha Court in Springfield represented the applicant. Chairman Smith advised Mr. O'Brien that there were only four Board members present. He explained that it would take a unanimous vote of the four members to grant the application. Chairman Smith explained that the Board had recently been expanded to seven members. Two members were out of town and one of the new members had not been sworn in yet. Mr. O'Brien asked to continue with the hearing. He stated that he believed the information he had presented to the Board in the application covered everything he had to say. The school was going to use an existing facility in the Bethlehem Lutheran Church. There were two sessions a day, two days a week on Tuesdays and Thursdays. The ages would be from 2 to 6 and 2 to 4. Mr. O'Brien informed the Board that the Director of the school was present at the hearing to answer any questions.

Chairman Smith inquired as to the lease agreement with the church. Mr. O'Brien explained that the school had to be a non-profit organization. They were applying for that status at the present time. In addition, the school had to pay a separate heating fee. Chairman Smith inquired as to the time span of the lease. Mr. O'Brien stated that the lease was for one year. There were six months to renegotiate each year.

Mr. Hammack stated that in the staff report, it mentioned that the church had housed another organization under a different special permit. It was the Central Fairfax Services group. Mr. Hammack asked what the size had been for that group. Mr. O'Brien stated that Central Fairfax Services had been removed from the church for some time. He stated that it was not a big operation. Chairman Smith stated that Central Fairfax Services moved to another location. It was a service for retarded adults, 18 years or older. Chairman Smith stated that it had worked out very successfully for a number of years and was now operating in another location. Mr. Hammack inquired if it was comparable in size to the present applicant. Chairman Smith stated that the maximum allowed was 30 - 35 people at any one time.

There was no one else to speak in support and no one to speak in opposition.

Page 35, June 29, 1983 Board of Zoning Appeals
CENTER FOR EARLY LEARNING, INC.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-82-M-031 by CENTER FOR EARLY LEARNING, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit a nursery school in existing church, located at 8922 Little River Turnpike, tax map reference 58-4((1))61, 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 29, 1982; 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 3.835 acres.
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 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 on the application and is not transferable to other land.

R E S O L U T I O N

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2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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 children shall be 55 per half-day session.

8. The hours of operation shall be Tuesdays and Thursdays from 9:15 A.M. to Noon and from 1:00 P.M. to 3:45 P.M. from September through June.

9. This special permit is granted to run concurrent with the lease with the Zoning Administrator empowered to grant annual extensions upon written request thirty (30) days prior to the expiration date along with presentation of renewed lease.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Hyland and Ribble being absent).

Page 36, June 29, 1982, After Agenda Items

Approval of Minutes: The Board was in receipt of Minutes for November 4, 1980; November 11, 1980 and November 18, 1980. Mrs. Day moved that the Minutes be approved. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0.

//

Page 36, June 29, 1982, Scheduled case of

8:15 P.M. DAISEY DAY CARE, INC., appl. under Sect. 3-103 of the Ord. to amend S-80-C-105 for child care center within church to change hours of operation from 7:30 A.M. - 6:30 P.M., to 7:00 A.M. - 6:30 P.M., located 12604 Lee-Jackson Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 acres, S-82-C-032.

Mrs. J. Meader of Majestic Lane and Charlotte Frye of Majestic Lane represented the day care center. Mrs. Frye explained to the Board that the center had done a survey of its users and determined that a lot of parents wanted to leave home at an earlier time. Several people had requested the 7:00 P.M. time. Mrs. Frye stated that the center served 25 children. There were six staff people. The change in hours would only affect the starting time. All other conditions would remain the same.

There was no one else to speak in support and no one to speak in opposition.

Page 36, June 29, 1982
DAISEY DAY CARE, INC.

Board of Zoning Appeals

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-C-032 by DAISEY DAY CARE, INC., under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-80-C-105 for child care center within church to change hours of operation from 7:30 A.M. to 6:30 P.M. to 7:00 A.M. to 6:30 P.M., located at 12604 Lee-Jackson Highway, tax map reference 45-2((1))28, 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 29, 1982; 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 2.49816 acres.
4. That compliance with the Site Plan Ordinance is required.

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R E S O L U T I O N

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 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 or Environmental Management.
7. The maximum number of children shall be 25.
8. The hours of operation shall be 7:00 A.M. to 6:30 P.M.
9. The number of parking spaces shall be 22.
10. There shall be six employees.
11. This special permit shall run concurrently with the lease and may be renewed annually upon written request to the Zoning Administrator at least thirty (30) days prior to the expiration date along with presentation of the new lease agreement.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Hyland and Ribble being absent).

Page 37, June 29, 1982, After Agenda Items

Orientation Meeting for New Board Members: The Chairman asked the Clerk to change the Orientation Meeting for the new Board Members from July 9, 1982 to July 12, 1982 at 10:30 A.M.

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Page 37, June 29, 1982, Scheduled case of

8:30 P.M. PARADISE CHILD'S HAVEN, INC., appl. under Sect. 3-403 of the Ord. to amend S-80-A-065 for child care center to permit addition of modular nursery building to existing facilities, increase max. number of children to 87, and change name of permittee, located 4616 Ravensworth Rd., R-4, Annandale Dist., 71-1((1))63, 41,282 sq. ft., S-82-A-021. (DEFERRED FROM MAY 11, 1982 FOR NOTICES.)

Mr. Larry Becker, an attorney, represented Paradise Child's Haven, Inc. Chairman Smith explained there were only four members present and that it would take a unanimous vote to affect an affirmative action. Mr. Becker elected to defer the hearing. It was the consensus of the Board to schedule the hearing for July 27, 1982 at 9:00 P.M.

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Page 37, June 29, 1982, Scheduled case of

8:45 P.M. GEORGE A. PARKER, appl. under Sect. 3-E03 of the Ord. to permit boarding stable and veterinary hospital, located 706 Utterback Store Rd., Clark's Branch Subd., R-E, Dranesville Dist., 7-3((1))5, 8.5823 ac., S-82-D-041.

The Board was in receipt of a letter from Mr. George Parker requesting a withdrawal of the application. Mr. Yaremchuk moved that the Board allow the withdrawal without prejudice. Mrs. Day seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hyland and Ribble being absent).

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Page 38, June 29, 1982, Scheduled case of

9:00 P.M. COMMITTEE FOR THE PRESERVATION OF FARMLANDS, appl. under Sect. 3-203 of the Ord. to permit open air produce stands once a week in church parking lot, located 1326 Calder Rd., Salona Village Subd., R-2, Dranesville Dist., 30-2((13))11, 12 & 13, 3.0 ac., S-82-D-040.

As there was not a full Board, the application was deferred until July 20, 1982 at 12:45 P.M.

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Page 38, June 29, 1982, Scheduled case of

9:15 P.M. TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB, appl. under Sect. 3-103 of the Ord. to amend S-134-78 for community swimming & tennis club to eliminate parking lot on 1 acre parcel and to permit operation of all existing facilities with existing 138 parking spaces, located 9117 Westerholme Way, R-1, Centreville Dist., 28-4((1))47 & 45A, 6.696 acres, S-82-C-025. (DEFERRED FROM 6/8/82 AT THE COUNTY ATTORNEY'S REQUEST).

As there was not a full Board, the application was deferred until July 15, 1982 at 12:45 P.M.

// There being no further business, the Board adjourned at 9:15 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 May 8, 1984

Approved: May 15, 1984
Date

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The Special Meeting of the Board of Zoning Appeals was held in the Third Floor Conference Room of the Fairfax Building on Monday, July 12, 1982. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack and John Ribble. (Messrs. DiGiulian and Yaremchuk were absent).

The meeting was opened at 10:30 A.M. Staff consisted of Mr. Philip G. Yates, Zoning Administrator; Ms. Jane C. Kelsey, Assistant to the Zoning Administrator; and Sandra L. Hicks, Clerk to the Board of Zoning Appeals.

The purpose of the special meeting was to hold an orientation session for the new Board members and to discuss procedural matters regarding the filing of applications, conflict of interest policy, organization of the Planning office, the role of the BZA, criteria for judging variance and special permit applications, and the quorum necessary to affect a vote on applications. The Board also discussed their by-laws and indicated that they should concur with the State Code.

The special meeting was adjourned at 1:15 P.M.

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

Submitted to the Board on June 1, 1984 Approved: June 5, 1984
 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, July 13, 1982. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland, John Yaremchuk, Ann Day, John Ribble and Paul Hammack. John DiGiulian was absent.

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

//Mr. Hyland made a motion that the Board go into executive session to receive legal advice concerning an issue that had come before the Board. Mrs. Day seconded the motion and it passed by unanimous vote.

//The Board returned from the executive session at 10:45 A.M. After welcoming the Zoning Administrator, Board of Zoning Appeals, and staff from Frederick County who were present at the meeting, the Board took up the scheduled 10 o'clock case of:

10:00 A.M. FRANCIS C. & MARGARET S. PALMER, appl. under Sect. 18-401 of the Ord. to allow continued keeping of two pet chickens on a lot of 13,900 sq. ft. (keeping of fowl on any lot less than two (2) acres in area not allowed by Sect. 2-512), located 7305 Carol Ln., Broyhill Park Subd1, R-4, Mason Dist., 60-1(118)24, 13,900 sq. ft., V-82-M-065.

The applicant, Margaret Palmer, presented her application. She stated that she had received a violation notice from Zoning Enforcement, but had filed a variance application under the hardship section. She stated that she was located on a corner lot with only one adjacent neighbor. The other side was bordered by Fairfax County Park Authority. The chickens had been on the property for over four years. Mrs. Palmer indicated to the Board that there were letters in the file in support of the chickens. She stated that they were not a detriment to the neighborhood, but were an asset.

Mr. Palmer stated that many children in the neighborhood came to see the chickens. The yard is fenced, therefore, the chickens could not get out and bother any neighbors. He stated that the chickens were bought at Eastertime many years before as pets, with no intention to violate the Zoning Ordinance. They were not there for any commercial use.

Ken Erickson of 7307 Carrol Lane, spoke in support of the application. He stated that he lived directly across the street from the property in question. He stated that he had lived there for more than three and a half years before he realized that his neighbors had chickens. He stated that the chickens caused no disturbance or odors of any kind.

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

Chairman Smith stated that this Board did not have the authority to grant a variance to this section of the Ordinance. He suggested that the applicants try to get the Ordinance changed through the Board of Supervisors.

Mr. Hammack made a motion to deny the application because he didn't feel that the Palmers had made a proper showing that they had a hardship. Mrs. Day seconded the motion. The motion failed by a vote of 3 - 4 (Messrs. DiGiulian, Hyland, Yaremchuk, and Ribble).

Mr. Hyland indicated that he was prepared to make a motion to grant this variance for a period of two years, which was the life span of the two chickens. He stated that the Board had received testimony that a substantial number of individuals had no objection to the keeping of chickens, and many people accepted them as pets. He thought there would be room within the current Ordinance to encompass chickens. Mr. Hyland stated that he wanted to save the motion for another time and moved that this matter be deferred to permit the applicant time to amend the variance request to include a request to vary the 100 setback requirement they couldn't meet. Mr. DiGiulian seconded the motion. The applicants were instructed to provide the Board with new plats showing the location of the cage where the chickens were housed, and to amend their application. The application was deferred to October 5, 1982 at 10:00 A.M.

Page 41, July 13, 1982, Scheduled case of:

10:10 A.M. NORMAN J. FINKEL, PH.D. & MARILYN J. ZALCMAN, M.S.W., ACSW, appl. under Sect. 3-203 of the Ord. for a home professional office (psychologist & social worker), located 6018 Balsam Dr., Chesterbrook Woods Subd., R-2, Dranesville Dist., 31-4(16)21, 19,601 sq. ft., S-82-D-033.

Edward Modell represented the applicants. He stated that one property owner had not been notified fifteen days in advance of the hearing, but that he had obtained a waiver from the property owner, Mr. Cabel Maddux. It was the consensus of the Board to accept the waiver and proceed with the hearing. The vote was 6 - 1 (Mr. Smith).

Norman Finkel stated that he was a full-time faculty member at Georgetown University as an associate professor of psychology. He stated that he had been doing therapy for fourteen years. Since 1980 he had been in a private practice part-time at his residence. Marilyn Zalcmann stated that her work experience included seven years at St. Louis State Hospital. In addition, she has been in private practice for nine years. She stated that she had the clinical and academic background needed for this type of operation.

Edward Modell stated that Ms. Zalczman had been using her home as an office since 1980. In 1980 it was brought to her attention that a special permit had to be obtained to continue the home office and she began the application process. Mr. Modell stated that the hours of operation for the special permit use would be 9:00 A.M. to 10:00 P.M., Monday thru Thursday. He estimated that there would be a maximum of forty clients per week, and no employees would be involved with the use. The area served would be the Washington Metropolitan area. He stated that the structure was the domicile of the principal practitioners and their family and that the premises would retain the appearance of a single family detached dwelling. Mr. Modell presented a copy of a six month traffic study summary done by Dr. Finkel and Ms. Zalczman. It indicated that the average number of cars per day would be 8.87 and the most cars on any given day would be 14. He stated that there would be group counselling on Tuesday and Thursday evenings. Mr. Modell gave two letters to the Board from neighbors in support of the application.

There was no one to speak in support of the application.

Frances O'Brien presented a letter to the Board for F. Anthony Maio, the President of the Chesterbrook Woods Citizens Association, for the purpose of expressing the Association's opposition to the application. The letter indicated that many members were concerned with the traffic and parking problems associated with the use. In his letter, Mr. Maio stated that this application was opposed by an overwhelming majority of homeowners in the immediate vicinity based on the results of petitions circulated in the area. He submitted a petition to the Board that had been circulated in the Chesterbrook Woods area showing that 273 people out of 285 people contacted had signed in opposition.

Other neighbors that spoke in opposition included Marilee Cole, Barbara Murphy and James Juncker. Their main concern was the traffic situation becoming worse, and the dangerous intersection the house was located on. Also, the neighborhood had many children and no sidewalks, and they were concerned with the safety of the children. The neighbors suggested to the Board that they deny the application, indicating that there were numerous suitable office buildings and office condominiums available in the central business district of McLean. The Board was in receipt of many letters and petitions urging them to deny the request, including a letter from Supervisor Nancy Falck.

During rebuttal, Mr. Modell stated that the application met the standards required by the Ordinance and that the comments in opposition were not accurate. He stated that the neighbors probably thought the applicants would be seeing disturbed people. He agreed that the house was located on a dangerous intersection, but didn't think this application would significantly change the amount of traffic in the neighborhood. He indicated that there were no other special permit uses anywhere in the neighborhood.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-82-D-033 by NORMAN J. FINKEL, PH. D. & MARILYN J. ZALCMAN, M.S.W., ACSW, under Section 3-203 of the Fairfax County Zoning Ordinance for a home professional office (psychologist & social worker), located at 6018 Balsam Drive, tax map reference 31-4 ((16) 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 July 13, 1982; 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-2.
3. That the area of the lot is 19,601 sq. ft.
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 not 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 DENIED.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 7 - 0.

Page 43, July 13, 1982, Scheduled case of:

10:30 A.M. RESTON LAND CORPORATION, appl. under Sect. 6-303 & 8-801 of the Ord. for subdivision sales and rental offices (model home park) for a period of 5 years, Reston, Sect. 31, PRC, Centreville Dist., 17-2((32))(6)1-7, 16; 17-2((32))(5)1-6; 11-4((3))(5)7-11; 11-4((3))(6)8-12; 17-2((32))(2)1-3, 10.2487 acres, S-82-C-034.

Ed Prichard represented Reston Land Corporation. He stated that Dick Bonar, who was in charge of design and engineering for Reston Land Corporation was also present. He stated that the applicant proposed to use certain single family detached lots for use as a model home park. The development plan had been approved by the Board of Supervisors. The location of the proposed use is north of Lake Anne Village, where a visitors center is under construction and there is a considerable amount of parking. Mr. Prichard stated that the builders were grouping their model homes all in one place to cut down on the automobile traffic going into the area where the homes were being built. He stated that the Zoning Administrator was empowered to grant this type of permit for two years, but he was requesting a five year period.

There was no one to speak in support and no one to speak in opposition.

Page 43, July 13, 1982
RESTON LAND CORPORATION

Board of Zoning Appeals

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-82-C-034 by RESTON LAND CORPORATION under Section 6-303 & 8-801 of the Fairfax County Zoning Ordinance for subdivision sales and rental offices (model home park) for a period of 5 years, located at Reston, tax map reference 17-2 ((32)) (6) 1-7, 16; 17-2 ((32)) (5) 1-6; 11-4 ((3)) (5) 7-11; 11-4 ((3)) (6) 8-12; 17-2 ((32)) (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 July 13, 1982; 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 PRC.
3. That the area of the lot is 10.2487 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 PRC 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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. There shall be 95 parking spaces.
8. This shall be granted for a period of five years.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hyland being absent).

//The Board recessed for lunch at 12:20 P.M. The meeting reconvened at 1:25 P.M.

Page 44, July 13, 1982, Scheduled case of:

10:45 A.M. GOOD SHEPHERD CATHOLIC CHURCH, appl. under Sect. 3-203 of the Ord. for addition of new church building to existing church & related facilities, located 3321 Wessington Way, R-2, Mt. Vernon Dist., 110-2((1))22A & 110-2((15))16, 11.278 acres, S-82-V-035.

David Gallagher, the architect for the project, represented the applicant. He indicated to the Board that some minor changes would be made on the plats, but the full intent of the building would be retained. The only changes would be wall thickness'. The engineer submitted new plats to the Board for their information. Mr. Gallagher stated the church community wanted to construct a church to seat 875 people. All of the required 244 parking spaces are now in place. There is a substantial surplus of parking spaces already in existence. The new structure is contiguous to the existing structure. Mr. Gallagher stated that the church would provide the required storm water detention and a sidewalk or trail along Mt. Vernon Highway. He stated that the church intended to retain the water on the ground under this proposal.

Willa Ames, 8715 Mt. Vernon Highway, directly across the road from the church, spoke in opposition. She stated that she had bought her house in 1950. Before the Board considered this application, she asked that the drainage problem be resolved. Previously, the church had installed two large drain pipes, which emptied all of the storm sewage water from the parking lots and existing buildings directly onto her yard. There is one pipe on each side of the house, causing the whole backyard to overflow. She stated that during heavy rains, she was surrounded on three sides by water. Also, much trash and litter was carried into her yard by these pipes. She stated that she had no problem with drainage before these two pipes were installed and she couldn't understand how the County could approve such a plan. Ms. Ames stated she had talked with Public Works and was told that the church had fulfilled the original plan of the County.

Mr. Yaremchuk asked the engineer, Ken White of Alexandria Surveys, about the discharge of water. He wanted to know if it was being discharged into a natural swale. Mr. White replied that at this time the water ran under Mt. Vernon Highway and was discharged into a natural drainage area. He stated that this system had been designed in 1966, and he had not had a chance to do any investigation yet. Mr. Yaremchuk suggested that any motion ought to include a condition that the County take a close look at this problem.

Mr. Gallagher stated that the drainage topic was also a major item of discussion when they appeared before the Board in the 1970's for a special use permit. He stated that the church would approach the problem with good faith and is anxious to alleviate the situation. This problem was magnified by the adjacent subdivision going in. We will agree to do whatever the site plan people ask us to within reason for the interests of the affected property owner.

RESOLUTION

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Mrs. Day made the following motion:

WHEREAS, Application No. S-82-V-035 by GOOD SHEPHERD CATHOLIC CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance for addition of new church building to existing church and related facilities, located at 3321 Wessynton Way, tax map reference 110-2 ((1)) 22A & 110-2 ((15)) 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 13, 1982; 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-2.
3. That the area of the lot is 11.278 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 seats in the new building shall seat 875 people.
8. The hours of operation shall be normal hours of church related activities.
9. There shall be 416 parking spaces.
10. This application for construction shall be under Site Plan control.
11. The dimensions of the building shall be in accordance with the new plans.
12. The owner shall provide the necessary storm water detention and Design Review will control the sidewalk or trail system plan.
13. Design Review is to take a close examination of run off water onto the property across the street with a view to a reasonable solution where feasible and at the earliest possible time.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hyland being absent).

Page 45, July 13, 1982, Scheduled case of:

11:00 A.M. THE MADEIRA SCHOOL, INC., appl. under Sect. 3-E03 of the Ord. to amend S-128-74 for school of general education to permit new track facilities (400M) and relocation of existing riding ring and dressage area, located 8328 Georgetown Pk., R-E, Dranesville Dist., 20-1((1))14, 375 acres, S-82-D-036.

As the required notices were not in order, the Board deferred the special permit application to September 14, 1982 at 10:10 A.M.

Page 46, July 13, 1982, Scheduled case of:

11:15 A.M. INTERNATIONAL TOWN & COUNTRY CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend S-13-79 for country club to permit addition of a tennis pro shop to existing facilities, located 13200 Lee Jackson Hwy., R-1, Centreville Dist., 45-1((1))11, 240.87 acres, S-82-C-037.

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As the required notices were not in order, the Board deferred the special permit application to August 3, 1982 at 10:30 A.M.

Page 46, July 13, 1982, Scheduled case of:

11:30 A.M. CHURCH OF THE GOOD SHEPHERD, appl. under Sect. 3-103 of the ord. to amend S-81-A-025 for church and related facilities to permit the addition of more parking, located 9350 Braddock Rd., R-1, Annandale dist., 69-4((1))6 & 7, 8.856 acres, S-82-A-038.

Michael Dickerson represented the applicant. He asked the Board to permit the addition of 44 parking spaces to better accommodate the church operation. The church serves 822 families. The sanctuary has a seating capacity for 500 people and there are 8 employees. The church currently has parking available for 165 vehicles.

There was no one to speak in support and no one to speak in opposition.

Page 46, July 13, 1982 Board of Zoning Appeals
CHURCH OF THE GOOD SHEPHERD

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-82-A-038 by CHURCH OF THE GOOD SHEPHERD under Section 3-103 of the Fairfax County Zoning Ordinance TO AMEND S-81-A-025 for church and related facilities to permit the addition of more parking, located at 9350 Braddock Road, tax map reference 69-4 ((1)) 6 & 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 July 13, 1982; 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 8.856 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 total number of parking spaces shall be 215.
8. Any regulations of S-81-A-025 not modified by this motion shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hammack abstained) (Mr. Hyland being absent).

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047

Page 47, July 13, 1982, Scheduled case of:

11:40 A.M. BEVERLY A. MEREDITH, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 1.4 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), located 5906 Grayson St., R-4, Springfield Dist., 80-3((2))(24)4, 9,062 sq. ft., V-82-S-067.

The applicant, Beverly Meredith, presented her application. She stated that there was an existing cement driveway and the carport would be constructed over the driveway. She stated that her driveway presently extends five feet from the property line. Mrs. Meredith indicated that the house had been built in 1956 and she had owned it since 1978.

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

Page 47, July 13, 1982
BEVERLY A. MEREDITH

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-S-067 by BEVERLY A. MEREDITH under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 1.4 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), on property located at 5906 Grayson Street, tax Map reference 80-3 ((2)) (24) 4, County of Fairfax, Virginia, Mr. Hammock moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 13, 1982; 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 9,062 sq. ft.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 - 2 (Mr. Smith & Mrs. Day) (Mr. Hyland being absent).

Page 47, July 13, 1982, Scheduled case of:

11:50 A.M. EARL H. LEE, TR. & EARL H. LEE AND MARY E. LEE, appl. under Sect. 18-401 of the Ord. to allow resubdivision of 2 lots into 3 lots, proposed lots 1 & 2 having widths of 55 ft. and 52 ft. respectively (150 ft. min. lot width req. by Sect. 3-106), located 12900 Yates Ford Rd., R-1, Springfield Dist., 85-2((1))22 & 85-2((3))A, 7.786 acres, V-82-S-068.

Lee Ruck, P.O. Box 5, Clifton, Virginia, represented the applicants. He presented an amended affidavit to the Board members which indicated his retention as an attorney in this matter. He presented a letter to the Board from the County Soil Scientist which stated that the soils map had been read wrong by the staff, and therefore the staff report was in error. Mr. Ruck stated that this soil perked and was very good to build on. There is only about 150 feet on Yates Ford Road with an excess 7 1/2 acres behind it. The applicants desire to create three individual lots. Perk sites have been determined and we have an approved preliminary plat from the Department of Environmental Management. This

subdivision has a pipe stem effect on lot 1. The proposed lots are more consistent with the lots in the neighborhood than what was originally planned. Mr. Ruck stated that on lot 2 there was a 50 foot easement which was the reserved right-of-way to other property that would effectively be landlocked.

Several adjacent and nearby property owners spoke in opposition including William McGovern, 7529 Evans Ford Road; Thomas Huddleston, 7613 Tiffany Court, who represented the Noble Homeowners Association; Deloras Whalen, 12912 Yates Ford Road; and Reece Belk, 7501 Evans Ford Road. Their primary concern was the terrain of the property which was very steep and hilly. The people in opposition felt that the clearing of the land for homes and drainage would adverse the surrounding property and cause erosion. The opposition felt that this application had been submitted to beat any changes that may be made to R-C under the zoning that's before the Board of Supervisors for consideration later this month as a part of the Occoquan basin plan.

R E S O L U T I O N

In Application No. V-82-S-068 by EARL H. LEE, TR. & EARL H. LEE AND MARY E LEE, under Section 18-401 of the Zoning Ordinance to allow resubdivision of 2 lots into 3 lots, proposed lots 1 & 2 having widths of 55 ft. and 52 ft. respectively (150 ft. min. lot width req. by Sect. 3-106); on property located at 12900 Yates Ford Road, tax Map reference 85-2 ((1)) 22 & 85-2 ((3)) A, 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 13, 1982; 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 7.786 acres.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow along Yates Ford Road where it comes to form a triangle. The configuration of the lot is much more desirable according to the applicant's plat rather than what was approved by the County. This does not increase the density because this is in accordance with the Master Plan.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hyland being absent).

049

Page 49, July 13, 1982, Scheduled case of:

12:00 NOON WILLIAM B. & JEAN M. BECKER, appl. under Sect. 18-401 of the Ord. to allow subdivision into 5 lots with proposed lot 33 having a width of 10 ft. and proposed corner lot 36 having a width of 80 ft. (80 ft. min. interior lot width & 105 ft. min. corner lot width req. by Sect. 3-306), located 9086 Wexford Dr., Wexford South Subd., R-3, Centreville Dist., 28-4((27))A, 2.2210 acres, V-82-C-069.

Charlie Runyon, 7649 Leesburg Pike, Falls Church, Virginia presented the application. He stated that the variance for the corner lot had not been requested by the applicant. There was a 105 ft. width at the building restriction line. He stated that Mr. Becker lived in the residence shown on lot 32. The property was originally under a variance for a 10 ft. pipestem lot, granted several years ago. A rezoning took place and the subdivision plat was revised. Mr. Runyon stated that lot 32 was substantially larger than most lots in the subdivision. The location of the existing house on lot 32 has caused the request for the pipestem to serve lot 33.

Merle Dameron, 9101 Westerholme Way, Vienna, spoke in opposition to the application. He asked that a decision be delayed until certain matters are settled. He stated that Mr. & Mrs. Becker had made several proffers to the Board of Supervisors when they obtained the original rezoning of their farmland. Among these was the establishment of a stub road and walkway leading from the development to the Cardinal Hills Swim Club property, and an agreement with the Wexford Community Association. He stated that both of these proffers directly affected the residents of the Wexford Subdivision. He stated that the agreement required the developers of the property to contribute funds toward an interest in the associations parkland as well as funds for their improvement and maintenance. The funds were placed in an escrow account initially, and then additional funds should have been deposited as each house was sold. This escrow fund was never established, and the stub road and walkway was never built. Mr. Dameron did not want this subdivision sold to another developer before these problems could be resolved, making matters more complicated. He wanted documentation establishing firm responsibility and accountability for the funding to be secured.

It was the consensus of the Board to defer the application for more information from Design Review and an opinion from the County Attorney. Also, the Board asked the parties to submit a copy of the agreement pertaining to the parkland and the street for their review. The application was rescheduled for July 29, 1982 at 12:45 P.M.

Page 49, July 13, 1982, Scheduled case of:

12:15 P.M. ROSALIE L. & FRED SCHNIDER, appl. under Sect. 18-401 of the Ord. to allow baseball batting cage structure to be located 50 ft. from nearest lot line (structure req. to be located not closer than 100 ft. to any lot line by Sect. 8-604), located 14529 Lee Rd., I-5, Springfield Dist., 34-4((1))pt. 40, 29.263 acres, V-82-S-086.

Morgan Tiller, 11800 Wayland Street, Oakton, presented the application. He stated that he was the managing partner of the Flint Hill Driving Range. He presented Fred Wilburn who was the land surveyor. Mr. Wilburn stated that this particular parcel of ground was issued a special permit a month ago. At the last minute during that hearing, it was called to his attention that the baseball batting cage structure on that plan was closer to the lot line than the code permitted. It was placed in that position because of the configuration of the use and the topography of the land. Most of the property is covered with rock and very little topsoil. This facility was planned with the minimum of grading necessary. Mr. Wilburn stated that the batting cage was adjacent to an ammunition plant.

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

Page 49, July 13, 1982 Board of Zoning Appeals
ROSALIE L. & FRED SCHNIDER

R E S O L U T I O N

In Application No. V-82-S-086 by ROSALIE L. & FRED SCHNIDER under Section 18-401 of the Zoning Ordinance to allow baseball batting cage structure to be located 50 ft. from nearest lot line (structure req. to be located not closer than 100 ft. to any lot line by Sect. 8-604), on property located at 14529 Lee Road, tax Map reference 34-4 ((1)) pt. of 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 July 13, 1982; 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-5.
3. That the area of the lot is 29.263 acres.
4. That the applicant's property is long and narrow and has exceptional topographic problems. The property has flood plains on the north side which makes the property more narrow in usable 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland and Hammack being absent).

Page 50, July 13, 1982, AFTER AGENDA ITEMS

The Board approved the Minutes for November 25, 1980 and December 2, 1980 as presented.

Page 50, July 13, 1982, AFTER AGENDA ITEMS

WAY OF FAITH CHRISTIAN TRAINING CENTER S-232-78: The Board was in receipt of a letter from Ellen Blackwell, President, requesting permission to replace their existing 10' x 60' temporary classroom for a larger one 24' x 46'. The Board indicated that a public hearing was necessary for any proposed structure that is larger than what was approved. They granted an out-of-turn hearing for September 14, 1982.

// There being no further business, the Board adjourned at 3:30 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on June 1, 1984

APPROVED: June 5, 1984
Date

050

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The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, July 15, 1982. The following Board Members were present: Daniel Smith, Chairman; John Yaremchuk; Ann Day; Paul Hammack and John Ribble. (Messrs. DiGiulian and Hyland were absent.)

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of

10:00 A.M. ERNEST C. DELAUDER, appl. under Sect. 18-401 of the Ord. to allow construction of 18 ft. high detached garage 3'6" from side lot line and 3'2" from rear lot line (15 ft. min. side yard and 18 ft. min. distance from rear lot line req. by Sects. 3-207 & 10-105), located 4840 Seminole Ave., Weyanoke Subd., R-2, Mason Dist., 72-3(8)(D)63-66, 11,000 sq. ft., V-82-M-077.

Mr. Charles Sullivan, an attorney, represented Mr. and Mrs. Delauder. Mr. Delauder was a retired government worker on disability who had some hobbies and enough lumber to build a garage. The variance was requested. There was a similar construction between lots 62 and 19 on both sides of the lot that came within several feet of the lot line and did not have the required setback. Mr. Sullivan stated that it would be unfair to require Mr. Delauder to have the setback if the immediate adjacent lots did not have the setback. Mr. Delauder's lot was unkempt because of the lumber lying around. He had a lot of hobbies and was retired. Mr. Sullivan stated that out of the 10 people notified, 9 were in favor of the garage. Mr. Sullivan informed the Board that there was a concrete pad already in place.

Chairman Smith inquired if the applicant had obtained a building permit for the construction of the garage. Mr. Sullivan stated that an application was made but denied because of the need for a variance. Chairman Smith inquired as to when the other garages were constructed and whether it was prior to 1978. Mr. Sullivan stated that it was prior to 1978. Chairman Smith stated that there was a change in the Ordinance which was why the variance was required. He inquired as to the hardship in this case. Mr. Sullivan stated that the hardship was that Mr. Delauder would not be able to use the land to its fullest extent. There were two tin shed structures on the property which would be destroyed once the garage was erected. Mr. Sullivan stated that it was a hardship for Mrs. Delauder to have to live with the clutter lying around. He stated that females were more concerned with such things than males. Chairman Smith inquired as to why the garage could not be moved over to comply with the setback. Mr. Sullivan stated that there would not be enough room if the garage were 18 ft. off of the property line. It would be right up against the house. Chairman Smith stated that a lot of people had attached garages. Mr. Sullivan stated that it would not look right if the garage were attached.

Mr. Ribble asked to see the pictures of the property. Mr. Yaremchuk stated that this was a substandard lot. The builder had to combine four lots in order to make a buildable lot. Before the new Ordinance was adopted, the applicant could have built the garage within 2 ft. of the lot lines. Now it required a variance. Other garages were permitted to be right up against the property line. Mr. Hammack inquired as to when the R-2 zone was adopted. Mr. Covington stated that the R-2 was adopted in August 1978. Mr. Hammack inquired as to what the zoning district had been before that and was informed it was RE-05 which allowed two dwelling units per acre. Mr. Covington stated that the property was substandard in area and width and reduced the area to a great degree which was a hardship.

Chairman Smith stated that the applicant could have done a better arrangement as the Board had to consider only a minimum variance. Chairman Smith did not think the applicant had come in with a minimum variance if there was a hardship. He stated that the garage could be moved over. Mr. Sullivan inquired as to how far the Chairman suggested it be moved. Chairman Smith stated that was entirely up to the applicant.

Mrs. Day stated that the Board had a similar case recently where a man was retired and had a disability and built into the night with his hobby. The neighbors were complaining about the noise. Mr. Sullivan stated that any noise would be terminated at dinnertime. Chairman Smith inquired as to why the applicant could not construct the garage at the minimum requirement. Mrs. Day stated that there was a deck to the rear of the house. Mr. Sullivan stated that the deck covered up the steps to the basement at the rear of the house. Mrs. Day stated that the deck on the other side prevented the garage from being placed there. Mr. Sullivan stated that the garage would have to work in with the existing structures. Mr. Sullivan stated that the wood deck which was the exit from the kitchen to the outside was originally poured in 1967.

There was no one else to speak in support. Mrs. Mills of 6560 Third Street spoke in opposition. She stated that she lived about 125 ft. from Mr. Delauder's home. She stated that she did not object to the garage but did object to the automobile repair work going on there. She stated that Mr. Delauder had been repairing autos and using welding equipment out in the yard and often worked at night. She stated that she woke up at night with Mr. Delauder hammering and banging until 10 or 11 o'clock at night. She asked that he not be allowed to

continue with the automotive mechanical work. Chairman Smith inquired if Mrs. Mills had reported this to the Zoning Enforcement Division. Mrs. Mills stated that she had never done so but someone else had a few years back. Chairman Smith informed Mrs. Mills to notify Zoning Enforcement about it. Mrs. Mills stated that Mr. Delauder usually started working in the evening and worked until quite late at night because he used floodlights. She stated that he did not work on his own cars but different cars. Mrs. Mills stated that a few years back, the BZA had given Mr. Bailey permission to have heavy equipment next to her and he operated it until he died. All the fumes would boil through her house and the police would not do anything about it. She stated that she did not want any commercial business next to her like that.

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Mr. Covington stated that Mr. Bailey had been taken to court by the Zoning Officials and the court ruled that he had a non-conforming use for certain pieces of heavy equipment. Chairman Smith stated that Mr. Bailey had been there a long time. Chairman Smith stated that the BZA did not have any part in that operation. He continued to say that the Bailey matter was not relevant to this case. Mrs. Mills stated that was the reason she was here because she objected to the vehicle maintenance. She did not want it there. As far as the garage, she was in support of it but not for Mr. Delauder to do mechanical work. Chairman Smith stated that Mrs. Mills had no objections to the garage as long as it met the setback requirements.

During rebuttal, Mr. Sullivan stated that Mr. Delauder acknowledged that he had performed work in the evening. However, his health would not allow him to do so now. The lumber was already in the yard lying around. Mr. Delauder wanted to clean up the lot. He would do all of his work in the garage. His property and the adjacent property would be enhanced by the construction of the garage. Mr. Yaremchuk inquired as to whose cars Mr. Delauder had worked on in the evening. Mr. Sullivan stated that Mr. Delauder owned four cars. Sometimes he would work on other people's vehicles. Mr. Sullivan stated that Mr. Delauder was not aware he was in violation by doing so. Mr. Yaremchuk stated that the garage could only be used for Mr. Delauder's purposes only.

R E S O L U T I O N

In Application No. V-82-M-077 by ERNEST C. DELAUDER under Section 18-401 of the Zoning Ordinance to allow construction of 18 ft. high detached garage 3.6 ft. from side lot line and 3.2 ft. from rear lot line (15 ft. min. yard and 18 ft. min. distance from rear lot line req. by Sects. 3-207 & 10-105), on property located at 4840 Seminole Ave., tax map reference 72-3(B)(D)63-66, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 15, 1982; 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 11,000 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.

Mrs. Day seconded the motion.

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

10:20 JOHN M. PERKINS, JR., appl. under Sect. 18-401 of the Ord. to allow construction
A.M. of detached garage 2 ft. from side lot line (10 ft. min. side yard req. by
Sects. 3-407 & 10-105), located 7103 Cindy Ln., Crestwood Manor Subd., R-4,
Mason Dist., 71-1((17))(5)5, 11,025 sq. ft., V-82-M-079.

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Mr. Perkins informed the Board that there were three large oak trees which ran about 5 ft. to 7 ft. in circumference about 48" above the ground. He stated that if he complied with the 10 ft. offset, he would have to remove two of the trees which were about 100 ft. tall.

Chairman Smith informed the applicant that the Board could only grant variances in cases where the hardship was demonstrative to being near confiscation. He asked why the applicant could not move the building around and come in at an angle. Mr. Perkins stated that was impractical as he would have to make a 90 degree angle turn in a small area. Chairman Smith stated that the applicant had sufficient back yard to accommodate the garage if it was turned the same way as the house. He explained that if there was an alternative to construction without a variance, the Board could not grant the variance. Chairman Smith inquired if the applicant had read the Ordinance. Mr. Perkins stated that if he turned the garage, access would be more difficult. Mr. Perkins stated that the garage would be unsuitable in the middle of the back yard. He informed the Board that there was an easement across the back of the property.

Mr. Yaremchuk stated that the applicant came to get a variance that was a convenience for him. If he moved the garage over to the middle of the yard he would not have a back yard anymore. Mr. Yaremchuk stated that garages belonged along the property line as far as he was concerned. He did not agree that the variance could not be granted. Chairman Smith stated that the applicant had to satisfy the Code. Mr. Yaremchuk stated that the BZA had a right to give a variance. Chairman Smith stated that the State Code addressed that and the BZA could not grant variances merely for convenience.

Mr. Perkins stated that there was a demonstrative need for a variance. He had talked to the neighbors and there was not anyone present at the meeting to object to it. He felt that to arbitrarily deny the variance was not in the interest of the County or the community. Mr. Hammack inquired as to the number of vehicles owned by Mr. Perkins. Mr. Perkins stated that he had three sons and a daughter. There were six cars in the family. Mr. Hammack inquired if the garage would accommodate that many cars. Mr. Perkins responded that one car was always broken down. He would use the garage to house his car and to make the necessary repairs on the others. He stated that the garage was longer than the normal garage.

There was no one else to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. V-82-M-079 by JOHN M. PERKINS, JR. under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 2 ft. from side lot line (10 ft. min. side yard req. by Sects. 3-407 & 10-105), on property located at 7103 Cindy Lane, tax map reference 71-1((17))5J5, 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 15, 1982; 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 11,025 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing building on the subject property. The lot is 75 ft. wide and the only feasible location for the applicant to construct the garage is where it is proposed. Moving the structure to the west would destroy the yard and several mature trees.

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

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

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 2 to 3 (Messrs. Smith, Hammack & Ms. Day)(Messrs. DiGiulian & Hyland being absent).

Page 54, July 15, 1982, Scheduled case of

10:30 A.M. GEORGE L. & NORMA E. PFAFF, appl. under Sect. 18-401 of the Ord. to allow expansion and enclosure of carport to 12.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4829 Willet Dr., Springbrook Forest Subd., R-2, Annandale Dist., 69-2((7))(4)3, 15,030 sq. ft., V-82-A-081.

Mrs. Norma Pfaff of 4829 Willet Drive informed the BZA that they wished to enclose their carport and enlarge it by 3 ft. Chairman Smith inquired as to the hardship and asked if the applicant had read the Ordinance. He inquired if Mrs. Pfaff would like to defer the application. Mrs. Pfaff stated that her neighbors had experienced vandalism. She felt the carport would be more secure if it was a garage. Mrs. Pfaff stated that she was requesting a 2.8 ft. variance. Mrs. Day stated that the people next door had an open carport. Mr. Covington informed the BZA that Mrs. Pfaff would not need a variance to enclose the carport without extending it. Mrs. Day suggested that the applicant enclose the carport the way it was and not request a variance. Mrs. Pfaff stated that she needed space for bicycles. Mrs. Day inquired if there was a basement. Mrs. Pfaff stated that she had a basement but it only had inside access. Chairman Smith stated that Mrs. Pfaff could build onto the rear of the carport and extend the length to accommodate the storage without a variance. Mrs. Pfaff stated that she felt it would be more attractive looking to extend the garage rather than have a shed. Chairman Smith informed the applicant that she had an alternative to the variance and could construct without a variance.

Mrs. Pfaff asked that the variance be deferred. It was the consensus of the Board to defer the hearing until July 22, 1982 at 12:15 P.M.

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Page 54, July 15, 1982, Scheduled case of

10:40 A.M. THOMPSON DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 9.5 ft. from one side lot line and 10.0 ft. from the other (12 ft. min. side yard req. by Sect. 3-207), located 1134 Randolph Rd., Kings Manor Subd., R-3, Dranesville Dist., 21-4((8))(6)28 & 29, 6,104 sq. ft., V-82-D-080.

Mr. Martin Dunn of 1244 Pine Hill Road informed the Board that he was a partner in Thompson Dunn Associates along with Mr. and Mrs. Thompson. Chairman Smith inquired as to who owned the property as the staff report indicated that Henry Mackall owned the property. Mr. Dunn stated that he had a letter from Mr. Mackall joining Thompson Dunn Associates in the application. Chairman Smith stated that under the variance provisions of the Ordinance, Thompson Dunn Associates was not an aggrieved party. Chairman Smith inquired as to why the fact of ownership was not made known to the staff at the time of application. He stated that the application was incorrect. Mr. Dunn stated that it had been the intent to purchase the property prior to the public hearing. Mr. Dunn stated that Mr. Mackall was in agreement with the application. Chairman Smith stated that Thompson Dunn Associates could join in with Mr. Mackall as a co-applicant but they did not own the property. Mr. Dunn stated that he had a letter indicating that Mr. Mackall was joining in the application.

Mr. Yaremchuk inquired if the substandard provision of the Ordinance was still in effect and was informed by Mr. Covington it was not. Mr. Yaremchuk stated that the applicants were only asking for width variance and not area. He inquired as to why the area was not also included. Mr. Covington stated that it was grandfathered.

Chairman Smith stated that the application was incorrect as the applicant was not the owner of the property and was not an aggrieved party. Chairman Smith stated that the Board would pass over the application and it would not be heard before 1 o'clock. Mrs. Elizabeth Singly of 1107 Engleside Avenue in McLean informed the Board that she was interested in speaking on the application.

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Page 55, July 15, 1982, Scheduled case of

10:50 A.M. THOMPSON DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 9.5 ft. from one side lot line and 10.0 ft. from the other (12 ft. min. side yard req. by Sect. 3-307), located 1130 Randolph Rd., Kings Manor Subd., R-3, Dranesville Dist., 21-4((8))(G)30 & 31, 6,104 sq. ft., V-82-D-082.

The application was passed over by the Board as the applicant was not the owner of the property.

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Page 55, July 15, 1982, Scheduled case of

11:00 A.M. KENNETH M. & MINNIE D. THOMPSON & THOMPSON DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 9.5 ft. from one side lot line & 10.0 ft. from the other (12 ft. min. side yard req. by Sect. 3-307), located 1126 Randolph Rd., Kings Manor Subd., R-3, Dranesville Dist., 21-4((8))(g)32 & 33, 6,104 sq. ft., V-82-D-083.

The application was passed over by the Board as the applicant was not the owner of the property.

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Page 55, July 15, 1982, Scheduled case of

11:15 A.M. COMMUNITY COVENANT CHURCH, appl. under Sect. 3-103 & 3-303 of the Ord. to amend S-354-79 and S-49-74 for church and related facilities to permit building and parking lot additions to existing facilities and relocation of temporary trailer classroom, located 7018 Sydenstricker Rd., R-1 & R-3, Springfield Dist., 89-3((1))3A, 5 acres, S-82-S-045.

Mr. Edward Addicott with Paciulli, Simmons & Associates represented the church. The church was organized in 1972 and received a special use permit in 1974. Since that time, the congregation had grown and they needed to expand the facilities in order to have a maximum of 160 persons at any given time. Parking would be provided for 40 vehicles. The type of operation was normal church activities with Sunday worship and choir rehearsal and classes. The hours of operation would be 9 to 5 daily with the principal operation on Sunday morning and evening. The number of employees would be three. The type of expansion was to extend the existing building with the same type of facade and roof. The temporary trailer would continue in use until the end of its special permit or until such time before that when the church had the financing to increase the size of the building to provide classroom space for children.

Mrs. Day inquired about parking. Mr. Addicott stated that the sanctuary was being designed to seat a maximum of 160 persons. The Ordinance required one parking space for every four seats. The plats showed parking for 40 vehicles. Mrs. Day inquired as to the number of existing parking spaces and was informed there were 28 spaces at present. Mrs. Day inquired about handicapped spaces. Mr. Addicott stated that handicapped spaces were provided on the plat at the entrance to the building.

Mr. Gordon Sloane of 6418 Remington Road in Springfield supported the application. Mr. James Swanson of 6624 Raynor Drive in Springfield was the pastor of the congregation. He stated that he was available for any questions the Board might have. There was no one else to speak in support and no one to speak in opposition.

Page 55, July 15, 1982
COMMUNITY COVENANT CHURCH

Board of Zoning Appeals

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-S-045 by COMMUNITY COVENANT CHURCH under Section 3-103 & 3-303 of the Fairfax County Zoning Ordinance to amend S-354-79 and S-49-74 for church and related facilities and relocation of temporary trailer classroom, located at 7018 Sydenstricker Road, tax map reference 89-3((1))3A, 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 15, 1982; 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 & R-3.
3. That the area of the lot is 5 acres.
4. That compliance with the Site Plan Ordinance is required.

R E S O L U T I O N

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 membership shall be 160.
8. The hours of operation shall be normal hours of church activities.
9. There shall be minimum of 40 parking spaces provided included three handicapped parking spaces and three spaces for employees.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian & Hyland being absent).

Page 56, July 15, 1982, Scheduled case of

11:30 KIDDIE COUNTRY DAY CARE LTD., EDNA H. ANULEWICZ AND FRED T. LOWERY, appl. under
A.M. Sect. 3-103 of the Ord. for a child care center and nursery school, located
8601 Old Keene Mill Rd., R-1, Springfield Dist., 88-1((1))19, 3.95 acres,
S-82-S-046.

Chairman Smith announced that there were only five Board members present. Rather than hear the case and defer decision, he stated that it would be easier to hear the case with all Board members present. Mr. Fred Lowery, the principal owner, stated that he would agree to the deferral. Mr. Jeffrey Solvercy supported the deferral and so did Mr. Turner. It was the consensus of the Board to defer the application until July 29, 1982 at 1:00 P.M.

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Page 56, July 15, 1982, Recess

At 11:40 A.M., the Board recessed the hearing for a short break. It reconvened the meeting at 12:00 Noon to continue with the scheduled agenda.

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Page 56, July 15, 1982, Scheduled case of

11:45 RESTON PRESBYTERIAN CHURCH, appl. under Sect. 3-E03 of the Ord. to amend
A.M. S-81-D-045 for construction and operation of a church and related facilities
to permit enlargement of existing house for use as church as Phase I, and
designated the previously approved church bldg. and part of parking lot as
Phase II, construction to begin in 3 to 5 years, located 1632 Hunter Mill Rd.,
& R-E, Dranesville Dist., 18-3((1))6, 5.1547 acres, S-82-D-047.

11:45 RESTON PRESBYTERIAN CHURCH, appl. under Sect. 18-401 of the Ord. to allow
A.M. enlargement of building for church to 30.96 ft. from front lot line, and to
allow gravel parking for Phase I church parking (50 ft. min. front yard req.
by Sect. 3-E07, dustless surface for parking lot req. by Sect. 11-102), located
1632 Hunter Mill Rd., R-E, Dranesville Dist., 18-3((1))6, 5.1547 acres,
V-82-D-084.

057

Mr. James Etcher of 11446 Vale Springs Drive in Oakton was Chairman of the Building Committee for the church. The special permit application was for construction and operation of a church for the Reston Presbyterian Church. He stated that the church had been meeting in various Fairfax County area school buildings. The church was now seeking a stable site. Their financial situation had not allowed them to proceed with the original structure which was approved by the BZA. The addition would serve up to 300 worshippers for the next five years. After that time, the church anticipated building the previously approved building. Mr. Etcher stated that the proposed addition would blend in with the existing house. The church was also requesting a variance for the dustless surface for stormwater and runoff and allowed the changing needs until the church was able to construct the other phases. Mr. Etcher stated that the church would pave the parking area at the time of construction for Phase II.

The second variance was due to the large amount of area taken for the Dulles Airport Road which shrunk the church property from 10 acres to 5 acres. Chairman Smith inquired as to when that had taken place and was informed it was prior to the church acquisition of the property. The Kidwells had still owned the property at the time. Mr. Etcher stated that there was a distance of 80 ft. from the edge of Sunset Hills Road to the church building. Because of the elevation of the lot, the building would be over 20 ft. of the road elevation. Mr. Etcher stated that the property line was irregularly shaped and at the closest point, the building would be 30 ft. from the front property line. The church would not impact on any other properties.

Chairman Smith stated that the only use which could be commenced here was Phase I for the next 3 to 5 years. Phase I was the only issue the Board should address according to Chairman Smith. He stated that the Board would only approve the use for 3 to 5 years. The variance was for the existing building.

Mrs. Day questioned the number of parking spaces required in condition no. 8 of S-81-D-045 and was informed that was the building that did not materialize. The new addition would require 75 parking spaces for 300 people. The variance was to the dustless surface requirement and for a setback requirement on Phase I. Mr. Hammack inquired if the parking spaces were adjacent to Phase I. Mr. Etcher stated that the parking was adjacent to Phase I and II. Mr. Hammack inquired if the church wanted to maintain the parking lot in gravel for an indefinite period of time. Mr. Etcher stated that the church would be prepared to pave in three to five years at the time they constructed Phase II. Mr. Covington stated that this was a rural area and there were not any residential properties to be impacted by this. Chairman Smith stated that prior to Phase II construction, the church would have to have the 83 parking spaces meet the dustless surface requirement. Mr. Hammack inquired as to the number of parking spaces that could be paved at the present time without being broken up in order to construct Phase II. Mr. Etcher stated that he would have to refer that question to Reid Dudley, his engineer. Chairman Smith inquired as to the dedication of Hunter Mill Road and the previous requirement as to the entrance to the church. Mr. Etcher stated that the dedication lane on Hunter Mill Road would be paved. The driveway from the other way would be relocated to get it away from the property line.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-D-047 by RESTON PRESBYTERIAN CHURCH under Section 3-E03 of the Fairfax County Zoning Ordinance to amend S-81-D-045 for construction and operation of a church and related facilities to permit enlargement of existing house for use as church as Phase I, and designate the previously approved church bldg. and part of parking lot as Phase II, construction to begin in 3 to 5 years, located at 1632 Hunter Mill Road, tax map reference 18-3(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 15, 1982; 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. That the area of the lot is 5.1547 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:

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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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 parking spaces shall be 75.
8. The hours of operation shall be hours of normal church activities.
9. The number of employees shall be five (5).
10. The congregation during Phase I shall not exceed 300 members.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian & Hyland being absent).

R E S O L U T I O N

In Application No. V-82-D-084 by RESTON PRESBYTERIAN CHURCH under Section 18-401 of the Zoning Ordinance to allow enlargement of building for church to 30.96 ft. from front lot line, and to allow gravel surface for Phase I church parking (50 ft. min. front yard req. by Sect. 3-E07, dustless surface for parking lot req. by Sect. 11-102), on property located at 1632 Hunter Mill Road, tax map reference 18-3(1)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 July 15, 1982; 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-E.
3. The area of the lot is 5.1547 acres.
4. That the applicant's property is exceptionally irregular in shape because of a right-of-way for the Dulles Airport Access Road. The 82 gravel parking spaces would reduce the runoff and enable parking to take place and the gravel would be in keeping with the rural 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 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.

RESOLUTION

2. This variance shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. The variance is granted for a maximum period of five (5) years or until such time as the second phase construction begins whichever occurs first.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian & Hyland being absent).

Page 59, July 15, 1982, Scheduled case of

12:10 GRACE CHRISTIAN REFORMED CHURCH, appl. under Sect. 3-103 of the Ord. for a
P.M. nursery school, located 9800 Burke Lake Rd., R-1, Springfield Dist., 78-3((1))32,
3.1923 acres, S-82-S-048.

Ms. Janice Engbers of 10887 Oak Green Court in Burke informed the Board that the preschool was operated by the Christian Reformed Church. The school was in the basement of the church. The preschool would have a maximum of 75 children per session and a maximum of 50 children for a period of four hours at any one time. The ages of the children would be 3, 4 and 5 years old. The session would run from 9:30 A.M. to 12:00 Noon, five days a week. The school would not be operated on Saturday.

Chairman Smith inquired as to how the children would be transported. Ms. Engbers stated that the children would be brought by car. Mrs. Day asked if a staff member would meet the cars to escort the children inside the building. Ms. Engbers stated that the entrance was covered and the children could get out without having to walk a long distance. Mr. Hammack inquired if the applicants had talked to the Fairfax County Health Department as there was a letter in the staff report indicating the need for window screens, etc. Mr. Covington stated that his office would not issue an occupancy permit until all the requirements had been met. Mr. Hammack stated that the Health Department had set a maximum of 50 children. He asked about the 75 children mentioned by the applicant. Ms. Engbers stated that the school would not have more than 50 children at any one time.

There was no one else to speak in support. Ms. Grace Bark of 9815 Rand Drive in Burke spoke in opposition. She stated that the back of her house adjoined the church property. She inquired about fencing regulations. Chairman Smith stated that the preschool would be required to fence the outside play area.

Page 59, July 15, 1982

Board of Zoning Appeals

GRACE CHRISTIAN REFORMED CHURCH

RESOLUTION

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-S-048 by GRACE CHRISTIAN REFORMED CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit a nursery school, located at 9800 Burke Lake Road, tax map reference 78-3((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 July 15, 1982; 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 3.1923 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 on the application and is not transferable to other land.

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059

R E S O L U T I O N

2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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 50 at any one time.

8. The hours of operation shall be 9:30 A.M. to 12:00 Noon, five days a week excluding Saturday.

9. There shall be three (3) employees.

10. The nursery school will be church operated.

11. The ages of the students shall be 3, 4 and 5 years.

12. The play area shall be fenced.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian & Hyland).

Page 60, July 15, 1982, Scheduled case of

12:30 BURKE COMMUNITY CHURCH, appl. under Sect. 3-103 of the Ord. for construction
P.M. and operation of a church and related facilities, located 6228-6332 Belleair
Rd., R-1, Springfield Dist., 77-4((2))9 & 10, 4.5 acres, S-82-S-049.

There was a question on notices wherein the applicant had failed to notify Mrs. Mary Simpson owner of property located at 77-4((2))11. However, the applicant presented the Board with a letter from Mrs. Simpson waiving her right to the 15 day required notice. Mr. Yaremchuk moved that the Board accept the waiver. Mrs. Day seconded the motion and it passed by a vote of 4 to 1 (Chairman Smith).

Mr. Michael LeMay, an architect located at 1601 Washington Plaza in Reston, represented the church. He stated that this was the third application for the church. Each of the two other times, the church was not able to proceed with the projects. Mr. LeMay stated that this request was the same as the request approved by the BZA in July 1980 except the parking had been increased to 100 cars. He stated that Mrs. Cook had reminded him that the screening in 1980 had been upped to help keep vehicles off of her property. Mr. LeMay stated that the plat retained a 20 ft. setback along the common border of the parking lot. Mr. and Mrs. Simpson wanted the church to maintain the trees that were there. Mr. LeMay stated that the 25 ft. setback would continue and there was a 25 ft. setback from the side of Mrs. Free's property.

Mr. LeMay informed the Board that the new building was a lot smaller than the one previously approved. The building was 13,600 sq. ft. in lieu of the 18,000 sq. ft. Mr. Hammack inquired if that changed the seating capacity of the church and was informed it did not. Mr. LeMay stated that the sanctuary had remained as it was and the church had reduced other areas. Mr. LeMay stated that parking was provided for 100 cars. The sanctuary had a capacity of 330 seats.

Mr. LeMay stated that along the southern property line of the church property, he had retained a 25 ft. unbroken strip of land in accordance with the screening Ordinance. This 25 ft. green area was requested by Mrs. Free back in 1980 when the church only had a 20 ft. strip shown.

There was no one else to speak in support and no one to speak in opposition. The Chairman stated that the Board will recess the hearing to allow everyone an opportunity to be heard in this case as he had previously indicated that the Board will recess for lunch before hearing the case. Mr. Ribble questioned Mr. LeMay about the seating capacity of the sanctuary as the previous resolution indicated a maximum of 350 seats and Mr. LeMay had stated it to be 330. Mr. LeMay stated that it was 350 seats.

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060

12:45 P.M. TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB, appl. under Sect. 3-103 of the Ord. to amend S-134-78 for community swimming & tennis club to eliminate parking lot on 1 acre parcel and to permit operation of all existing facilities with existing 138 parking spaces, located 9117 Westerholme Way, R-1, Centreville Dist., 28-4(1)47 & 45A, 6.696 acres, S-82-C-025. (DEFERRED FROM MAY 18, 1982 FOR ADDITIONAL INFORMATION FROM JUNE 29, 1982 FOR FULL BOARD.)

61
061

It was the consensus of the Board to defer the above application until July 20, 1982 at 1:00 P.M.

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Page 61, July 15, 1982, Recess

The Board recessed for lunch at 12:50 P.M. Mr. Ribble left the meeting for the day and did not return. The Board reconvened the meeting at 1:45 P.M. to continue the recessed cases from earlier in the day.

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Page 61, July 15, 1982, Recessed hearing of

BURKE COMMUNITY CHURCH: Chairman Smith called for speakers in support of the application. There were not any speakers. He called for speakers in opposition and there were not any speakers.

Page 61, July 15, 1982
BURKE COMMUNITY CHURCH

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-S-049 by BURKE COMMUNITY CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit construction and operation of a church and related facilities located at 6228-6332 Belleair Road, tax map reference 77-4((2))9 & 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 July 15, 1982; 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 4.5 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:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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.

RESOLUTION

062

- 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 seating capacity shall be 330.
- 8. The hours of operation shall be hours of normal church activities.
- 9. The number of parking spaces shall be 100.
- 10. The existing trees along the northern boundary line shall remain as shown on the site plan and a 20 ft. screening buffer shall be provided for 150 ft. along the parking area with the remaining screening beyond the parking being 25 ft. A minimum of 25 ft. screening shall be provided on the southern boundary line. In addition, the existing trees which are shown on the site plan shall be retained by the applicant in so far as possible.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian & Hyland being absent).

Page 62, July 15, 1982, Recessed cases of:

Thompson Dunn Associates, V-82-D-080; Thompson Dunn Associates, V-82-D-082 and Kenneth M. and Minnie D. Thompson & Thompson Dunn Associates, V-82-D-083; Chairman Smith stated that there were only four Board members to hear the case. It would take a unanimous vote of all four members to effect the variance request. The applicants decided to seek a deferral of the applications. It was the consensus of the Board to defer the applications until July 20, 1982 at 1:15 P.M.; 1:30 P.M. and 1:45 P.M. respectively.

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Page 62, July 15, 1982, Approval of Minutes:

The Board was in receipt of BZA Minutes for December 9, 1980 and December 16, 1980. Mrs. Day moved that the Board approve the minutes as prepared. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hyland and Ribble being absent).

// 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

Submitted to the Board on June 1, 1984

Approved: June 5, 1984
Date

63

063

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 20, 1982. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; John Yaremchuk, Ann Day, John Ribble and Paul Hammack. Gerald Hyland was absent.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. GREENSBORO ASSOCIATES, appl. under Sect. 18-401 of the Ord. to permit construction of parking structure to 11 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 4-407), located Pinnacle & Greensboro Dr., C-4, Dranesville Dist., 29-3((15))2, 174,240 sq. ft., V-82-D-073.

Martin Walsh, 1336 Timberly Lane, McLean, represented the applicant. He stated that this case was previously granted by the Board with two six-month extensions. (V-80-D-039) Due to his error, the last extension had lapsed. He stated that all the properties in the immediate area were developed C-4, and this is one of the last undeveloped properties. This property has two fronts, one on Pinnacle Drive and one on Greensboro Drive. This site is irregularly shaped. The topography falls off towards the intersection of Pinnacle and Greensboro, and the applicant has planned an above-grade structure to take advantage of this. There will be parking underneath that structure.

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

Page 63, July 20, 1982
GREENSBORO ASSOCIATES

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-D-073 by GREENSBORO ASSOCIATES under Section 18-401 of the Zoning Ordinance to permit construction of parking structure to 11 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 4-407), on property located at Pinnacle & Greensboro Drive, tax map reference 29-3 ((15)) 2, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 20, 1982; 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 C-4.
3. That the area of the lot is 174,240 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic conditions which qualifies it as meeting the hardship requirements.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hyland being absent)

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064

Page 64, July 20, 1982, Scheduled case of:

10:15 A.M. GREAT FALLS SWIM & TENNIS CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend S-82-D-019 for community swim & tennis club to change hours of operation of tennis courts from 7 A.M. - 9 P.M. to 7 A.M. - 10 P.M., located 761 Walker Rd., R-1, Dranesville Dist., 13-1((1))27, 5.5244 acres, S-82-D-030. (DEFERRED FROM 6/8/82 FOR INSPECTION REPORT ON THE LIGHTS)

Douglas Leigh, Senior Zoning Inspector for Fairfax County, presented an inspection report to the Board regarding the lights. He stated that several properties were affected by the tennis court lights, but the illumination problem could be corrected by cutting down the four lights to two, and redirecting the lights toward the court and away from the residential area.

Curtis Bradley represented the Great Falls Swim and Tennis Club. He stated that the Club was in the process of contacting a lighting contractor to remedy this problem. He asked that a decision be delayed for another 30 days to allow this problem to be corrected. He indicated to the Board that the club was considering putting shields around the lights to correct the problem.

Tom Mitchell, 9806 Thunderhill Court, immediately adjacent to the tennis courts, spoke in opposition. He stated that he was present during the lighting inspection and there was a significant overflow of light at the ground level. He stated that the overflow was greater at window level. Mr. Mitchell told the Board that at the last hearing, Mr. Bradley had said the Club needed lights because it was hard on their members not having enough daylight hours to play tennis. Mr. Mitchell stated that most days when he arrived home from work, the courts were not even in use. He didn't consider this a hardship for the Club, since they weren't even using the courts during the hours that were available to them.

Sarah Fernland, 9809 Thunderhill Court, spoke in opposition. She stated that during the summer the lights were no problem, but they were in the winter when it got dark early. She knew the lights were needed, but asked that they be put on a timer and have the intensity corrected by shields.

During rebuttal, Mr. Bradley stated that many organized programs had been disrupted during the summer because the lights had to be cut off at 9 o'clock. He stated that many people don't get home until 7 o'clock or later most nights, and by the time they get to the courts, there isn't much playing time left.

Chairman Smith stated that the applicant had requested a thirty-day deferral on the decision in this case. It was the consensus of the Board to defer action to September 14, 1982 at 10:30 A.M.

Page 64, July 20, 1982, Scheduled case of:

10:40 A.M. ROY W. & MARIE DAVIS, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 4.97 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 2001 Griffith Rd., Pimmit Hills Subd., R-4, Dranesville Dist., 40-1((1))15, 10,960 sq. ft., V-82-D-070.

Roy Davis, presented his application. He stated that he felt because of the terrain and present erosion problems, to allow the construction of a garage would improve the looks and value of the property. The house was built on a steep incline. There was no other place to build a garage because of a patio and swimming pool in the backyard. Mr. Davis stated that he also planned to build a cinder block retaining wall on both sides of the present driveway because of erosion.

There was no one to speak in support and no one to speak in opposition.

Page 64, July 20, 1982 Board of Zoning Appeals
ROY W. & MARIE DAVIS

R E S O L U T I O N

In Application No. V-82-D-070 by ROY W. & MARIE DAVIS under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.97 ft. from side lot line (10 ft. min. side yard req. by Sect. 13-407), tax map reference 40-1 ((1)) 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 July 20, 1982; and

05
065

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 10,960 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property, that is the pool in the rear. The way the house is situated that is the only place they can build the garage.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 plans 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 2 (Mr. Smith and Mrs. Day) (Mr. Hyland being absent).

Page 65, July 20, 1982, Scheduled case of:

10:50 A.M. ELEANOR P. FUSARO, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to dwelling to 2.25 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 3-507), located 1771 Wainwright Dr., Wainwright Cluster Subd, PRC, Centreville Dist., 17-2((13))1817, 15,200 sq. ft., V-82-C-071.

William Donnelly, agent for the applicants, presented the application. He stated that he had just been informed that the Board had no authority to hear this matter. The staff had originally taken the position that the yard requirements in a PRC zone are the same as those in the most comparable conventional district, but the Zoning Administrator now concludes that that is not the case, that in effect there are no yard requirements, so there is nothing to get a variance from. To get the necessary approval for this addition, it is necessary to amend the preliminary plan for this section of Reston. Chairman Smith stated that Mr. Yates had ruled that this was not an acceptable application and should not be heard by the Board. It was the consensus of the Board to defer the case for more information. The case was rescheduled for Thursday, July 29, 1982 at 1:15 P.M.

Page 65, July 20, 1982, Scheduled case of:

11:00 A.M. REDSTONE DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow sign at arcade entrance for three individual enterprises within shopping center, located 7245 ARLINGTON Blvd., C-6, Mason Dist., 50-3((1))5A, 3.29 acres, V-82-M-072.

William Naylor, 7761 Clifton Road, Fairfax Station, represented the applicant. He requested a deferral of the variance application for a full Board. The case was rescheduled to September 14, 1982 at 10:40 A.M.

Page 65, July 20, 1982, Scheduled case of:

11:10 A.M. GREGORY & MARCIA HOLLAND/RYAN HOMES, INC., appl. under Sect. 18-406 of the Ord. to allow a dwelling to remain 17.3 ft. from the front lot line (20 ft. min. front yard req. by Sect. 3-507), located 3205 Shaw Park Ct., Brosar Park Subd., R-5, Mt. Vernon Dist., 101-2((13))27, 7,811 sq. ft., V-82-Y-074.

As the required notices were not in order, the case was rescheduled to September 21, 1982 at 10:00 A.M.

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Page 66, July 20, 1982, Scheduled case of:

11:20 A.M. THOMAS R. WILLIAMS, JR., appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 18.8 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-107 & 2-412), located 10700 Cogswell Pl., Brimstone Subd., R-1, Springfield Dist., 87-1((3))38, 23,562 sq. ft., V-82-S-075.

066

Thomas Williams presented his application. He stated that his house has been constructed to the extreme rear of the lot to permit the septic field in the front of the house. He stated that he was requesting a variance for only one corner portion of the deck. He handed a petition in support, signed by adjoining property owners, to the Board members.

There was no one to speak in support or opposition.

Page 66, July 20, 1982
THOMAS R. WILLIAMS, JR.

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-S-075 by THOMAS R. WILLIAMS, JR. under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 18.8 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-107 & 2-412), tax map reference 87-1 ((3)) 38, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 20, 1982; 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 23,562 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. Hyland and Mr. Yaremchuk being absent).

Page 66, July 20, 1982, Scheduled case of:

11:30 A.M. ANTIOCH DAY CARE & LEARNING CENTER, appl. under Sect. 3-103 of the Ord. for a child care center, located 1860 Beulah Rd., R-1, Centreville Dist., 28-3((1))20, 1.15379 acres, S-82-C-043.

Reverend David Caldwell represented that applicant. He stated that they planned to operate a day care center for a maximum of 60 children. There will be a ratio of one adult per eight children, plus a supportive staff of four. The day care center will serve the Vienna area. Reverend Caldwell stated that the Health Department had required that the church hook up to sewer and water to be able to provide a day care center in their church. Now the Transportation Department was asking them to widen the pavement and provide a deceleration lane. He thought that was a lot to ask for an application of this type.

Bill Martin, 1863 Beulah Road and George Atkinson, 10194 Hillington Court, spoke in support

There was no opposition to the request.

RESOLUTION

67
067

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-82-C-043 by ANTIPOCH DAY CARE & LEARNING CENTER, under Section 3-103 of the Fairfax County Zoning Ordinance for a child care center, located at 1860 Beulah Road, tax map reference 28-3 ((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 July 20, 1982; 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 1.15379 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 at any one time shall be 60.
8. The ages shall be 2 thru 12 years.
9. The hours of operation shall be 6:00 A.M. to 6:00 P.M. Monday thru Friday *(See Amendment).
10. There shall be 25 parking spaces.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. Hyland and Mr. Yaremchuk being absent).

*9. The hours of operation shall be 6:30 A.M. to 6:30 P.M., Monday through Friday. (Amended by BZA on March 15, 1983)

Page 67, July 20, 1982, Scheduled case of:

11:45 A.M. JAMES & DORIS MCGHEE, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 0.9 ft. from side lot line such that total side yards would be 11 ft. (4 ft. min. but 16 ft. total min. side yard req. by Sects. 3-307 & 2-412), located 9018 Fort Craig Dr., Signal Hill Subd., R-3(C), Springfield Dist., 78-2((16))419, 8,930 sq. ft., V-82-S-076.

James McGhee, presented his application. He requested an amendment to his original request, because his next door neighbor had an objection to the size of the proposed deck. He was now requesting a variance of 1 1/2 feet instead of 3 feet. He stated that this was the only place he could put a deck without incurring major construction costs. There was a sliding glass door there now that exits from the the family room.

There was no one to speak in support or opposition.

068

RESOLUTION

In Application No. V-82-S-076 by JAMES & DORIS MCGHEE under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 0.9 ft. from side lot line such that total side yards would be 11 ft. (4 ft. min. but 16 ft. total min. side yard req. by Sects. 3-307 & 2-412), on property located at 9018 Fort Craig Drive, tax map reference 78-2 ((16)) 419, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 13, 1982; 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 (Cluster).
3. That the area of the lot is 8,930 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow in the rear and triangular. The property has an unusual condition in the location of the existing buildings on the subject property. The applicant has reduced the request for the dimensions of the proposed deck to 8 1/2 ft. by 16 ft. The applicant has agreed to put a privacy fence at least 6 feet tall on the side of the deck facing the neighbors residence (9020 Fort Craig Drive). No living rooms will be affected at the Brown's residence because a garage faces the proposed deck. The applicant will plant shrubs along the borders of the deck which will grow to the approximate height of the deck door.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland and Yaremchuk being absent).

Page 68, July 20, 1982, Scheduled case of:

12:00 NOON NEW LIFE COMMUNITY CHURCH SCHOOL, appl. under Sect. 3-203 of the Ord. for a private school of general education, located 4100 Hunt Rd., R-2, Annandale dist., 58-4((1))19, .8493 acres, S-82-A-050.

Richard Smith represented the New Life Community Church School. He stated that the applicants plan to operate a school of general education utilizing the church facilities of the First Church of God at 4100 Hunt Road in Fairfax. The expected student load would be 26 although the capacity was 45. Richard Smith stated that the lease arrangement was a one year agreement with unlimited renewals. The school planned to stay at the church from two to five years, until they exceeded the capacity of the building.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

69

069

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-A-050 by NEW LIFE COMMUNITY CHURCH SCHOOL, under Section 3-203 of the Fairfax County Zoning Ordinance for a private school of general education, located at 4100 Hunt Road, tax map reference 58-4 ((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 July 20, 1982; 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-2.
3. That the area of the lot is .8493 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 8:30 A.M. to 3:00 P.M. during the nine month school period from September thru June.
8. The ages shall be 5 - 18 years.
9. The maximum number of students shall be 26.
10. There shall be 200 sq. ft. of usable outdoor recreation space to be provided for each child in grades K - 3 that may use the space at any one time and 430 sq. ft. of usable outdoor space for each child in grades 4 - 12.
11. This permits the operation of a school of general education to teach grades 1 thru 12.
12. Barrier and screening requirements as required by Article 13 shall be determined at the discretion of the Director of DEM to provide a barrier acceptable to the parties concerned.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs. Hyland and Yaremchuk being absent).

// At 12:55 P.M. Mr. DiGiulian made a motion that the Board adjourn to executive session for the purpose of consulting with legal counsel regarding P. Ray Rainwater et. al. v The Board of Zoning Appeals at Law No. 54150 pursuant to Virginia Code Section 2.1-344 (a) (6). The Board also discussed an appeal filed by Michael Fanshel, and the Tysons Briar/Cardinal Hill Swim and Racquet Club case, S-82-C-025.

// The Board recessed for lunch at 2:00 P.M. and the meeting reconvened at 3:07 P.M.

Page 70, July 20, 1982, Scheduled case of:

12:15 P.M. WARREN S. WALTERS, appl. under Sect. 18-401 of the Ord. to 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 5664 Ravenel Ln., Ravensworth Subd., R-3, Springfield Dist., 79-2((3))(28)15, 10,673 sq. ft., V-82-S-087.

Warren Walters presented his application. He stated that his lot sloped from the front yard to the back yard, and he had converging lot lines. He had constructed retaining walls in both side yards due to the topographical problems.

There was no one to speak in support and no one to speak in opposition.

Page 70, July 20, 1982
WARREN S. WALTERS

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-S-087 by WARREN S. WALTERS 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. min. side yard req. by Sect. 3-307), on property located at 5664 Ravenel Lane, tax map reference 79-2 ((3)) (28) 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 July 20, 1982; 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 10,673 sq. ft.
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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland and Yaremchuk being absent).

Page 70, July 20, 1982, Scheduled cases of:

12:30 P.M. YWCA, NCA, FAIRFAX COUNTY BRANCH, appl. under Sect. 3-303 of the Ord. for a nursery school within existing church, located 1731 Great Falls St., R-3, Dranesville Dist., 30-3((1))21A, 4.1065 acres, S-82-D-051.

12:30 P.M. GARFIELD MEMORIAL CHURCH & YWCA, NCA, FAIRFAX COUNTY BRANCH, appl. under Sect. 18-401 of the Ord. to allow nursery school within existing church having gravel parking lot (dustless surface req. by Sect. 11-102), located 1731 Great Falls St., R-3, Dranesville Dist., 30-3((1))21A, 4.1065 acres, V-82-D-089.

Martin Walsh represented the applicant. He stated that the applicants wanted to operate a nursery school in an existing church. There was a waiting list for this school, and they needed more room to accommodate these children. He stated that there would be four classes, thirty-four children and five teachers. The school would be open from September through May to correspond with the public school year. In addressing the variance request, Mr. Walsh stated that the church was currently operating with the gravel surface parking lot, and there would not be any negative impacts. This area has no curb, gutter or sidewalk, and the gravel parking is in keeping with the rural area. To pave this area would cause storm water run-off, and the expense of paving would make it prohibitive to operate the school on this site.

There was no one to speak in support or opposition to the request.

RESOLUTION

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-D-051 by SOC CAPITAL AREA MISSIONARY CHRISTIAN CHURCH & YWCA, NCA, FAIRFAX COUNTY BRANCH, under Section 3-303 of the Fairfax County Zoning Ordinance for a nursery school within existing church, located at 1731 Great Falls Street, tax map reference 30-3 ((1)) 21A, 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 20, 1982; 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. That the area of the lot is 4.1065 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 34 with four classes.
8. The hours of operation shall be 9:00 A.M. to 1:00 P.M., Monday thru Friday during the nine month school period.
9. There shall be 50 parking spaces.
10. There shall be 5 teachers.
11. The ages shall be 1 thru 5 years old.
12. This permit is under the Site Plan Ordinance.
13. The duration of the permit is for 5 years.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. Hyland and Mr. Yaremchuk being absent).

072

RESOLUTION

In Application No. V-82-D-089 by SOC CAPITAL AREA MISSIONARY CHRISTIAN CHURCH AND GARFIELD MEMORIAL CHURCH & YWCA, NCA, FAIRFAX COUNTY BRANCH under Section 18-401 of the Zoning Ordinance to allow nursery school within existing church having gravel parking lot (dustless surface req. by Sect. 11-102), on property located at 1731 Great Falls Street, tax map reference 30-3 ((1)) 21A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 20, 1982; 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 4.1065 acres.
4. The entrance to the subject property shall be improved to a standard commercial entrance and the pavement extended from the entrance 25 feet into the site unless waived by the Director of DEM.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs. Hyland and Yaremchuk being absent).

Page 72, July 20, 1982, Scheduled case of:

12:45 P.M. COMMITTEE FOR THE PRESERVATION OF FARMLANDS, appl. under Sect. 3-203 of the Ord. to permit open air produce stands once a week in church parking lot, located 1326 Calder Rd., Salona Village Subd., R-2, Dranesville Dist., 30-2((13))11, 12, & 13, 3.0 ac., S-82-D-040. (DEFERRED FROM JUNE 29, 1982 FOR NOTICES)

Maya Huber, 6655 Chilton Court, McLean, represented the applicant. She stated that the applicants had signed a contract with the church setting forth what payment the church would receive for the use of the parking lot and who could use the church bathrooms. The contract was good for the summer of 1982. The applicant plans to operate an open air farmers market every Friday from 10:00 A.M. to 4:00 P.M. The market will be open from June through October. She stated that the lot they were using was within a central business district, and there was plenty of space and parking. She stated that there was no agreement with the church to put up a permanent sign, so they didn't intend to use that provision. Ms. Huber presented a petition in support of the application from the contiguous property owners on Calder Road.

There was no one to speak in support and no one to speak in opposition.

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073

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-82-D-040 by COMMITTEE FOR THE PRESERVATION OF FARMLANDS, under Section 3-203 of the Fairfax County Zoning Ordinance to permit open air produce stands once a week in church parking lot, located at 1326 Calder Road, tax map reference 30-2 ((13)) 11, 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 July 20, 1982; 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-2.
3. That the area of the lot is 3.0 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 8:00 A.M. to 8:00 P.M. on Friday.
8. This permit is granted for June thru October, 1982.

Mrs Day seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Hyland and Yaremchuk being absent).

Page 73, July 20, 1982, Scheduled case of:

1:00 P.M. TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB, appl. under Sect. 3-103 of the Ord. to amend S-134-78 for community swimming & tennis club to eliminate parking lot on 1 acre parcel and to permit operation of all existing facilities with existing 138 parking spaces, located 9117 Westerholme Way, R-1, Centreville Dist., 28-4((1))47 & 45A, 6.696 acres, S-82-C-025. (DEFERRED FROM MAY 18, 1982 FOR ADDITIONAL INFORMATION AND DEFERRED FROM JUNE 29, 1982 AND JULY 15, 1982 FOR DECISION OF FULL BOARD)

It was the consensus of the Board to defer this case for a decision of the full Board. The special permit application was rescheduled to September 14, 1982 at 10:50 A.M.

Page 74, July 20, 1982, Scheduled cases of:

- 1:15 P.M. THOMPSON DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 9.5 ft. from one side lot line and 10.0 ft. from the other (12 ft. min. side yard req. by Sect. 3-307), located 1134 Randolph Rd., Kings Manor Subd., R-3, Dranesville Dist., 21-4((8))(G)28 & 29, 6,104 sq. ft., V-82-D-080. (DEFERRED FROM JULY 15, 1982 FOR HEARING BY FULL BOARD)
- 1:30 P.M. THOMPSON DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 9.5 ft. from one side lot line and 10.0 ft. from the other (12 ft. min. side yard req. by Sect. 3-307), located 1130 Randolph Rd., Kings Manor Subd., R-3, Dranesville Dist., 21-4((8))(G)30 & 31, 6,104 sq. ft., V-82-D-082. (DEFERRED FROM JULY 15, 1982 FOR HEARING BY FULL BOARD)
- 1:45 P.M. KENNETH M. & MINNIE D. THOMPSON & THOMPSON DUNN ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 9.5 ft. from one side lot line & 10.0 ft. from the other (12 ft. min. side yard req. by Sect. 3-307), located 1126 Randolph Rd., Kings Manor Subd., R-3, Dranesville Dist., 21-4((8))(G)32 & 33, 6,104 sq. ft., V-82-D-083. (DEFERRED FROM JULY 15, 1982 FOR HEARING BY FULL BOARD.)

074

The Board was in receipt of a letter from Henry C. Mackall that stated he was the record owner of lots 28, 29, 30, 31, 32 and 33, and his name had inadvertently been left off of the variance requests.

Martin Dunn handed a letter of support to the Board members from the Kings Manor Association, an association of two hundred townhouse owners. They requested that the applicants be committed to follow the architectural plan as described in the applications and include desirable landscaping provisions in lieu of the developed trees that would be removed during the development process.

Mr. Dunn stated that the request was in complete harmony with the existing homes in the area. He stated that twenty-seven houses had already been built in Kings Manor, and they complied with all the zoning standards. These houses were built prior to the change in the Zoning Ordinance, and it was the owners intention to develop these three properties in the same fashion. Mr. Dunn stated that these were the last three houses to be built in this subdivision. The lots were substandard and irregular in shape.

There was no one to speak in support or opposition to these applications.

Page 74, July 20, 1982
THOMPSON DUNN ASSOCIATES

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-D-080 by HENRY C. MACKALL, TRUSTEE AND THOMPSON DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 9.5 ft. from one side lot line and 10.0 ft. from the other (12 ft. min. side yard req. by Sect. 3-307), on property located at 1130 Randolph Road, tax map reference 21-4 ((8)) (G) 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 July 20, 1982; 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 6,104 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow. The lot is 6,104 sq. ft. which limits meeting the County setbacks. Said house will provide a continuity of the architectural theme existing now in Kings Manor referred to as "buffer homes".

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland and Yaremchuk being absent).

R E S O L U T I O N

In Application No. V-82-D-082 by HENRY C. MACKALL, TRUSTEE AND THOMPSON DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 9.5 ft. from one side lot line and 10.0 ft. from the other (12 ft. min. side yard req. by Sect. 3-307), on property located at 1130 Randolph Road, tax map reference 21-4 ((8)) (G) 30 & 31, 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 20, 1982; 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 6,104 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland and Yaremchuk being absent).

R E S O L U T I O N

In Application No. V-82-D-083 by HENRY C. MACKALL, TRUSTEE AND THOMPSON DUNN ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 9.5 ft. from one side lot line and 10.0 ft. from the other (12 ft. min. side yard req. by Sect. 3-307), on property located at 1126 Randolph Road, tax map reference 21-4 ((8)) (G) 32 & 33, 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 20, 1982; 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 6,104 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow in the rear 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland and Yaremchuk being absent).

Page 76, July 20, 1982, AFTER AGENDA ITEMS:

KOREAN PRESBYTERIAN CHURCH, S-81-S-002: The Board was in receipt of a letter from Pastor Taek Yong Kim requesting an extension of an existing special permit. The Board was provided with a copy of a punch list from the Department of Environmental Management showing items that had not yet been completed on this site, including sidewalks, sod ditch outfall of storm water, standard barrier, screening barriers, water retention trench, and entranceway. They indicated that the occupancy permit would not be issued until all the items had been completed. It was the consensus of the Board to defer any action on this request for more information, and the asked that the pastor be present during their consideration of this request. The request was deferred to July 29, 1982 at 1:30 P.M.

// There being no further business, the Board adjourned at 4:15 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on June 1, 1984

APPROVED: June 5, 1984
Date

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077

The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, July 22, 1982. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack and John Ribble. (Messrs. John Yaremchuk and Gerald Hyland were absent).

The Chairman called the meeting to order at 10:20 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 JAMES B. HARRISON, appl. under Sect. 3-103 of the Ord. to permit a home professional
A.M. office (attorney), located 2738 Calkins Rd., Moneys Corner Subd., R-1(C),
& Centreville Dist., 26-3((2))36, 22,531 sq. ft., S-82-C-042.

10:00 JAMES B. HARRISON, appl. under Sect. 18-401 of the Ord. to allow a home professional
A.M. office on a lot having area of 22,531 sq. ft., (25,000 sq. ft. min. lot area req.
by Sect. 3-106), located 2738 Calkins Rd., Moneys Corner Subd., R-1(C), Centreville
Dist., 26-3((2))36, 22,531 sq. ft., V-82-C-088.

Mr. James B. Harrison of 2738 Calkins Road in Herndon was informed by the Chairman that there was not a full Board and it required a vote of four to affect any action. Chairman Smith inquired if the applicant wished to proceed with the case. Mr. Harrison stated he would proceed with the application. He informed the Board that he was employed with the National Oceanic & Atmosphere Admin. with the U.S. Dept. of Commerce. He stated that he had passed the Bar Exam in February of this year and was licensed in the State of Virginia. Mr. Harrison wished to begin a part-time practice of law in his home. He was applying for a special permit for a home professional office in addition to a variance to the lot size as regulated by the Ordinance. Mr. Harrison stated that he was advised by the Zoning Administrator that even though his house was built in accordance with the Ordinance in effect at the time of construction, it was now less than required by the present Ordinance. Chairman Smith stated that the requirement pertained to the home professional use. He stated that the minimum lot area requirement was 25,000 sq. ft. for this use under Sect. 3-106. Mr. Harrison stated that Sect. 3-106, it did designate lot size requirements and had a minimum lot area for cluster. He stated that the regulation did not relate to home professional offices. Mr. DiGiulian stated that what the Chairman was saying was that the applicant had a lot that was in the zoning category of R-1(C). The square footage of that lot did not meet the minimum requirement for that zoning district. Mr. DiGiulian stated that it was an unusual condition.

Mr. Harrison stated that he had done some research as to when the house was built. In an R-1 subdivision, the minimum lot area was 20,000 sq. ft. When his house was built, it was in accordance with the Code. The Code had changed and the lot no longer met the requirement.

Chairman Smith inquired if the applicant had any further comments as far as hardship under Section 18-401 of the Ordinance. He stated that there were three steps in that section of the Ordinance which must be evident before the Board could grant a variance. Mr. Harrison stated that the standards for variances were contained in Section 18-401. It did indicate that the BZA had to ascertain whether there were unusual conditions applicable to the land or buildings for which the variance was sought. Mr. Harrison stated that this situation had not resulted from any action by him. The unusual circumstance or condition was the fact that the law had changed. He stated that he did not meet the R-1 minimum area for a cluster subdivision because the law had changed since the house was built.

Chairman Smith stated that the changing of the law had been a legislative act and was also a general condition that applied to all other lots in the cluster subdivision all over the County. It was a general condition. Mrs. Day stated that she did not feel it was a hardship that necessitated the practice of law in the evening. She inquired if the applicant planned to retire from the federal government soon. She asked the reason for the evening practice. Mr. Harrison stated that he did not plan to retire. He informed the Board that he had been with the federal government for 16 years. His children would be going to college soon. He stated that he had a fellowship for next year where he would be working in the field for a year. Mr. Harrison stated that he was interested in continuing working with the government. He had developed an interest in law over the past five years and was interested in practicing law. He had completed his law studies in the evening program and was trying to do two things Mrs. Day stated that she did not see anything in the staff report about the applicant's hours of operation or the days of the week he would practice law. The staff report only indicated a total of 15 hours per week with 2 to 4 clients per week. No time range had been given. Mr. Harrison responded that he planned to practice two evenings per week. He did not know which evenings. He planned to have one client each evening and two clients on Saturday afternoon as a maximum practice. He stated that he could only practice about 15 hours per week. Mr. Harrison stated that this was not a beauty parlor. He could only spare the time for two to four clients a week. The rest of his time would be research, etc.

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Mr. Hammack inquired as to the type of practice Mr. Harrison anticipated. Mr. Harrison stated that he would handle Wills and Trusts and domestic relations. He stated that he would restrict himself to the Wills and Trusts area as he would have to be working overtime in his federal government job and would not be able to take time off from his job to go to court. Mr. Hammack inquired as to the fellowship. Mr. Harrison stated that was a work assignment he had for the next year. He would be working on the fellowship for a ten month period. Mr. Hammack inquired about employees in the law practice. Mr. Harrison stated that his wife would be his secretary and he could type. He did not plan on having any employees that did not live in the home.

Mr. Harrison stated that the impact on the community would be slight and not noticeable. There would not be any alterations to the outside of the house. No employees except his wife would be involved in the practice. He stated that he would spend two to four hours with clients in his office and the rest of the time would be spent in research. Traffic would be limited to two to four client visits per week during evenings or Saturday afternoons. With respect to parking, Mr. Harrison informed the Board that he and his wife parked their cars in the garage. Only the clients would park in the driveway.

Mr. Harrison informed the Board that he had spent a large effort to become a licensed attorney and it was important to him to practice at home in addition to his fulltime job. He stated that he had a disability and it would be hard for him to perform outside of his home. Mr. Harrison stated that it was questionable as to whether he could get on another level of activity elsewhere.

Mr. Hammack inquired as to who would witness wills in a home practice. Mr. Harrison stated that his wife could witness the wills. The State of Virginia only required two witnesses. Mr. Harrison stated that he would ask his client to bring their witnesses. He informed the Board that he was a notary. Mrs. Day questioned Mr. Harrison notarizing the wills. Mr. Harrison stated that he had checked with other attorneys who worked in Wills and Trusts. He stated that he could notarize the will if he did not serve as a witness.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-C-042 by JAMES B. HARRISON under Section 3-103 of the Fairfax County Zoning Ordinance to permit home professional office (attorney), located at 2738 Calkins Road, tax map reference 26-3((2))36, 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 22, 1982; 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(C).
3. That the area of the lot is 22,531 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.

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

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Yaremchuk & Hyland being absent).

R E S O L U T I O N

In Application No. V-82-C-088 by JAMES B. HARRISON under Section 18-401 of the Zoning Ordinance to allow a home professional office on a lot having area of 22,531 sq. ft. (25,000 sq. ft. minimum lot area required by Sect. 3-106) on property located at 2738 Calkins Road, tax map reference 26-3((2))36, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 22, 1982; 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-1(C).
3. The area of the lot is 22,531 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 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. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Yaremchuk and DiGiulian being absent).

Page 79, July 22, 1982, Scheduled case of

10:15 MOST REVEREND THOMAS J. WELSH/MONASTERY OF THE POOR CLARES, appl. under Sect.
A.M. 3-203 of the Ord. to amend S-79-77 for a monastery to permit construction of new chapel and additional parking spaces, located 2503 Stone Hedge Dr., Calvert Park Subd., R-2, Mt. Vernon Dist., 93-3((8))1, 2 & 3, and 93-3((1))4, 6.4514 acres, S-82-V-052.

Mr. Fred Scherin, an architect, represented the applicants. He informed the Board that this was the second phase of the building program. Mr. Bill Enderlee was the property manager for the Catholic Diocese. The Clerk had informed the Board that the required notices were not in order. Mr. Enderlee informed the Board that his secretary had contacted Mrs. Cockerill of the Real Estate Assessments Office and the names of Mr. Raney and Mrs. Griggs were not on the list. Mr. Enderlee was informed of the notice deficiency and he had attempted to contact the individuals. Mr. Raney did not live on the property but was listed as the property owner. Three weeks ago, a couple moved into the property and were renting the home. Mr. Enderlee was not certain whether Mr. Raney was the actual owner of the property any longer. With respect to the Griggs property, there was a house sitter watching the property while the Griggs were in Florida. Mr. Enderlee stated that he would pursue the matter. Mr. Enderlee stated that he had contacted the Assessments Office and notified everyone on the list given to him.

Chairman Smith stated that in view of the lack of proper notification, the Board would defer the hearing until August 5, 1982 at 1:15 P.M.

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Page 79, July 22, 1982, Scheduled case of

10:30 FELLOWSHIP BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit con-
A.M. struction and operation of church and related facilities, and a private school
& of general education, R-1, Mt. Vernon Dist., 107-2((1))23, 5.4787 acres,
S-82-V-054.

10:30 FELLOWSHIP BAPTIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow church
A.M. and private school with gravel drive and parking lot (dustless surface req. by
Sect. 11-102) R-1, Mt. Vernon Dist., 107-2((1))23, 5.4787 acres, V-82-V-090.

Reverend Mark Grooms, Pastor of the Fellowship Baptist Church, informed the Board that the church had applied for a special permit to operate a church. The proposal was to build a new church. The hardship involved the dustless surface requirement. The most obvious hardship was financial. Reverend Grooms stated the congregation was small and young. The church would choose to pave the driveway at a later date if the County would permit them. Chairman Smith stated that even though money was a hardship, it was not recognized as a hardship under the Ordinance. He stated that there had to be other factors involved. Rev. Grooms stated that the area was rural. There was a gravel drive all the way up to the end serving the homes. Therefore the church's gravel drive would be conducive to the area. Chairman Smith inquired as to the development surrounding the church. Rev. Grooms stated that to the rear was a vacant lot owned by the railroad. Two homes were on the east side and two homes were in front of the property.

Rev. Grooms stated that he had received a copy of the staff report the day before. He was concerned with the recommendation of VDH&T that the church bring the road up to Code as it would place an extremely heavy burden on the church at this time. Rev. Grooms stated that

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most of the children coming to the school would be brought by bus. Some students would be brought by their parents. Rev. Grooms stated that the church was asking for a maximum of 25 students.

In response to questions from the Board, Rev. Grooms stated that the proposed building would house the church and school. It was a 60'x90' building consisting of one level.

There was no one else to speak in support. Mr. Marvin Edward of 7714 Midway Place spoke in opposition. He informed the Board that he was the owner of the access for the right-of-way going into the church. His house faced the right-of-way. Mrs. Day inquired as to the lot number and was informed it was lot 21 of Wildwood Way. Mr. Edwards informed the Board that the road was not maintained. With the church, there would be at least 75 to 100 cars on Sunday. Mr. Edwards stated this would make a dangerous situation. He stated that the gravel driveway was not practical as his wife had emphysema and allergies. He asked that the church meet the requirements. Mr. Edwards stated that the land was flat and would create drainage problems which was already occurring through lot 21. In response to questions from the Board, Mr. Edwards stated that he owned one acre.

Mr. Douglas R. Sigmon informed the Board that he was also in opposition to the church's request. Mr. Sigmon stated that his property faced the easement. He also had a water problem which the builder had not done anything about. He stated if the church built at this location, they would have to build a drainage system. Mr. Sigmon stated that the ditch was gravelled over and he got all the water on his property. Now, the church had put a pole right in the middle of the drainage ditch. Mr. Sigmon stated that his concern was the water. He wanted a stockade fence for the parking area to block the view of the street. Mrs. Day informed Mr. Sigmon that storm water retention would be required. She stated that she understood his problem.

There was no one else to speak in opposition. Mrs. Day questioned Rev. Grooms regarding comments in the staff report. It was indicated that the church must connect to sewer and water. The Health Department indicated that no food was to be served on the premises for the school. Rev. Grooms stated that water and sewer easements went through the property. With regard to the closing hour of the school, he stated that he had given a figure for leeway. The closing would close to 2:30 or 3 o'clock.

During rebuttal, Rev. Grooms stated that the water problem due to the contours of the land would not even run in the direction of Mr. Edwards and Mr. Sigmon except from the driveway that would come in through that point. He stated that the easement would create some water problem. Rev. Grooms stated that the church would comply with the County Code as far as drainage. The dustless surface would not create any problem. In fact, the gravel would help to absorb some of the water.

Mr. DiGiulian questioned the number of vehicles to come into the church property on a Sunday morning. Rev. Grooms stated that at the present, the most would be 15 cars which was a high figure. With regard to the school transportation, the majority of the students would be bused. He stated that because the church could provide the bus transportation, it would cut down on the number of vehicle trips per day. He stated that with the buses, it would cut the number of trips to half. Therefore, the church wanted a maximum of 75 students as a maximum of 50 would not be economically feasible and the church would not be able to maintain the school. Chairman Smith inquired as to why the church could not operate with 50 students and was informed it was financially burdensome. Mrs. Day stated that some of the children would not be bused. Rev. Grooms stated that some of the students that lived in the area might be dropped off by parents who lived down the road. Mrs. Day inquired as to the number of students to be bused and the number to be dropped off. Rev. Grooms stated that he could not say at this time but believed it to be about 50%.

Chairman Smith inquired as to whether the church would fulfill the requirements for a dustless surface on the driveway and the access and leave the parking area in gravel. Rev. Grooms stated that the church could concede to that request. Chairman Smith stated that it was difficult for him to allow a driveway without meeting the standards as it would be a problem. Since there was only a 30 ft. right-of-way, the church could pave the roadway into the parking lot and leave the existing parking lot in gravel for a period of five years. Chairman Smith stated that would cut down on a lot of the water runoff. The opposition indicated that this would meet their objections.

Chairman Smith closed the public hearing. Mr. DiGiulian informed the Chairman that he would like to look at the site. Therefore, he moved that the Board defer decision until Tuesday, July 27, 1982 at 9:15 P.M. It was the consensus of the Board to accept the motion.

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10:45 TUCKAHOE RECREATION CLUB, INC., appl. under Sect. 3-303 of the Ord. to amend
A.M. S-126-78 for community recreation club to add one acre to existing land area
and to permit construction of two additional tennis courts with lighting and
a backboard; a 19' by 60' addition on existing indoor swimming pool bldg.;
& construction of fences on outlot A and in the east and south side of the new
10:45 one acre, located 1814 Great Falls St., R-3, Dranesville Dist., 40-1((1))1, 2 & A
A.M. and 40-2((1))pt. of 1, 9.1574 acres, S-82-D-055.

TUCKAHOE RECREATION CLUB, INC. AND WILSON A. & CATHERINE V. HARRIS, appl. under
Sect. 18-401 of the Ord. to allow erection of a 6' chain link fence partly within
front yard (4' max. height for fence in front yard req. by Sect. 10-105), located
1814 Great Falls St., R-3, Dranesville Dist., 40-1((1))1, 2 & A & 40-2((1))pt. 1,
9.1574 acres, V-82-D-091.

Mr. Emerson Dimpfel of 6845 Blue Star Drive in McLean represented the applicant. Also
present was Mr. Dick Knotts, the general manager of Tuckahoe Recreation Club. Chairman Smith
inquired as to the ownership of the property involved in the variance application. Mr.
Dimpfel stated that the Harrises were the owners and Tuckahoe had a contract with them to
purchase the land provided the club could put in tennis courts. Chairman Smith stated that
the Board would reverse the names since the Harrises owned the property.

Mr. Dimpfel informed the Board that the club had been in existence since 1955. The club
wished to expand and wanted to purchase the one acre to be added to the use. The club
planned to put fences on the east and south sides of the property. It was planned to have
two tennis courts with a backboard and lights. In addition, the club wished to add a low
building addition on the pool building to be used for a sauna, etc. The club was asking to
be allowed to move a fence from the northwest corner of the property. Mr. Dimpfel stated
that Mr. Broyhill had given the club the land and the club was paying taxes on it. They
wanted to put the land inside the fence. The variance was requested because of the one
acre which crossed Woodgate Road. There was a short section of frontage and the club wanted
to use a standard 6 ft. fence like what was around 80% of the rest of the property. Mr.
Dimpfel stated that the fence in the back would be moved to encompass outlot "A". Mr. Dimpfel
stated that the 6 ft. fence in the front was already existing. The road had been placed
there.

Chairman Smith questioned the property purchase from the Harrises. He was informed the
Harrises would continue to live on 8.8 acres. When the one acre was incorporated in the
club property, it would bring the total land area to 9.1574 acres. Chairman Smith inquired
about the bathhouse. Mr. Dimpfel stated that the addition was low. It would house the
sauna, a jacuzzi bath, shower, steamroom, utility room and would extend out about 19 ft.
There was 29 ft. between the bathhouse and the nearest property. Chairman Smith inquired
about the screening. Mr. Dimpfel stated that there was a solid fence. There were many small
trees along the fence. Mr. Dimpfel stated that there was partial screening in this area.
Chairman Smith stated that the club would have to remove some of the screening to put in the
addition. Mr. Dimpfel stated that it was a small building. Some kind of evergreen would be
placed inside the fence. He stated that the club would have to pull the vines down. Chair-
man Smith inquired as to how the club could meet the transitional yard requirements of 25 ft.
in the area if 10 ft. was all that was left after the addition. Mr. Covington stated that
the screening could be waived at the option of the Director. Chairman Smith stated that the
Board could require the screening. He was concerned about the addition being only 10 ft.
from the residential property lines. Chairman Smith felt that was too close.

Chairman Smith inquired as to the type of screening the club proposed to install on the
tennis courts of the Harris property. Mr. Dimpfel stated that the club would have a fence
line and would work with the neighbors.

There was no one else to speak in support of the application. Mr. Darren Flitcroft of 3534
Morningside Drive in Fairfax informed the Board that he owned the property next door to
Tuckahoe. He was concerned about the addition to the poolhouse and indicated that Chairman
Smith had already addressed some of his concerns. Mr. Flitcroft stated that his home was
adjacent to the steamroom structure and across from the lighted tennis courts. He stated
that his property was used as the access to the rear of Tuckahoe. People walked all over
his property. Mr. Flitcroft stated that he considered himself a good neighbor to the club
and was not opposed to the lights which would affect his rear yard. However, he did object
to the steam room addition. He stated that moving the rear wall of the pool house to 10 ft.
of the property line was a violation of the Ordinance. Mr. Flitcroft questioned the comments
made between Chairman Smith and the staff. Chairman Smith explained that there should be a
25 ft. screening barrier for the pool. He stated that the pool had been used for a long time
and was very successful. The club had been allowed to build within close proximity to the
side lot line at that time. Mr. Flitcroft stated that it would be difficult to plant the
normal trees to provide screening as the land was sloped and not easy to work with. The
staff report indicated that the addition would encroach into the existint screening. Mr.
Flitcroft stated that the intent of the Ordinance was to protect the residents. Therefore,
he requested that the steam room addition not be approved.

Mr. Flitcroft stated that Mr. Dimpfel had made several remarks which he wished to discuss.
He stated that there was fence between the property. There was a fair amount of growth.
There was normal wild growth which the residents had left there. There was one very large

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Oak tree which limbs were trimmed. Mr. Flitcroft stated that the foliage on the Oak tree was so high that it did not provide any screening. Mr. Ribble inquired as to the steepness of the slope. Mr. Flitcroft stated that it sloped on either side. He stated that his house was at the top of the slope. He stated that he owned a colonial with a walkout basement at the rear. His deck was at the top of the building looking down on what was constructed at the club. Mr. Flitcroft stated that currently the poolhouse had a series of windows at the back of their building which they used for ventilation. When they built the addition, it would be at the top and the noise level would be raised and come directly across to his property.

The next speaker was Mrs. Jean Hubble of Great Falls Manor of 1832 Woodgate Lane in McLean. She was opposed to the expansion as it would benefit only members of Tuckahoe and not the community. She wished to stop trespassers across her property. Mrs. Hubble stated that the club had failed to meet the screening requirements and she urged the Board to deny the plans. She suggested the following with respect to the tennis court construction. Mrs. Hubble wanted a brick wall on the southern and western boundaries to reduce the noise level. In addition, deciduous and evergreen trees to reduce noise from the tennis courts was also requested. She asked that the trees be placed at the 25 ft. minimum. Mrs. Hubble asked that no lights be allowed on the building. Mrs. Hubble stated that she was not there to stop the tennis courts. She liked Tuckahoe but wanted to protect her property values. There were 19 homes on the front side of the creek. Three of the homes were right up against the property being purchased. Mrs. Hubble stated that her back yard was behind the one acre being purchased and her side yard was on the side. She had tremendous trespassing. She stated that she had her ripe tomatoes taken off her plants. Mrs. Hubble objected to the noise level. She stated that the lighting was controlled by a timer but it was not accurate. She was concerned about the backboard as people started playing tennis at 6 A.M. The backboard was proposed to be placed along the sides of the houses rather than on the opposite side. Mrs. Hubble stated that there was a problem with cars as people parked on the street.

Chairman Smith stated that the loudspeakers and all noise and lights had to be confined to the site. It was not supposed to be heard beyond the property line. He urged the citizens to contact Zoning Enforcement if there was any problem.

The next speaker in opposition was Mrs. Dale Dahl of 1831 Woodgate Lane, adjacent to the Harris property. She supported the comments made by Mrs. Hubble. Mrs. Dahl stated that the backboard was 25 ft. from her property line. There was a shed which was to be removed. As far as the noise factor, there was not any problem with the existing tennis courts but she did feel there would be a problem with the new courts. Mrs. Dahl was concerned about the property values for the community.

Mrs. Hubble spoke again to inform the Board that she had forgotten to mention that the club did not plan to have fencing across the back of the one acre they were purchasing from the Harrises. In response to questions from the Board, Mrs. Hubble stated that she had lived at her property for 9 1/2 years.

During rebuttal, Chairman Smith questioned Mr. Dimpfel as to whether club members were allowed to trespass over the contiguous properties. Mr. Dimpfel stated that there were three fences with about a 1 ft. gap in the fence that skinny people could go through. That was on the westbank of the outfall from the storm drop. Mr. Dimpfel explained that the fence made a jog around the outfall.

Mr. Dimpfel stated that the club did have a live speaker system. On Saturday morning, the club used a portable unit. He stated that people swimming make noise. With respect to the tennis courts, the club used a deflector on the lights. The lights were cross-court lights. Mr. Dimpfel stated that the backboard was about 80 ft. to the southern property line. It would become part of the southern fence to be installed. Chairman Smith inquired about the type of material to be used for the backboard. Mr. Dimpfel stated that it would be nothing like the club had at the present time. The present backboard did have a resounding noise. The club had investigated the use of the backboard and found it to be a very quiet activity.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-D-055 by TUCKAHOE RECREATION CLUB, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-126-78 for community recreation club to add one acre to existing land area and to permit construction of two additional tennis courts with lighting and a backboard; a 19'x60' addition on existing indoor swimming pool building; construction of fences on outlot A and in the east and south side of the new one acre, located at 1814 Great Falls Street, tax map reference 40-1((1))1, 2, & A, and 40-2((1))pt. of 1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

RESOLUTION

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 22, 1982; 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. That the area of the lot is 9.1574 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 IN PART (to allow the addition of one acre to the existing land area and to permit construction of two additional tennis courts with lighting and a backboard and for construction of fences on outlot A and in the east and south side of the new one acre) with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. for all activities except the indoor swimming pool which shall operate from 8 A.M. to 10 P.M.
8. The minimum number of parking spaces shall be 230.
9. All loudspeakers, noise and lights shall be confined to the site. Timing of the lights shall be set to turn off at 9 P.M. All after hours clean up shall be performed quickly and quietly.
10. 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 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.
11. The request for a 19'x60' addition on existing indoor swimming pool building has been denied as the addition would encroach on the neighboring residential properties.
12. The backboard shall be subject to the BZA's approval, prior to construction, as to the type of materials to be used and the recreation club shall provide proof to the BZA that the backboard material would absorb resounding noises.
13. Storm water retention shall be required.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Yaremchuk & Hyland being absent).

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Mr. Dimpfel brought up the subject of hours of operation. Previously, the club's hours of operation had been until 10 o'clock at night. Chairman Smith stated that this resolution would eliminate the previous hours of 8 A.M. to 10 P.M. on all of the uses. He inquired if the club was using the outdoor pool prior to 9 A.M. Mr. Dimpfel stated that the pool was used earlier than 9 A.M. for swimming practices. The official swimming events took place after 9 A.M. Mr. Dimpfel stated that the club had planned activities from 9 A.M. until 10 P.M. Chairman Smith inquired as to the average number of days the pool was used beyond 9 P.M. at night. Mr. Knotts responded that the club had parties four times a year. Chairman Smith stated that he did not have a problem with the indoor pool being operated from 8 A.M. until 10 P.M. because it would house the noise. However, he stated that tennis was not allowed except from 9 A.M. to 9 P.M.

R E S O L U T I O N

In Application No. V-82-D-091 by TUCKAHOE RECREATION CLUB, INC. AND WILSON A. & CATHERINE V. HARRIS under Section 18-401 of the Zoning Ordinance to allow erection of a 6 ft. chain link fence partly within front yard (4 ft. maximum height for fence in front yard required by Sect. 10-105) on property located at 1814 Great Falls Street, tax map reference 40-1((1))1, 2 & A and 40-2((1))pt. 1, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 22, 1982; and

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

1. That the owner of the subject property is Mr. and Mrs. Harris and Tuckahoe Recreation Club, Inc. is the contract purchaser.
2. The present zoning is R-3.
3. The area of the lot is 9.1574 acres.
4. That the applicant has shown that an unusual condition in the use of the property entitles him to a variance. This is an application to vary the height of the fence in the front yard of the property and the fence shall be limited to a height of 6 ft. in the front yard and the maximum height of the fence along Outlot A shall be limited to 6 ft.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain until the extension is acted upon by the BZA.
3. The applicant shall erect a fence along the western boundary of the proposed addition of one acre which was previously used as residential and the applicant shall fill in the one foot gap along the existing fence which creates a problem along the sewer outtake.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Yaremchuk & Hyland being absent)

At 12:25 P.M., the Board recessed for lunch and reconvened at 1:25 P.M. to continue with the scheduled agenda.

11:00 AUGUSTUS BERNARD & PATTY S. DRIVER, appl. under Sect. 18-401 of the
A.M. Ord. to allow construction of 12'8" high detached garage 4 ft. from side lot line
and 9 ft. from rear lot line (12 ft. min. side yard and 12 ft. 8 in. min. rear
yard req. by Sects. 3-307 & 10-105), located 5408 Nutting Dr., Ravensworth Farms
Subd., R-3, Annandale Dist., 79-2((3))(17)5, 10,760 sq. ft., V-82-A-078

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Mr. Bernard Driver of 5408 Nutting Drive in Springfield informed the Board that he had a small shallow lot with sloping topography. He stated that to place the garage elsewhere on the property would create a problem. Mr. Driver stated that he had a boat and trailer and would not be able to back in and out of the garage if it was built according to the zoning requirements. By moving the garage in 8 ft. from the side and 13 ft. from the back, he would not be able to get in or out of the garage.

In response to questions from the Board, Mr. Driver stated that his proposed garage was 22 ft. wide by 32 ft. deep. Mr. Driver stated that the back of the garage would be 4.8 ft. into the ground because of the slope. Chairman Smith inquired as to why such a large garage. Mr. Driver stated that he had lived on the property for 20 years and would probably continue to live there another 20 years. There was never enough storage space. He stated that he needed room for his cars and storage.

Mr. Driver informed the Board that there were three other garages which were built 2 ft. from the side of the property under the old Zoning Ordinance requirements. Two of the garages were very close to his property. He stated that his garage would have the same conditions.

AUGUSTUS BERNARD & PATTY S. DRIVER

R E S O L U T I O N

In Application No. V-82-A-078 by AUGUSTUS BERNARD & PATTY S. DRIVER under Section 18-401 of the Zoning Ordinance to allow construction of 12.8 ft. high detached garage 4 ft. from side lot line and 9 ft. from rear lot line (12 ft. minimum side yard and 12.8 ft. minimum rear yard required by Sects. 3-307 & 10-105) on property located at 5408 Nutting Drive, tax map reference 79-2((3))(17)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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 22, 1982; 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 10,760 sq. ft.
4. That the applicant's property has topographic problems and has an unusual condition in the shallowness of the lot and from the rear of the house to the rear lot line

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 12.8 ft. high detached garage 4 ft. from the side lot line with structure complying with the rear yard setback) with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plate 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 2 to 3 (Mrs. Day & Messrs. Smith & Hammack voting no)(Messrs. Yaremchuk & Hyland being absent).

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11:10 A.M. LARRY S. & SUSAN F. SOLOMON, appl. under Sect. 18-401 of the Ord. to allow construction of garage and workshop addition to dwelling to 6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-107), located 6804 Murray Ln., Sleepy Hollow Woods Subd., R-3, Mason Dist., 60-4((16))(A)29, 12,219 sq. ft., V-82-M-085.

Mr. Larry Solomon of 6804 Murray Lane informed the Board that he wanted to build an attached garage to his home. Because of the lot configuration, topography and house location, he was limited in where he could place the addition. The garage was 18 ft. wide because access to the house was through the door and the house was higher than the garage. Mr. Solomon stated that he would also add a fireplace in the room next to the garage. He stated that he needed a 30 ft. garage to run the entire width of the house. The garage would be 6 ft. from the property line on the side.

Mrs. Day inquired as to what was located in the back yard. Mr. Solomon stated that the back yard was heavily wooded. The land sloped and there was a hill that sloped over towards the neighbor's yard away from the house. Mr. Hammack inquired as to what the neighbor had on his property opposite the garage. Mr. Solomon stated that there was 29 ft. to the neighbor's house. That side of the neighbor's house was a solid brick wall without any windows. Mrs. Day inquired if it was possible to build the garage a little narrower and bring it back level with the patio. Mr. Solomon stated that there was not any access to the garage from that point of the house.

In response to questions from the Board, Mr. Solomon stated that he owned two cars. He proposed to use the garage for a hobby workshop also. Mr. Solomon stated that his house had a half-basement which was a play room for his children at the present time. Chairman Smith inquired as to why the applicant did not build a detached garage at the back and not seek a variance at all. Mr. Solomon stated that his house was situated on a hill which sloped down. To build at the back would require him to lengthen the driveway and drive up the hill and all around the house. Chairman Smith stated that there was not much slope in the back and nothing to prevent the applicant from building in the rear yard.

Mr. Solomon stated that his neighbors had a garage constructed under a variance last year and he had not opposed it. He stated that his neighbors did not object to the variance.

There was no one else to speak in support and no one to speak in opposition.

Page 86, July 22, 1982 Board of Zoning Appeals
LARRY S. & SUSAN F. SOLOMON

R E S O L U T I O N

In Application No. V-82-M-085 by LARRY S. & SUSAN F. SOLOMON, under Section 18-401 of the Zoning Ordinance to allow construction of garage and workshop addition to dwelling to 6 ft. from side lot line (12 ft. minimum side yard req. by Sect. 3-107) on property located at 6804 Murray Lane, tax map reference 60-4((16))(A)29, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 22, 1982; 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 12,219 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. Hammack seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. DiGiulian)(Messrs. Yaremchuk & Hyland being absent).

Page 86, July 22, 1982, Board Matters

Mr. Ribble reminded the applicants that there was less than a full Board present to hear applications and they could request a deferral of their applications.

11:20 PAUL THOMAS HADDOCK, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of a deck with spa addition to a townhouse 7.5 ft. from rear lot line
(14 ft. min. rear yard req. by Sects. 3-507 & 2-412), located 2282 Covent Gardens
Ct., Pinecrest Townhouse Subd., PRC, Centreville Dist., 26-1((11))(4B)42, 1,667
sq. ft., V-82-C-092.

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As the required notices were not in order, the Board deferred the application until
September 14, 1982 at 11:00 A.M.

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11:30 WILLIAM E. & CATHERINE K. RYAN, appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of enclosed porch addition to dwelling to 19.6 ft. from rear
property line (25 ft. min. rear yard req. by Sect. 3-107), located 3005 Miller
Heights Rd., Cinnamon Ridge Subd., R-1(C), Providence Dist., 47-1((7))8, 20,043
sq. ft., V-82-P-093.

Chairman Smith informed Mr. Ryan that there were only five Board members present and it
would take a vote of 4 to grant the variance request. Mr. Ryan stated that he wished to
proceed with the hearing. He informed the Board that he and his wife owned their home at
3005 Miller Heights Road. His house was set at an angle to the lot. Mr. Ryan proposed to
build an enclosed porch to enter the kitchen. The proposed addition was 13'x15' and one
corner was within the required setback. If the house was set square on the property, there
would not be a need for a variance. Mr. Ryan stated that he was requesting the variance
because to comply with the 25 ft. setback would not permit him to make full use of his
property.

In response to questions from the Board, Mr. Ryan stated that the porch was not presently
existing. There were only two steps there. The house was at the top of the hill. The
area behind was solid woods. Chairman Smith inquired as to what the porch would be used
for. Mr. Ryan stated that he would have screened sliding glass doors on the porch and it
would be used as a sitting room. Chairman Smith inquired as to how long the applicants had
owned the property and was informed 2 1/2 years. Mr. Ryan stated that the house was on
public water but not septic.

Mrs. Day inquired as to what was on the Thompson property. Mr. Ryan stated that it was two
55 acre plots. There was nothing but woods for a couple of hundred feet. Mrs. Day
inquired if there was any screening on the back property line. Mr. Ryan stated that the
builder had left a 12 ft. swale around the back of the house. Chairman Smith inquired if
the other houses were similarly arranged. Mr. Ryan stated that the house to the left was
situated at the same angle but it was forward more. It was almost impossible to see the
house to the left. The house to the right had a garage. Mr. Ryan stated that the builder
had staggered the position of the houses.

Chairman Smith inquired if Mr. Ryan's home was the only house this close to the rear
property line and in a similar manner. Mr. Ryan responded that it was. Everyone else's
house was situated squarely on the lot or sat forward on the property. Mrs. Day stated
that none of the houses or living areas would be looking into the porch. The porch would
not obstruct the living enjoyment of the neighbors.

Mr. Ryan stated that he had reviewed his request with all of the neighbors and there was
not any problem. There was no one else to speak in support and no one to speak in
opposition.

WILLIAM E. & CATHERINE K. RYAN

R E S O L U T I O N

In Application No. V-82-P-093 by WILLIAM E. & CATHERINE K. RYAN under Section 18-401 of the
Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 19.6 ft.
from rear property line (25 ft. minimum rear yard required by Sect. 3-107) on property
located at 3005 Miller Heights Road, tax map reference 47-1((7))8, County of Fairfax,
Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on
July 22, 1982; and

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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. The present zoning is R-1(C).
3. The area of the lot is 20,043 sq. ft.
4. That the applicant's house is situated at an angle to the property which because of the location of the drain fields put the house in such a position that causes a hardship in the applicant's fulfillment of the use of the property. This is a minimum variance as only one corner of the porch encroaches on the required setback 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Yaremchuk & Hyland being absent).

Page 88, July 22, 1982, Scheduled case of

11:40 VICTOR H. & RUTH M. LAZAROWITZ, appl. under Sect. 18-401 of the Ord.
A.M. to allow greenhouse addition to dwelling to 10.0 ft. from side lot line such that side yards total 31.8 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), located 1513 Gingerwood Ct., Cinnamon Creek Subd., R-1(C), Dranesville Dist., 19-3((7))81, 21,000 sq. ft., V-82-D-094.

For information relating to testimony given, please refer to the verbatim transcript on file in the Clerk's Office.

Page 88, July 22, 1982
VICTOR H. & RUTH M. LAZAROWITZ

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-D-094 by VICTOR H. & RUTH M. LAZAROWITZ under Section 18-401 of the Zoning Ordinance to allow greenhouse addition to dwelling to 10.0 ft. from side lot line such that side yards total 31.8 ft. (12 ft. min., 40 ft. total minimum side yard required by Sect. 3-107), on property located at 1513 Gingerwood Ct., tax map reference 19-3((7))81, 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 22, 1982; 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-1(C).
3. The area of the lot is 21,000 sq. ft.
4. That the applicant's property has exceptional topographic problems and there is no other location on the lot that the structure could go.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 plans 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion *FAILED by a vote of 3 to 2 (Messrs. Smith & Hammack)(Messrs. Yaremchuk & Hyland being absent).

Page 89, July 22, 1982, Scheduled case of

12:00 ALLAN P. KNOCH, appl. under Sect. 18-401 of the Ord. to allow
NOON enclosure of existing porch 10.4 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8315 Lilac Lane, Collingwood on the Potomac Subd., R-3, Mt. Vernon Dist., 102-4((60)(5)18, 12,525 sq. ft., V-82-V-095.

Mr. Hammack informed the Chairman that he would have to leave the meeting before the applicant could complete her application. He asked the Chairman to advise the applicant of the four vote situation. Chairman Smith explained that normally there were seven Board Members. He informed Mrs. Knoch that it took four affirmative votes to effectively grant a variance. He advised Mrs. Knoch that there were only five Board members present and one member would have to leave prior to the completion of her application. Chairman Smith asked Mrs. Knoch if she wished to defer the application as it would take a unanimous vote of the four members present in order to grant the variance.

Mrs. Knoch stated that she wanted to enclose the existing porch which was located 10.4 ft. from the side lot line. She stated that the enclosure of the porch would enable her to use it for a longer period of the year. At present, the porch was a screen and wood enclosure. Mrs. Knoch stated that she proposed a brick and glass enclosure. In addition, the enclosure would help keep the living room and dining room warmer during the winter months. She stated that there had been several robberies in the neighborhood involving the screened porch. The robbers had gained entry to the houses by cutting a slit in the screen and knocking out the glass in the french doors. By having the porch enclosed, it would mean that the robbers could be seen from the outside by the neighbors which would prevent them from entering the house.

Mrs. Knoch informed the Board that she was not proposing to enlarge the present porch but only to enclose it. She did propose to replace portions of the porch with brick columns but the overall dimensions would remain the same.

Chairman Smith inquired as to what the the hardship was as governed by the Ordinance. Mrs. Knoch stated that she wanted to be able to use her porch for a longer period of the time and proposed to put the air conditioner on the porch. Mrs. Day inquired if this was the only place for the porch. Mrs. Knoch stated that it was the only place and reminded the Board that the porch was already existing. She could not build the porch where the air conditioner was located. Mrs. Knoch stated that the porch had existed since she purchased the property. Chairman Smith inquired about the other houses in the area. Mrs. Knoch stated that across the street, the people had built a Florida room out of the porch.

There was no one else to speak in support and no one to speak in opposition.

Page 89, July 22, 1982

Board of Zoning Appeals

ALLAN P. KNOCH

R E S O L U T I O N

In Application No. V-82-V-095 by ALLAN P. KNOCH under Section 18-401 of the Zoning Ordinance to allow enclosure of existing porch 10.4 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 8315 Lilac Lane, tax map reference 102-4((6)(5)18, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 22, 1982; and

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RESOLUTION

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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. The present zoning is R-3.
3. The area of the lot is 12,525 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property. The porch is already existing and the applicant is unable to build behind the house as the air conditioning unit prohibits building in that area. The enclosure of the existing porch will not encroach beyond the present perimeter.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. Yaremchuk & Hyland being absent).

Page 90, July 22, 1982, Scheduled case of

12:15 P.M. GEORGE L. & NORMA E. PFAFF, appl. under Sect. 18-401 of the Ord. to allow expansion and enclosure of carport to 12.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4829 Willet Dr., Springbrook Forest Subd., R-2, Annandale Dist., 69-2((7))(4)3, 15,030 sq. ft., V-82-A-081. (DEFERRED FROM JULY 15, 1982 TO ALLOW APPLICANT TIME TO REVIEW ORDINANCE PROVISIONS REGARDING VARIANCE.)

At the request of the applicants, the Board deferred the scheduled variance until August 3, 1982 at 1:30 P.M.

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Page 90, July 22, 1982, Board Matters:

The Clerk was directed to ask Mr. Philip Yates, Zoning Administrator, to be present at the BZA Night Meeting scheduled for July 27, 1982.

// There being no further business, the Board adjourned at 3:00 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 June 1, 1984

Approved: June 5, 1984
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 Evening, July 27, 1982. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Ann Day, John Ribble, Paul Hammack and Gerald Hyland. John Yaremchuk was absent.

The Chairman opened the meeting at 8:05 P.M. and Mrs. Day led the prayer.

Mr. Hyland moved that the Board go into Executive session to address a legal matter. Chairman Smith indicated that they hoped it would take no longer than twenty minutes.

The meeting reconvened at 9:00 P.M. Mr. Hyland made a motion in connection with Law #54510 captioned P. Ray Rainwater and Rainwater Concrete Company, Inc., petitioners v. The Board of Zoning Appeals of the County of Fairfax, Virginia. He moved that the Board of Zoning Appeals appeal the decision of the Fairfax County Circuit Court which was rendered on July 12, 1982 and that the appeal be brought to the Supreme Court of Virginia. Second, he requested that the County Executive authorize sufficient funds for purposes of prosecuting said appeal. Mrs. Day seconded the motion. The vote was 4 - 1 (Mr. DiGiulian) (Mr. Ribble abstained) (Mr. Yaremchuk being absent).

Mr. Hyland stated that it was his understanding that the policy of the Board had been to require that on any appeal from a decision of the Zoning Administrator to the Board, that the BZA have all members of the Board present to hear such an appeal. In view of the fact that the Board had been increased to seven members and the fact that on occasion not all the members are always present, Mr. Hyland moved that the Board consider changing it's policy to require that in consideration of any appeal from a decision of the Zoning Administrator, that there be at least five members of the BZA present to hear such an appeal. Mr. DiGiulian seconded the motion. The vote was unanimous of the Board members present.

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

8:00 P.M. L.H. PROPERTIES, INC., appl. under Sect. 4-803 of the Ord. for a bowling alley, located 13814 Lee Hwy., C-8, Springfield Dist., 54-4(1)26, 3.2248 acres, S-82-S-044.

The notices were not in order for this application. It was rescheduled for August 5, 1982 at 1:00 P.M.

Page 91, July 27, 1982, Scheduled case of:

8:20 P.M. CHANTILLY HIGHLANDS HOMES ASSOCIATION, appl. under Sect. 3-303 of the Ord. for community recreation facilities, including swimming pool, lighted tennis courts and picnic area, located Kinross Cir., R-3, Centreville Dist., 25-3(1)pt. of 16A, 2.94279 acres, S-82-C-053.

Minerva Andrews, at attorney in Fairfax, represented the applicant. She stated that this would be located on a separate subdivided parcel that had been conveyed to Chantilly Highlands Homes Association by an instrument recorded in deed book 5643 of pg. 1302. She stated that this was a non-profit, non-stock corporation which was formed to hold a title to all of the common area in Chantilly Highlands subdivision. She showed the Board a transparency showing the projected development plan of Chantilly Highlands. The tract is currently surrounded by open space. The tract across the street was the site of an elementary school. On the west was a small stream with flood plain. She stated that houses would eventually be built to the north and east of the parcel. The facility has been constructed and is currently being operated. The plat shows a future racing pool, and there are enough parking spaces to cover that if it develops. The bathhouse is a one story brick structure and the center is well landscaped. Ms. Andrews stated that the traffic would not have an impact on the community. She stated that a building permit had been issued by the County, and they later realized they should have required a special use permit.

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

Page 91, July 27, 1982

Board of Zoning Appeals

CHANTILLY HIGHLANDS HOMES ASSOCIATION

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-C-053 by CHANTILLY HIGHLANDS HOMES ASSOCIATION, under Section 3-303 of the Fairfax County Zoning Ordinance for community recreation facilities, including lighted swimming pool, lighted tennis courts and picnic area, located at Kinross Circle, tax map reference 25-3(1)pt. of 16A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

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WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 27, 1982; 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. That the area of the lot is 2.94279 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 membership shall be 960 members.
8. There shall be 45 parking spaces provided.
9. The center shall contain a bath house, swimming pool, kiddie pool, two tennis courts, a picnic area and a future racing pool.
10. The hours of operation shall be 9:00 A.M. to 9:00 P.M.
11. The tennis court lights shall be faced in such a way that they will have no impact on the surrounding homes.
12. The pool shall be operated from the 25th of May thru the 15th of September.

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 6 - 0. (Mr. Yaremchuk being absent)

8:40 P.M.

ST. LOUIS CATHOLIC PARISH AND ELEMENTARY SCHOOL, appl. under Sect. 3-203 of the Ord. to amend S-82-V-005 for multi-purpose gymnasium addition to existing church school of general education and related facilities to permit a larger gymnasium than previously approved, located 2901 Popkins Ln., R-2, Mt. Vernon Dist., 93-1((1))6, 15.72 acres, S-82-V-059.

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John Reddick represented the applicant. He stated that they had previous approval for the gym, but that he wanted to amend that application. He stated that the building committee thought that the gym should be eight feet longer with no change in the proposed width.

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

ST. LOUIS CATHOLIC PARISH AND ELEMENTARY SCHOOL

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-82-V-059 by ST. LOUIS CATHOLIC PARISH AND ELEMENTARY SCHOOL under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-82-V-005 for multi-purpose gymnasium addition to existing church school of general education and related facilities to permit a larger gymnasium than previously approved, located at 2901 Popkins Lane, tax map reference 93-1((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 27, 1982; 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-2.
3. That the area of the lot is 15.72 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. All the requirements of S-82-V-005 not amended by this action shall remain in effect.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Yaremchuk being absent).

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Page 94, July 27, 1982, Scheduled case of:

9:00 P.M. PARADIST CHILD'S HAVEN, INC., appl. under Sect. 3-403 of the Ord. to amend S-80-A-065 for child care center to permit addition of modular nursery building to existing facilities, increase max. number of children to 87, and change name of permittee, located 4616 Ravensworth Rd., R-4, Annandale Dist., 71-1((1))63, 41,282 sq. ft., S-82-A-021. (DEFERRED FROM 5/11/82 FOR NOTICES AND FROM 6/29/82 FOR FULL BOARD.)

Mr. Hammack indicated that he and the applicants lawyer, Mr. Larry Becker, were co-council in a law case. He stated that he felt he ought to abstain from having any part in a decision on this case.

Mr. Becker stated that the applicant was asking for an expansion of thirty children for the day care center. He addressed some of the objections from neighbors. He stated that this day care center was located right next to a church and a school. The property values would not be affected by the expansion of this school, and any additions would fit into the surrounding environment. Regarding the pedestrian and vehicle traffic generated, he pointed out the Office of Transportation figures in the staff report. He stated that their figures were based on 87 children and 15 employees, but that the figures were much lower than that. One reason is that between 50% and 75% of the children that attend the day care center are from the immediate community. In addition, there are some carpools. Mr. Becker indicated that his clients were willing to upgrade the ingress/egress to their property.

Mr. Becker addressed the complaints regarding the noise of the children. He stated that at present the landscaping and barriers complied with the Zoning Ordinance. However, the applicants want to live in peace with the neighborhood, and they are willing to put up a six foot wooden fence along the eastern boundary of the property. He felt this would be sufficient to eliminate most of the noise. The southern boundary of the property is densely wooded, to the extent that it blocks out any noise coming from the yard.

Frank Morris, 4622 Ravensworth Road, Annandale, spoke in opposition. He was concerned about the traffic problems that already existed with the center located there, and didn't want any further aggravation. Mr. Morris stated that the operator of the day care center, Sandy Lawrence, had indicated that she was now operating with 55 children. He pointed out to the Board that she was operating in violation, because she was only authorized to have 47 children.

Mrs. Brock, 4620 Ravensworth Road, a next door neighbor of the school, also spoke in opposition. She submitted a picture and a petition, signed by 33 people to the Board. She stated she was in opposition to the school for the same reasons stated by Mr. Morris, the noise and the traffic. She did not like living next door to a parking lot. Mrs. Brock indicated that she had never received any certified notification from Paradise Haven regarding their original special permit granted by the Board the previous year.

Mr. DiGiulian made a motion that the Board defer any decision on the special permit application until staff could research the notices turned in for the previous special permit to insure they had been in order. Mr. Hyland seconded the motion. The application was rescheduled for August 5, 1982 at 1:30 P.M.

Page 94, July 27, 1982, Scheduled case of:

9:15 P.M. FELLOWSHIP BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for construction and operation of church and related facilities, and a private school of general education, R-1, Mt. Vernon Dist., 107-2((1))23, 5.4787 acres, S-82-V-054. (DEFERRED FROM 7/22/82 FOR DECISION ONLY AND VIEW OF SITE)

Page 94, July 27, 1982
FELLOWSHIP BAPTIST CHURCH

Board of Zoning Appeals

RESOLUTION

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-V-054 by FELLOWSHIP BAPTIST CHURCH, under Section 3-103 of the Fairfax County Zoning Ordinance for construction and operation of church and related facilities, and a private school of general education, tax map reference 107-2((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 July 27, 1982; 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. That the present zoning is R-1.
3. That the area of the lot is 5.4787 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 seating capacity of the church shall be 300.
8. The applicant shall provide 80 parking spaces.
9. The hours shall be normal hours of church activities.
10. The school shall have a maximum of 75 students.
11. The hours of operation for the school shall be 8:00 A.M. to 4:00 P.M., Monday thru Friday during the normal school year.
12. There will be six employees allowed for the operation of the church and the school.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Yaremchuk being absent).

Page 95, July 27, 1982, Scheduled case of:

9:15 P.M. FELLOWSHIP BAPTIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow church and private school with gravel drive and parking lot (dustless surface req. by Sect. 11-102), R-1, Mt. Vernon Dist., 107-2((1))23, 5.4787 acres, V-82-V-090. (DEFERRED FROM 7/22/82 FOR DECISION ONLY AND VIEW OF SITE)

Page 95, July 27, 1982
FELLOWSHIP BAPTIST CHURCH

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-V-090 by FELLOWSHIP BAPTIST CHURCH under Section 18-401 of the Zoning Ordinance to allow church and private school with gravel drive and parking lot (dustless surface req. by Sect. 11-102), tax map reference 107-2((1))23, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 27, 1982; and

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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 5.4787 acres.
4. That the applicant's property is irregular in shape with an exceptionally long driveway with the right-of-way giving it access to the property. The applicant shall put in a commercial entrance and pave the right-of-way adjacent to lot 21. This is a temporary permit for a maximum of five years to comply with the dustless surface requirements for the portion other than what is stated in the resolution.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Yaremchuk being absent).

Page 96, July 27, 1982, AFTER AGENDA ITEMS:

LAZAROWITZ, RUTH AND VICTOR: The Board was in receipt of a letter from Mr. & Mrs. Lazarowitz concerning V-82-D-094, denied by the Board on July 22, 1982. They asked that the Board reconsider their application based on new information they wished to add. It was the consensus of the Board to take it under consideration and make a decision on the request on August 3, 1982.

Page 96, July 27, 1982, AFTER AGENDA ITEMS:

A CHILD'S PLACE: The Board was in receipt of a letter from Mildred Frazer regarding the notice requirements for her special permit application scheduled for August 5, 1982. She had sent out the required notices fourteen days before the hearing instead of the required fifteen days. It was the consensus of the Board that the notification process was a state code requirement, and they could not waive the fifteen day requirement for so many properties. They indicated that the hearing would be rescheduled at the time of the original hearing date.

Page 96, July 27, 1982, AFTER AGENDA ITEMS

Mr. Hyland brought up a matter concerning the Bryant appeal, A-82-D-015, scheduled for July 29, 1982. It seemed certain that the requisite five members would not be present to hear the appeal on that date, and for that reason, he moved that the clerk should notify the applicant and any other interested parties that the matter would not be heard on that date. He stated that the appeal should be scheduled for an alternative date. It was the consensus of the Board to defer the case to August 3, 1982, at 1:45 P.M..

Due to the length of the meeting scheduled on August 3, 1982, Chairman Smith instructed the Board members to bring their lunch, dinner and sleeping bags with them.

// There being no further business, the Board adjourned at 11:00 P.M.

By: Judy J. Moss
Judy J. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on JUNE 14, 1984

APPROVED:: JUNE 19, 1984
Date

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The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, July 29, 1982. Daniel Smith, Chairman; Ann Day; Paul Hammack and John Ribble. (Messrs. DiGiulian, Yaremchuk and Hyland were absent).

The Chairman opened the meeting at 10:30 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled case of:

10:00 WILLIAM L. & ALIKI M. BRYANT, appl. under Sect. 18-301 of the Ord. to appeal
A.M. Zoning Administrator's decision that a proposed private indoor tennis court is not a permitted accessory use to a single family detached dwelling located at 1019 Savile Ln., McLean, VA., Langley on the Potomac Subd., R-1, Dranesville Dist., 22-4((1))8A, 1.444 acres, A-82-D-015.

Chairman Smith announced that at the last BZA meeting, the Board had announced its intent to defer the appeal application of William L. & Alike M. Bryant because it appeared there would only be four Board members to hear the appeal. Accordingly, the appeal was deferred until August 3, 1982 at 1:45 P.M.

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Page 97, July 29, 1982, Scheduled case of

10:20 TOWLSTON ROAD PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow sub-
A.M. division into 2 lots and an outlet with proposed lot 2 having width of 20 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 839 Towlston Rd., R-E, Dranesville Dist., 20-1((1))48A, 5.6521 acres, V-82-D-096.

Mr. Charles Runyon was the agent for the applicant. As there were only four members present and it would necessitate a unanimous vote of the members present to grant the variance, Mr. Runyon requested a deferral of the application. It was the consensus of the Board to defer the application until September 14, 1982 at 11:10 A.M.

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Page 97, July 29, 1982, Scheduled case of

10:30 ARTHUR B. MORELAND, appl. under Sect. 18-401 of the Ord. to allow subdivision into
A.M. three lots one of which would have width of 15 ft. (150 ft. min. lot width req. by Sect. 3-106), located 12410 Bennett Rd., R-1, Centreville Dist., 35-4((1))40 & 41, 7.9 acres, V-82-C-098.

Mr. Arthur Moreland of 12410 Bennet Road in Herndon was informed by the Chairman of the need to obtain a unanimous vote of the four Board members present to effect the variance. Each member would have to support the request. Mr. Moreland requested the Board to proceed with the hearing. He explained that he was requesting a variance of a lesser amount than he had at a previous hearing. He stated that he was only asking for a variance due to percolation problems. He was increasing the size of all of the lots. Chairman Smith inquired as to when the previous hearing had taken place. Mr. Covington stated that it was contained in the staff report. Mrs. Day stated that the report indicated the previous variance had been granted by the BZA in March of 1981. Chairman Smith inquired of Mr. Moreland as to why he had not taken advantage of the variance previously granted by the BZA. Mr. Moreland responded that he had physical and percolation problems and just a bit of procrastination. He stated that he had tried to get the two lots to pass perc but had not been able to succeed.

Chairman Smith inquired if Mr. Moreland was prepared to meet Design Review's request for subdivision to dedicate 45 ft. from the centerline of Bennet Road. Mr. Moreland stated that he was. For justification of the requested variance, Mr. Moreland stated that the shape of the parcel and the available perc areas were the reasons for requesting the variance. Chairman Smith informed Mr. Moreland that he had to justify the variance. Mr. Moreland replied that the property was odd-shaped. It was originally two lots but was presently one lot. It was directly across from Betsy Lane coming out on Bennet Road. The pipestem 15 ft. would come out at Betsy Lane and extend to the back lot. Chairman Smith inquired if Mr. Moreland could meet all the perc regulations for the proposed lots 2 and 3. Mr. Moreland stated that he could meet the regulations for lot 3 but there was still a question about lot 2. He was 99% sure that it would pass also. Chairman Smith inquired if Mr. Moreland had the lot perced. Mr. Moreland stated he had but the Health Department wanted to cut one more hole. Chairman Smith asked why the applicant had not taken care of these matters first. Mr. Moreland stated that he was not made aware of the fact that the Health Department wanted to cut more holes until two weeks before. Mr. Hammack suggested that the Board approve the variance subject to a percolation test. Chairman Smith stated that lot 2 was all right. Mr. Moreland stated that lot 2 was the one with the requested variance which was in question with the Health Department. Chairman Smith inquired if the septic for the existing house was sufficient. Mr. Moreland responded that it was. He stated that he had not had any problems in the past 16 years. Mrs. Day stated that lot was very hilly.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-C-098 by ARTHUR B. MORELAND under Section 18-401 of the Zoning Ordinance to allow subdivision into three lots one of which would have width of 15 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 12410 Bennett Road, tax map reference 35-4((1))40 & 41, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 29, 1982; 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-1.
3. The area of the lot is 7.9 acres.
4. That the applicant's property is exceptionally irregular in shape and has unusual topographic conditions which limit the way that the property can be developed. Further, that this is an R-1 zone and the total lot size is more than satisfactory for the R-1 zone.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. This variance is further subject to lot #42 as shown on the plat not being allowed to be developed until it passes the percolation standards of the Fairfax County Health Department.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hyland being absent).

Page 98, July 29, 1982, Scheduled case of

10:40 A.M. CHARLES A. DITTMAR, JR., appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 9.55 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-207 & 2-412), located 15213 General Stevens Ct., Pleasant Valley Subd., R-2(C), Springfield Dist., 33-4((2))68B, 12,274 sq. ft., V-82-S-099.

Major Charles Dittmar of 15213 General Stevens Court was informed there were only four Board members present and that it would take a unanimous vote of all four members to effect the variance. Chairman Smith inquired if Major Dittmar wanted to request a deferral. Major Dittmar responded that he was due to be transferred overseas on the 18th of August. Chairman Smith stated that he could not support the variance. He inquired if Major Dittmar would leave his family behind. Major Dittmar stated that his family would remain in the home. Chairman Smith stated that he was not aware of the hardship in this application but the applicant was requesting a 10 ft. variance from the Ordinance. Chairman Smith was not certain that it was not a general condition that existed in the development. Major Dittmar replied that he did not have any options as he would be in Japan in 21 days. He could not let the situation exist. Major Dittmar stated that he had a one year tour of duty overseas and had been moving around for 30 years. He wanted to remain here in this home. Mrs. Day

inquired if Major Dittmar was familiar with the criteria for granting variances under the Ordinance. Major Dittmar replied that he had a significant hardship as his lot was very shallow and irregularly shaped.

Mrs. Day stated that she had read the written statement presented with the application. At the back of the house there was a sliding glass door leading to nowhere. The applicant feared for the safety of his family if the sliding glass door were opened as the base of the door was 4 ft. above-ground. Chairman Smith stated that the applicant could build an 8½ ft. deck without a variance. Major Dittmar stated that there were infinite solutions to his problem. He only had 19 days to complete the deck. Mr. Ribble inquired if there had been an option to purchase a deck when the home was purchased. Major Dittmar stated there had been but he had not explored the situation then. The builder had mentioned the options. Major Dittmar had not been aware of the need for a variance. Chairman Smith stated that a 8½ ft. x 26 ft. deck could be built without a variance.

Chairman Smith informed the applicant that this was a new subdivision. The applicant was asking for a variance to alleviate a hardship. However, Chairman Smith felt that a 18'x26' deck was quite large as the Board was only allowed to grant a minimum variance. The average size deck was 8½'x10' for this type of house according to Chairman Smith. He stated that it might not be what the applicant wanted however.

Major Dittmar disagreed with the Chairman. He stated that his house style had two sliding glass doors. The decks wrapped around the kitchen which was the typical deck for his area. Major Dittmar stated that he was restrained to a rather small house. He had a one story, three bedroom home.

Chairman Smith inquired if Major Dittmar wished to proceed with the hearing. Mrs. Day stated that if the variance were denied Major Dittmar would not be able to do anything for one year anyway. Mrs. Day stated that it was possible that if Major Dittmar deferred the hearing, there would be another BZA member to vote on the application.

Major Dittmar asked the Board to explain the minimum variance procedure. Chairman Smith stated that the Board was only authorized to grant a minimum variance to relieve a hardship. He stated that the applicant had the area to build a 8½'x26' deck without a variance. Chairman Smith inquired as to what the hardship was beyond the 8½' deck as the Board would not be authorized to grant it. Major Dittmar asked who would hear any appeal from the BZA's decision. Chairman Smith stated that any appeal would have to go to the Circuit Court. Chairman Smith stated that the Board could defer the application until August 5, 1982.

Major Dittmar stated that an 8½' deck was not that big. He stated that he had four children and might have more. He stated that an 8½' deck would not be practical to build. Chairman Smith agreed with Major Dittmar but stated that he had seven children and only had a 8 ft. deck. Major Dittmar requested the Board to proceed with the hearing.

Major Dittmar stated that he was requesting a variance from the setback restrictions for the construction of the deck for his family's use. He was the owner of the property. He stated that he had moved around most of his life. His wife was the daughter of an army officer. Major Dittmar stated that his home was a five bedroom home. The original home was only three bedrooms. The second story was added to the house which had two large sliding glass doors off of the family room. The only other access was through the front door. There was not any other access to the back yard. The door was about 4 ft. above grade. Not having a deck impaired the function of the house. An 8½' deck would not be large enough. Major Dittmar stated that the house was set back on the back half of the lot. The back yard was fairly shallow. Many of the homes had wrap-around decks. Major Dittmar stated that there was a slight slope to the yard with higher ground which sloped away to the east. The slope was more prevalent on the eastern corner of the yard and there was not a flat area there.

Major Dittmar stated that he had the finances to build the addition and this would be his last home. He intended to remain in the home for the rest of his life. His family would live in the home during the year he was abroad. The entire family would reside there upon his return to the states and following his retirement. Primarily, the hardship of his application was the shallow yard and the fact that the deck would not be functional if built to regulations.

Mrs. Day inquired as to what was located on lot 233A. Major Dittmar replied there was nothing there. The grade went down quite steeply at that point. It was all rock and grass did not grow there. Mrs. Day stated that any future homeowner would not have any say about this proposed variance. Major Dittmar stated that he wanted to build as much of the deck as he could. He planned to have trees and shrubbery to shade the deck and provide relief for any prospective homeowner.

Mrs. Day informed the Board that she could not support the requested variance but could support a more nominal size deck. Mr. Hammack stated that he would go along with Mrs. Day. He stated that he had some reservations but did not like to negotiate. However, if the applicant was willing to go along with a smaller size. Major Dittmar stated that if he limited the deck to a smaller area, it would leave a strip of yard which was not functional. Mr. Hammack stated that was a problem for the Board of Supervisors. Chairman Smith stated that it had been brought to the Board of Supervisors' attention but they had refused to amend the Ordinance provisions.

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Mr. Hammack inquired if Major Dittmar would consider amending his application to only require a deck of 12' rather than 18' in depth. Major Dittmar stated he would amend it. Chairman Smith stated that would bring the deck into compliance except for one corner. Chairman Smith stated that he did not have a problem with a 12' deck but still felt a 12'x26' was rather large. Mr. Hammack stated that the builder had sited the homes on the lots in different locations. The Board was supposed to honor the setback requirements in the Ordinance. Unfortunately, a lot of people purchased their homes before finding out the regulations. Mr. Hammack stated that the BZA did not have the authority to go the full yard in every case.

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-82-S-099 by CHARLES A. DITTMAR under Section 18-401 of the Zoning Ordinance *to allow construction of deck addition to 9.55 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-207 & 2-412), on property located at 15213 General Stevens Court, tax map reference 33-4((2))68B, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirement of all applicable State and County Codes and with the by-laws of 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 29, 1982; 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(C).
3. The area of the lot is 12,274 sq. ft.
4. That the applicant has purchased a new house in May 1982 in which the plans had indicated that there was a desire for a deck from the dining room because of sliding glass doors which are 4 ft. above ground and that the owners property is of an odd shape and is shallow and secluded and has topographic problems and has an unusual condition in the location of the house on the 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 deck addition to dwelling to 15.55 ft. from rear 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. The variance is allowed only for the construction of a 12'x26' deck. The applicant shall plant evergreen trees along the south line which faces the deck.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hyland being absent).

Page 100, July 29, 1982, Scheduled case of

10:50 FOSTER W. MORSE, appl. under Sect. 18-401 of the Ord. to allow construction of
A.M. porch addition to dwelling to 14.3 ft. from rear lot line (25 ft. min. rear yard
req. by Sect. 3-E07), located 8009 Appollo St., Harbor View Subd., R-E, Mt. Vernon
Dist., 113-4((6))136, 22,076 sq. ft., V-82-V-100.

Mr. Foster Morse of 8009 Appollo Street was informed by the Chairman that it would take a unanimous vote of the four Board members present to effect the variance. He was given the option of proceeding or deferring the application. Mr. Morse chose to proceed with the application.

For justification, Mr. Morse stated that he had lived on the property for 13 years. He stated that he would remain in the home for the rest of his life. He planned to build an addition onto the house in the nature of a porch which would be adjacent to the pool which was existing. The house was 15 years old. The pool was there when Mr. Morse moved in 13 years ago. The lot was large but the house and the pool area were in the back of the lot. The house was about 60 ft. from the road because of a hill in the front. The house on lot 144 was to the back right side of Mr. Morse's house. The house ended before the end of the pool area.

Mr. Morse explained that he needed a variance in order to build an adequate sized porch to be used as a recreational area. His house was 29 ft. from the property line. It would be impossible to build any type of a porch without a variance. Mr. Morse stated that this was the only available area coming off of the house which was usable.

Chairman Smith questioned the proposal. Mr. Morse stated that there was a concrete deck around the pool. Chairman Smith inquired as to the distance between the porch and the pool and was informed it was about 6 ft. It was to be an enclosed porch so that it could be used year round as a recreational room. Mr. Morse stated that he had a teenage daughter and did not have a rec room in the house. Mr. Morse stated that the porch would be an economic improvement to the house. Mr. Morse stated that the lots were large and wooded. A small porch would not be an improvement to the house or be feasible. Mr. Morse stated that he could not scale the porch down because of the kitchen and a sliding glass door. He stated that he would make a door out of the dining room. He would have to change a window into a door to enter the porch.

Mrs. Day inquired as to why the porch could not be moved. Mr. Morse replied that 6 ft. was close enough to the pool with swimming and splashing. Mrs. Day inquired if Mr. Morse really needed a 24'x20' porch. Mr. Morse stated he did in order to make the porch livable. The porch would be enclosed and would be a relaxation room. Mrs. Day stated that Mr. Morse already had a deck and a pool for recreation. She could not see anything wrong with an enclosed porch but it was a rather long one being 24 ft. She stated the porch would be nice and Mr. Morse would probably enjoy it. However, she felt that the property was over utilized and additions were mushrooming. Mr. Ribble inquired if Mr. Morse had a basement rec room of any kind and was informed he did not.

Mr. Hammack inquired if the porch would have steps leading down to the pool area. Mr. Morse stated it would. There would be an entrance from the porch to the pool with about 3 steps. Mr. Hammack inquired of Mr. Covington as to when the property was designated R-E as the lots were half-acre in size. Mr. Covington stated that the 25 ft. rear setback was standard for all lots. The lot area and the lot width made the property substandard. Mr. Covington stated that the front setbacks were different from zone to zone.

R E S O L U T I O N

In Application No. V-82-V-100 by FOSTER W. MORSE under Section 18-401 of the Zoning Ordinance to allow construction of porch addition to dwelling to 14.3 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-E07), on property located at 8009 Appollo Street, tax map reference 113-4((6))136, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 29, 1982; 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-E.
3. The area of the lot is 22,076 sq. ft.
4. That the applicant's property is irregular in shape; specifically that the rear portion of the lot appears to be truncated so that the rear property curves drastically across the rear of the lot as it goes to the north. The applicant has an existing permitted use to the property in the pool with its concrete deck and that the proposed addition is to be used in conjunction with that permitted use so that its location on a different portion of the property would effectively limit the use if it were placed elsewhere.

RESOLUTION

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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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. That the applicant be required to plant evergreens along the east property line as shown on the plat from the northeast corner of the pool deck extending along the east property line adjacent to lot 144 in the Harbor View Subdivision in order to screen the adjoining property owner from the porch addition.

Mr. Ribbete seconded the motion.

The motion FAILED by a vote of 3 to 1 (Mr. Smith)(Messrs. DiGiulian, Yaremchuk and Hyland being absent).

Page 102, July 29, 1982, Scheduled case of

11:00 VICTOR SMITH, JR., & MARLENE H. SMITH, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of a carport addition to dwelling to 2.5 ft. from side lot
line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), and of a 13 ft. high
detached garage 5.0 ft. from a side lot line and from the rear lot line (10 ft.
min. side yard and 13 ft. min. rear yard req. by Sects. 3-407 & 2-412), located
6313 Virginia Hills Ave., Virginia Hills Subd., R-4, Lee Dist., 82-4((14))(10)23,
11,077 sq. ft., V-82-L-101.

Chairman Smith informed the applicants that it would take a unanimous vote of the four Board members present to effect the variance and inquired if the applicants wished to proceed with the hearing or defer the application for a full Board. Mrs. Smith opted to proceed with the hearing. Chairman Smith advised Mrs. Smith that unless she had substantial justification for requesting the variance, it would be to her advantage to seek a deferral. Mrs. Day stated that she could not support the request unless the applicants wanted to adjust the request in some way. Chairman Smith stated that the Board was trying to be very frank with the applicants. After much discussion, Mrs. Smith opted for the deferral. It was the consensus of the Board to defer the application until September 21, 1982 at 10:10 A.M.

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Page 102, July 29, 1982, Scheduled case of

11:10 CORRINNE NARANJO, appl. under Sect. 18-401 of the Ord. to allow enlargement and
A.M. enclosure of existing carport into an attached 2-car garage 6.7 ft. from side lot
line such that side yards total 15.7 ft. (8 ft. min., 20 ft. total min. side yard
req. by Sect. 3-307), located 7103 Danford Pl., Rolling Valley Subd., R-3(C),
Springfield Dist., 89-3((5))570, 10,462 sq. ft., V-82-S-102.

As the required notices were not in order, the Board deferred the variance until September 21, 1982 at 10:20 A.M.

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Page 102, July 29, 1982, Scheduled case of

11:20 JOHN H. MORRISON, appl. under Sect. 18-401 of the Ord. to allow construction of an
A.M. addition to dwelling to 10.5 ft. from a street line on a corner lot (30 ft. min.
front yard req. by Sect. 3-307), located at 5716 Norton Rd., Burgundy Farm Subd.,
R-3, Lee Dist., 82-2((5))(A)9, 13,652 sq. ft., V-82-L-104.

Mr. Morrison opted for a deferral of the variance hearing. It was the consensus of the Board to defer the hearing until September 21, 1982 at 10:30 A.M.

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Page 103, July 29, 1982, Scheduled case of

11:30 T. T. GREEN, appl. under Sect. 18-406 of the Ord. to allow living space addition
A.M. to dwelling to remain 6.8 ft. from side lot line and garage addition to remain
6.7 ft. from side and 27.2 ft. from front lot lines (12 ft. min. side yard and
30 ft. min. front yard req. by Sect. 3-307), located 6003 Lebanon Dr., Forrest
J. Hall Subd., R-3, Springfield Dist., 51-4((5))1A, 20,538 sq. ft., V-82-S-105.

Mr. T. Thomas Green of 6003 Lebanon Drive informed the Board that he wished to proceed with the hearing even though there were only four Board members present. Chairman Smith stated that this application was under the mistake section of the Ordinance. He inquired if the applicant had obtained a building permit prior to construction. Mr. Green stated that the need for a variance was the result of an error by the builder and himself. They had applied for a building permit after construction had started. Chairman Smith inquired as to how far along the construction was before applying for the permit. Mr. Green stated that the side walls and the roof were left to be constructed.

Chairman Smith stated that based on what he had heard so far, he suggested that Mr. Green ask for a deferral of the hearing. Chairman Smith inquired as to the name of the builder and was informed it was Mr. Dwayne Hobbs. Mr. Hobbs was present at the hearing. Mr. Hobbs stated that he was a licensed home improvement contractor in the County. Chairman Smith asked why Mr. Hobbs had started construction before posting the building permit. Mr. Hobbs replied that he was not aware the permit had to be posted. Chairman Smith inquired if the contract set forth who was responsible for obtaining the building permit. Mr. Hobbs stated that he could furnish it but did not have it with him.

It was the consensus of the Board to defer the hearing until August 5, 1982 at 2:00 P.M. for the contractor to furnish the contractor and for a hearing by the full Board.

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Page 103, July 29, 1982, Scheduled case of

11:40 WILLIAM E. MATTHEWS, appl. under Sect. 18-406 of the Ord. to allow a deck to
A.M. remain 1.6 ft. from the rear lot line (14 ft. min. rear yard req. by Sects. 3-507
& 2-412), located 10008 Georgian Woods Ct., Burke Centre Subd., PRC, Springfield
Dist., 77-4((17))22, 3,825 sq. ft., V-82-S-106.

Mr. Robert Lawrence, an attorney in Fairfax, represented Mr. Matthews. Chairman Smith asked about the ownership of the property. Mr. Lawrence stated that Mr. Matthews had recently purchased the property. Chairman Smith asked for a copy of the deed so that the findings of fact could be changed. Mr. Lawrence stated that it took several weeks for the deed to come back after the property had been recorded. However, he gave the Chairman the Deedbook and page number for reference. Chairman Smith stated that would be sufficient.

Chairman Smith inquired as to when the mistake occurred. Mr. Lawrence stated that the mistake occurred when the builder was building the improvements on the property. However, the builder had obtained a building permit. Mr. Lawrence requested the Board to defer the hearing. It was the consensus of the Board to defer the variance until September 21, 1982 at 10:40 A.M.

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Page 103, July 29, 1982, Scheduled case of

11:50 GARY E. MOSS, appl. under Sect. 18-401 of the Ord. to allow construction of carport
A.M. addition to dwelling to 5.9 ft. from side lot line (7 ft. min. side yard req. by
Sects. 3-307 & 2-412), located 7713 Shreve Rd., Wren Dale Acres Subd., R-3,
Providence Dist., 49-2((12))3, 11,050 sq. ft., V-82-P-107.

Chairman Smith explained the procedures when there were only four Board members present. Mr. Moss asked to proceed with the hearing. He informed the Board that he wished to build a carport on the side of his house. Chairman Smith inquired as to who owned the property. Mr. Moss stated that the property was owned by his mother and he. Mr. Moss stated that he wanted to build the carport on the side of the house. The minimum width was 11.5 ft. for a carport. He stated that there was a stairwell 3 1/2 ft. above grade at that point and a 3 ft. landing with stairs along the side of the house. That brought the minimum width to 14.5 ft. because of the stairwell.

In response to questions from the Board, Mr. Moss stated that the existing porch would be torn down as it was falling down and rotting. Mr. Moss stated that there was a side entrance and a main entrance in the center of the home. He wanted a carport at the side entrance. Mr. Moss stated that there was a fireplace chimney on the side which would interfere with the carport. Chairman Smith stated that the chimney was not shown on the plat. Chairman Smith inquired as to why Mr. Moss did not build at the rear of the house. Mr. Moss replied that he wanted the carport attached to the house so he could go from the carport into the house. His lot was only 1/4 acre size. Any construction in the rear would take away the yard. There was a screened porch at the back. He stated that if he built a carport at the rear, it would not be functional.

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Mrs. Day questioned the carport dimensions of 14.5'x24.8'. Mr. Moss stated that his stairwell was not at ground level. Chairman Smith stated that a 10' carport would accommodate a car very nicely. Mr. Moss stated that he was going by the specifications of the American Institute of Architects which recommended an 11.5 ft. carport. Mrs. Day inquired as to the number of cars owned by Mr. Moss. Chairman Smith stated that only one car would go in the carport. Chairman Smith stated that Mr. Moss was requesting a 13.5' carport when only an 11.5' carport was recommended. There was some obstruction but Chairman Smith stated that the minimum for a carport was more like 10 ft. Mr. Moss disagreed with the 10 ft. minimum. He stated that an 11.5' carport would allow room for opening cardoors. Chairman Smith stated he did not believe anything was justified over a 13.5' carport which would allow for the obstruction.

Mr. Moss stated that the County required a 3 ft. wide landing for the stairwell and there was the 3 1/2' chimney. Chairman Smith stated that there was still 10 ft. of space for the carport. The length of the carport was 24.8 ft. Mrs. Day questioned the construction of the house and was informed it was brick. The columns would be 6"x6" timbers. The sides of the carport would be aluminum to match the gable. The roofline would be about 1 ft. from the present roofline of the house and would be 1 ft. forward.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-P-107 by GARY E. MOSS under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 4.9 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412) on property located at 7713 Shreve Road, tax map reference 49-2((12))3, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 29, 1982; 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 11,050 sq. ft.
4. That the applicant's property has steps which have deteriorated and been torn down and that the house could be entered from the carport. It's not feasible to construct the carport in the rear yard due to difficult turnaround because of a screened porch and a 10 ft. sanitary sewer easement at the rear property line. The adjoining neighbor has a swimming pool with a stockade fence, hence there will not be any obstruction of view.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 carport addition to dwelling to 5.9 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hyland being absent).

At 12:50 P.M., the Board recessed for lunch and reconvened at 1:55 P.M. to continue with the scheduled agenda.

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Page 105 July 29, 1982, Scheduled case of

12:00 PAUL HOWARD, appl. under Sect. 18-401 of the Ord. to allow construction of addition
NOON between dwelling and detached garage such that the overall dwelling would be 1.3 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 1953 Massachusetts Ave., Franklin Park Subd., R-2, Dranesville Dist., 41-1((13))(5)85-86 25,000 sq. ft., V-82-D-108.

Mr. Paul Howard informed the Board that he wished to make an addition to his home. The addition was not a garage. The garage had been converted previously by a previous property owner. Mr. Howard stated that the addition would be added onto the in-law cottage. He stated he had decided to build the addition which would connect the cottage. To build at the back of the house would put the addition on top of the septic fields which was not feasible and it was not possible to build in the front. Mr. Howard presented the Board with copies of his plans which showed the elevation.

Mr. Ribble inquired as to whom Marilyn K. Moore was since she was listed as a property owner. Mr. Howard replied she was his wife and was aware of the request for the variance. Chairman Smith stated that she should have joined in the application and been a party to the request. Chairman Smith questioned why the addition had to be attached to the cottage since it was the reason for the variance. Mr. Howard replied he did not have to attach it but was doing it for convenience. Mr. Howard stated that the addition would be used for a family room and would allow him to have extra space in his home. Mrs. Day stated that the applicant already had a two story house with a basement. Chairman Smith questioned when the one story building was converted to an accessory use. Mr. Howard stated he had purchased the home in 1975 and it had already been converted. He stated that when he researched the addresses for notification purposes, he discovered that the structure had been there since 1960. Chairman Smith questioned whether the structure was legal. Mr. Covington stated that he was not aware that the structure was being used as a dwelling. Mr. Howard stated that the structure was being used for storage. Mrs. Day questioned what Mr. Howard planned to do with it once the addition was constructed. Mr. Howard stated that it would be integrated into the house and would be used as a bedroom or storage. Mrs. Day questioned whether it had a bathroom and was informed it did. Mr. Howard stated that the house was at least 60 years old and was very small inside and not laid out intelligently. The rooms were small and chopped up. He stated that he wanted a family room.

Chairman Smith inquired as to the hardship under the Ordinance for connecting the structure to the house. Mr. Howard stated that as he understood the Ordinance, when he physically constructs the addition to the garage, it would become part of the house and would have to meet the setbacks. Chairman Smith stated that he was aware of that requirement. He questioned why Mr. Howard intended to use the garage for living purposes. Mr. Howard replied that the structure was there and would be convenient and add space to the house. It would be more expensive to try to add space to other areas of the house. Chairman Smith stated that the Board was not authorized to allow the non-conforming structure to be used as living quarters. The structure was constructed for storage or as a garage. Mr. Covington informed the Board that he was not able to locate a building permit on the structure. He stated that it was constructed prior to 1900. Chairman Smith doubted that the cinderblock was built prior to 1900. Mr. Covington stated that the dwelling was built prior to 1900. Chairman Smith stated that he did not have a problem with the dwelling. He indicated that Mr. Howard could utilize the addition and not attach it to the garage. Chairman Smith stated there was room to build there. Mr. Howard responded that to build at the back of the house would put him over the septic fields. Chairman Smith stated that the septic fields were not shown on the plats. Mr. Howard showed the Board the location of the septic field.

Mr. Howard informed the Board that he and his wife had considered the possibility of building on either side of the structure. They were afraid of violating the side lot lines setbacks on both sides. Chairman Smith stated that the garage was recognized as being a conforming structure but had apparently been used in a non-conforming manner. He stated that if the BZA granted the variance, it would be allowing a variance for a conforming use and a non-conforming structure which bothered him greatly.

Mr. Hammack questioned why the applicant was required to obtain a variance. Mr. Covington explained that it was an expansion to a non-conforming structure because the addition would be attached to the garage. Mr. Hammack questioned whether the addition would have been allowed under the previous Code as a grandfathered garage. Mr. Covington stated it would not have been allowed and the previous Code required a 2 ft. setback for non-flammable structures such as cinderblock. The garage was constructed prior to 1959 when there was another Code of 2 ft. To add anything to it would require a variance because of the expansion of a non-conforming structure. Chairman Smith stated that the structure may be non-conforming as to the setback. Mr. Covington stated that the lot was non-conforming. Mr. Hammack stated that he was troubled because the structure itself conformed to the present standards. Mr. Covington stated that it was the Zoning Administrator's position that anything that did not meet the Code would require a variance.

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Chairman Smith stated that he was bothered by the fact that the garage would be used for living quarters. Mr. Hammack replied that he did not believe the BZA's granting of the variance for the addition would approve the non-conforming use in anyway. Mr. Hammack stated that the BZA's approval or disapproval would not permit something not contained in the application.

Chairman Smith stated that the mere fact that the garage was being attached to the addition would not bother him except for the fact that there was plumbing and a bath in it. He was troubled because Mr. Howard intended to use the garage as living quarters which was in violation of the Code. Chairman Smith stated that if Mr. Howard would agree to use it as storage and remove the plumbing from the building, he was entitled to the use. Chairman Smith stated that occupancy as a dwelling was not a permitted use at anytime. Mr. Covington replied that Franklin Park was the oldest subdivision in the County. Chairman Smith stated that Mr. Howard could still build the addition without a variance by not attaching it to the garage. Chairman Smith stated that he could not condone the use of the structure as living quarters.

Mr. Hammack questioned what would have to be done to convert the garage into a family room. Mr. Covington stated that if the applicant met the setback, he could get a building permit but would have to indicate that it would not be used for rental purposes but only for his immediate family. Mr. Hammack questioned attached garages being converted to family rooms. Mr. Covington stated that there was not any problem as long as it met the setback requirements. The owner would have to obtain a building permit.

Mr. Howard explained to the Board that when he purchased the home in 1975 the conditions of the structure existed. In order to use the structure for a garage, he would have to knock out the wall and put a door in. Mr. Covington stated that a non-conforming use loses its non-conformity if it has not been used for two years.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-D-108 by PAUL HOWARD under Section 18-401 of the Zoning Ordinance to allow construction of addition between dwelling and detached garage such that the overall dwelling would be 1.3 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 1953 Massachusetts Avenue, tax map reference 41-1((13))(5)85-86, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 29, 1982; 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 25,000 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and that it would appear that the main dwelling house was non-conforming at the time the property was zoned and that it was constructed and that the out building to which the proposed addition would be connected may also have preceded the Zoning Ordinance that we are familiar with and regularly apply and that the proposed addition otherwise if not attached to these two structures meets all of the Zoning Ordinance requirements if it were a separate building placed behind or adjacent to the existing buildings; and further, that the location of the septic field limits the position of that addition and to deny the addition would be hard on the applicant and deprive him of the reasonable use of his property if we applied the Ordinance literally.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. In addition, the Board of Zoning Appeals in no way approves or disapproves of the applicant's use of the outbuilding that's described as a one story cinderblock building which has been used in the past as a mother-in-law cottage.

Mr. Ribble seconded the motion.

The motion FAILED by a vote of 3 to 1 (Mr. Smith)(Messrs. DiGiulian, Yaremchuk and Hyland being absent).

Page 107, July 29, 1982, Scheduled case of

12:15 P.M. LAKE BRADDOCK COMMUNITY ASSOCIATION, appl. under Sect. 3-303 of the Ord. to permit addition of sun deck to existing community recreation facilities, located 9333 Lake Braddock Dr., PDH-3, Annandale Dist., 78-2((1))10B, 2.28024 acres, S-82-A-057.

Mr. Donald Pafford represented the Lake Braddock Community Association. He asked the Board to proceed with the hearing despite the number of members present. Mr. Pafford informed the Board that he was requesting a special permit for the Lake Braddock Community Association to be allowed to build a 25'x65' wood deck extension to the existing pool deck. Mr. Pafford stated this would allow more use of space for sunbathing without overcrowding. There were trees to screen the property and block the view of the pool.

Mrs. Day questioned the location of the deck since there were two parcels involved. She asked that should the deck be placed right on the property line, what would happen if the club chose to sell the other property in the future. Mr. Hammack responded that the club could not sell the other lot as it was floodplain and common grounds which was dedicated with the development. Mr. Pafford informed Mrs. Day that the parcel was floodplain and was not useful for any other purpose. It was surrounded by trees.

There was no one else to speak in support and no one to speak in opposition.

Page 107, July 29, 1982

Board of Zoning Appeals

LAKE BRADDOCK COMMUNITY ASSOCIATION

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-A-057 by LAKE BRADDOCK COMMUNITY ASSOCIATION under Section 3-303 of the Fairfax County Zoning Ordinance to permit addition of sun deck to existing community recreation facilities, located at 9333 Lake Braddock Drive, tax map reference 78-2((1))10B, County of 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 29, 1982; 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 PDH-2.
3. That the area of the lot is 2.28024 acres.
4. That compliance with the Site Plan Ordinance is required.
5. The deck will cross property lines but the applicant owns both tracts of land.
6. The deck will be 25'x65' and shall be used for sunbathing.

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 on 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 eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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 9 P.M., seven days a week, from May 25th through September 15th.

8. The minimum number of parking spaces shall be 88.

9. 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. Ribble seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hyland being absent).

Page 108, July 29, 1982, Scheduled case of

12:30 P.M. CONSTANCE L. GOLDBERG, M.D., appl. under Sect. 3-303 of the Ord. to amend S-297-79 for home professional office (pediatrician) to permit continuation of the use without term, located 3814 Fort Hill Dr., Wilton Woods Subd., R-3, Lee Dist., 82-4((28) 7, 14,733 sq. ft., S-82-L-058.

At the request of the applicant, the Board deferred the special permit application until September 28, 1982 at 8:00 P.M.

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Page 108, July 29, 1982, Scheduled case of

12:45 P.M. WILLIAM B. & JEAN M. BECKER, appl. under Sect. 18-401 of the Ord. to allow subdivision into 5 lots with proposed lot 33 having a width of 10 ft. and proposed corner lot 36 having a width of 80 ft. (80 ft. min. interior lot width & 105 ft. min. corner lot width req. by Sect. 3-306), located 9086 Wexford Dr., Wexford South Subd., R-3, Centreville Dist., 28-4((27))A, 2.2210 acres, V-82-C-069. (DEFERRED FROM JULY 13, 1982 FOR ADDITIONAL INFORMATION).

At the request of the applicants, the Board further deferred the variance application until September 14, 1982 at 11:20 A.M.

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Page 109, July 29, 1982, Scheduled case of

1:00 KIDDIE COUNTRY DAY CARE LTD., EDNA H. ANULEWICZ AND FRED T. LOWERY, appl. under
P.M. Sect. 3-103 of the Ord. for a child care center and nursery school, located 9601
Old Keene Mill Rd., R-1, Springfield Dist., 88-1((1))19, 3.95 acres, S-82-S-046.
(DEFERRED FROM JULY 15, 1982 FOR HEARING BY FULL BOARD & AT REQUEST OF ZONING
ADMINISTRATOR'S OFFICE.)

Mr. Fred Lowery was informed by Chairman Smith that there were only four Board members present. Accordingly, he asked for a deferral. It was the consensus of the Board to defer the special permit until August 5, 1982 at 2:15 P.M.

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Page 109, July 29, 1982, Scheduled case of

1:15 ELEANOR P. FUSARO, appl. under Sect. 18-401 of the Ord. to allow construction of an
P.M. addition to dwelling to 2.25 ft. from rear lot line (20 ft. min. rear yard req. by
Sect. 3-507), located 1771 Wainwright Dr., Wainwright Cluster Subd., PRC, Centre-
ville Dist., 17-2((13))(18)7, 15,200 sq. ft., V-82-C-071. (DEFERRED FROM 7/20/82
FOR FULL BOARD AND ADDITIONAL INFORMATION).

Chairman Smith announced there had been some discussion about a withdrawal request from the applicant. However, the Clerk was unable to locate such a request in the file. Because there were only four Board members present, the Board deferred the hearing until September 21, 1982 at 10:50 A.M.

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Page 109, July 29, 1982, Scheduled case of

1:30 KOREAN PRESBYTERIAN CHURCH OF WASHINGTON.
P.M.

The Clerk informed the Board that the matter involving the Korean Presbyterian Church of Washington was an after agenda item regarding an extension of S-81-S-002 which had been deferred from July 20, 1982 for a report from the County inspectors pertaining to the occupancy permit that had not been issued.

Chairman Smith stated that the church was already in use. He requested an update because the building was being utilized without benefit of an occupancy permit. He stated that the BZA was not allowing the use but only extending it. Chairman Smith stated that it was up to the Zoning Administrator to determine if he wanted to stop the use because of the lack of an occupancy permit.

Mr. Ribble moved that the Board grant a six month extension of the special permit. Mr. Hammack seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hyland being absent).

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Page 109, July 29, 1982, After Agenda Items

The Board was in receipt of a memorandum from the Planning Commission regarding a special permit for "A Child's Place". The use was proposed for a former school. Mr. Hammack asked for clarification as to who was in charge of such uses. The Clerk was directed to provide a copy of the application by the August 5th meeting.

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Page 109, July 29, 1982, After Agenda Items

Reconsideration Request of Mrs. Lazarowitz: The Board was in receipt of a memorandum/opinion from the County Attorney's Office regarding reconsideration of denied cases. In view of the opinion, Mr. Hammack moved that the BZA advise Mrs. Lazarowitz that it could not reconsider her denied variance based on the County Code. Mrs. Day seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk & Hyland being absent).

// There being no further business, the Board adjourned at 3:25 P.M.

By


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


Daniel Smith, Chairman

Submitted to the Board on JUNE 14, 1984

Approved: JUNE 19, 1984
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, August 3, 1982. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Ann Day, Gerald Hyland, and John Ribble. Paul Hammack arrived at 11:40 A.M. John Yaremchuk was absent.

The Chairman opened the meeting at 10:40 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. ASLAN CORPORATION AND THEODORE BODNAR, JR., THEODORE BODNAR, SR., & BARBARA BODNAR, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that appellant's Non-Residential Use Permit and two sign permits are null and void because of a determination that the use is a quick-service food store, for which Special Exception approval is required in the I-5 district, located 8213 Lee Hwy., I-5, Providence Dist., 49-4((1))6, 20,000 sq. ft., A-82-P-016.

Chairman Smith announced that the applicant had requested a deferral. It was the consensus of the Board to reschedule the application for September 14, 1982 at 12:15 P.M.

Page 110, August 3, 1982, Scheduled case of:

10:30 P.M. INTERNATIONAL TOWN & COUNTRY CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend S-13-79 for country club to permit addition of a tennis pro shop to existing facilities, located 13200 Lee Jackson Memorial Hwy., R-1, Centreville Dist., 45-1((1))11, 240.87 acres, S-82-C-037. (DEFERRED FROM 7/13/82 FOR NOTICES)

T.J. Rutledge, Vice-President of International Town & County Club, 11413 Vale Road, Oakton, Virginia, presented the application. He stated the club had had a temporary permit for several years that permitted a trailer for a tennis pro shop on the site. He stated that the club wanted to put up a permanent building in place of the trailer. The building will be 24' x 24', with a deck on two sides, and the pro shop will be operated for five months from May thru September from 9 A.M. to 7 P.M.

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

Page 110, August 3, 1982 Board of Zoning Appeals
INTERNATIONAL TOWN & COUNTRY CLUB, INC. RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-82-C-037 by INTERNATIONAL TOWN & COUNTRY CLUB, under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-13-79 for country club to permit addition of a tennis pro shop to existing facilities, 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 August 3, 1982; 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 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,

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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 7:00 P.M. May thru September.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hammack and Yaremchuk absent).

Page 111, August 3, 1982, AFTER AGENDA ITEMS

Y-82-A-135/ RONALD LEMLEY: The Board was in receipt of an out-of-turn hearing request from John A. Kephart for a variance application submitted for Ronald Lemley. It was the consensus of the Board to deny the request and schedule the application in turn. The scheduled date for the application was September 21, 1982 at 11:30 A.M.

Page 111, August 3, 1982, AFTER AGENDA ITEMS

The Board discussed special permit application S-82-D-065, Juliana Campagna, scheduled for 12:30 P.M. on August 5, 1982. The staff had submitted a memo to the Board requesting a deferral on the case to allow them time to work out problems with the applicant and receive comments from other offices. This was a private school of general education with 80 children. The applicant was asking to increase the number to 160 children. Jane Kelsey stated that the applicant had problems with the deferral request because of a loan commitment, but she was unable to attend the hearing. It was the consensus of the Board to deny the request of staff and hear the case on the scheduled date and time.

Page 111, August 3, 1982, Scheduled case of:

11:00 A.M. ARLENE A. STEPHENS, appl. under Sect. 18-301 of the Ord. to appeal decision of Zoning Administrator in approving for issuance of clearing and grading and building permits for Regency Phase II, located Old Meadow Rd., Westgate Industrial Park, R-30, Providence Dist., 39-2(18)94, 5.9325 acres, A-82-P-017.

Frederick Krebs, represented the applicant. He stated that he understood that he had the burden of persuading at least four of the members to uphold the appeal, and since only five members were present, he requested that the application be deferred for a full Board. Chairman Smith informed Mr. Krebs that it was the policy of the Board to hear appeals with five members present.

Chairman Smith stated that after reviewing the record of the site plan under question, and the other points involved with it, that this appeal should have been appealed to the Circuit Court. This case was appealed to the Planning Commission and the Board of Supervisors, and the same basic issues that are being contended here were decided by the legislative bodies. Chairman Smith further stated that the only question the BZA could entertain a discussion on would be the issuance of the permit itself. This was a continuing action that took place after the decision of the legislative body. He stated that he would like to keep the discussion narrowed down to that one point, the signing off by the Zoning Administrator on the foundation permit.

Mr. Krebs stated that the issue is one of was the decision by the Zoning Administrator in full conformity with the provisions of the Zoning Ordinance. He stated that he could show the BZA that the decision of the Board of Supervisors was incorrect and flawed. He stated that the issue here today was an interpretation of the Zoning Ordinance.

Mr. Krebs stated that he felt the current Ordinance was applicable to the project, specifically the Ordinance provides that all construction must comply unless it has been grandfathered as provided in the Public Facilities Manual. Only those plans in conformance with the PFM may be grandfathered. There are two requirements there. One is that a multi-phased site plan has a five year life unless an extension is granted by the Board of Supervisors. Mr. Krebs stated that no extension was obtained, the five year period

expired, and therefore the site plan is dead. The second requirement is that there must be diligent pursuit of the development. Nothing had been done on this Phase II piece of property for eight years. He stated that the Zoning Administrator's decision to issue this permit was contrary to his own stated interpretation of the Zoning Ordinance. He submitted a copy of Interpretation #1 dated August 15, 1978 by the Zoning Administrator that states: "All applications filed on August 14th or on a later date shall be filed in accordance with the above referenced provision." The above referenced provisions include applications for building permits. In this circumstance the Zoning Ordinance does not recognize the concept of vested rights. The only justification is pursuant to the grandfather provision. If those requirements are not met, no County official has the authority to waive or ignore that provision. Mr. Krebs stated that his client was asking only that the owner and developer of this property comply with the current Zoning Ordinance.

Richard Hobson, a lawyer from Boothe, Prichard and Dudley, represented Warren K. Montourri, Trustee and Regency Investment Corporation, the owner and developer of the Regency Phase II property. He stated that the issue of the appeal was simply propriety of the Zoning Administrator's action of approving a footing and foundation permit in accordance with the Board of Supervisors decision on June 21 on a site plan appeal. As the staff report points out, these issues are the same ones that were raised for the site plan. He stated that the site plan did not conform to the current Zoning Ordinance, but that the Board of Supervisors confirmed that the site plan revision in question was not required to conform to the current Ordinance because of the vested rights of the owner.

The following people, all residents of the Colonies, spoke in support of the appeal application: Charles Coon, Raymond Carlson, Bob Garretson, Sarah Rohr, Peter Laudercock, Catherine Briber, Janis Stewpell, Conrad Shuber, Joseph Helman, and Tony Hamilton. They were concerned with the traffic impact and congestion, and the existing parking problems. They indicated that the area was crowded and the existing access roads were now over-used.

Mr. Krebs stated that one of the duties of the Zoning Administrator was the issuance of building permits in compliance with the Site Plan and other portions of the Zoning Ordinance. A decision that is not in compliance with the plain meaning of the Zoning Ordinance is improper. He also stated that as a matter of law, in Sect. 18-111 of the Zoning Ordinance, no official had any authority to issue permits of any type that are contrary to the Zoning Ordinance. If this is done, such actions are null and void. In conclusion, he submitted that this Board had jurisdiction over this matter, and they had the obligation to look at the question of whether or not the Zoning Ordinance had been complied with.

Phil Yates had no further comments other than what was included in the staff report.

R E S O L U T I O N

Mrs. Day moved that the Board uphold the decision of the Zoning Administrator for the following reasons. She stated that on June 21, 1982, the Board of Supervisors denied a site plan appeal filed by Arlene Stephens and upheld the right of Warren K. Montourri, Trustee and Regency Phase II Limited Partnership to develop Phase II under the concept of vested rights. On June 22 & 23, 1982, permits for footing and foundation, permit number 82090B0770, and permit number 810810410016 to install street improvements, storm drainage, sanitary sewer, and all other necessary improvements was issued. Mrs. Day stated that the Zoning Administrator was clearly correct in approving permits for issuance in accordance with the decision of the Board of Supervisors. Mrs. Day continued her motion by stating in as much as the Board's decision is the final determination under the Zoning Ordinance of the validity of a site plan approved by the Director of the Department of Environmental Management, Mrs. Stephens is barred by estoppel from relitigating the vested rights issue by objecting to the implementation of a decision already litigated and decided. Mrs. Day agreed with the statement by the Chairman that the matter is a decision of the elected legislative body. The Board of Supervisors has legislative and appellant rights. The Zoning Ordinance provides a separate appellant process for site plan appeals in Sect. 17-110 and that process does not include the Board of Zoning Appeals. Mrs. Day stated she did not feel that this is the forum even to hear this case. She felt that any judicial appeal should not be heard by the Board of Zoning Appeals, and further appeals should be appealed to the Circuit Court.

Mr. Hammack seconded the motion to uphold the decision of the Zoning Administrator and the motion passed by a unanimous vote of the members present.
(Mr. Yaremchuk being absent)

//The Board recessed for lunch at 12:40 P.M. and the meeting reconvened at 1:40 P.M.

Page 113, August 3, 1982, Scheduled case of:

11:30 A.M. ROBERT D. HOLLAND, JR., appl. under Sect. 18-401 of the Ord. to allow enclosure of rear portion of attached carport for use as expanded dining room 7.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6710 Fern Ln., Sleepy Hollow Woods Subd., R-3, Mason Dist., 60-4((17))(A)1, 16,257 sq. ft., V-82-M-097.

Robert D. Holland, Jr. presented his application. He stated that he wanted to enclose his carport for a dining room addition. His property adjoined Sleepy Hollow Swim Association to the rear. The existing carport was constructed under a variance granted by the BZA on October 14, 1965. Mr. Holland stated that due to topographical problems, it would be too expensive to enlarge the house in any other manner. There are hills down the side of the property and across the back. The fall-off to the rear is approximately 16 feet.

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

Page 113, August 3, 1982
ROBERT D. HOLLAND, JR.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-M-097 by ROBERT D. HOLLAND, JR. under Section 18-401 of the Zoning Ordinance to allow enclosure of rear portion of attached carport for use as expanded dining room 7.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), tax map reference 60-4 ((17)) (A) 1, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 3, 1982; 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 16,257 sq. ft.
4. That the applicant's property has exceptional topographic problems and converging lot lines. The evidence that is in the file and that has been received today indicates that there is approximately 20 feet of utility easements across the property. From the testimony we have received there appears to be no adverse impact on contiguous property owners as the property located adjacent to where the carport presently exists and where the addition would be constructed is presently owned by Fairfax County Park Authority. It does not appear that there would be any development in that 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith) (Mr. Yaremchuk being absent).

Page 114, August 3, 1982, Scheduled case of:

11:40 A.M. PEDRO GONZALEZ, appl. under Sect. 18-401 of the Ord. to amend V-35-75, allowing an attached garage to remain as located, to allow installation of garage door, located 2104 Haycock Rd., Merrell Park Subd., R-3, Dranesville Dist., 40-2((31))14, 11,138 sq. ft., V-82-D-109.

Pedro Gonzalez presented his application. He stated that the BZA had granted a variance for a carport in 1965. He had enclosed one side of the carport and the rear, leaving the front open and a rear doorway open. He stated that he had obtained a building permit to construct a carport, but the structure he had built was considered a garage. The BZA had given him a variance with the condition that there be no door constructed. Mr. Gonzalez stated that he was now asking the Board to let him put up a door for security reasons.

Mrs. Day read the minutes for the previous hearing in 1965 where it stated that a neighbor, Mr. Paragill, 2901 Haycock Road had objected to a door being put up. Mr. Gonzalez informed the Board that Mr. Paragill had since moved. He submitted a letter of support to the Board from a neighbor that had spoken in opposition to the original variance application in 1965.

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

Page 114, August 3, 1982
PEDRO GONZALEZ

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-D-109 by PEDRO GONZALEZ under Section 18-401 of the Zoning Ordinance to allow installation of garage door, on property located at 2104 Haycock Road, tax map reference 40-2 ((31)) 14, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 3, 1982; 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 11,138 sq. ft.
4. That the applicant has previously been granted a variance with respect to the partial enclosure of a carport which he constructed at an earlier period. Under the original variance he was not permitted to put a door on the front or enclose the rear of that carport. He has shown through testimony and other evidence that he is a victim of certain vandalism and it would be a hardship on him not to allow the enclosure of the rear and a door on the front of the garage.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent).

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Page 115, August 3, 1982, Scheduled case of:

11:50 A.M. BRUCE J. BLOCK, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 10 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 8903 Arley Dr., Rolling Valley Subd., R-3(C), Springfield Dist., 88-4((6))16A, 9,475 sq. ft., V-82-S-110.

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Bruce Block, the applicant, presented his application. He stated that the house was set back close to the rear of the lot. The rear yard was sloped and he needed a deck to get the full use of the backyard. The property to the rear was open space owned by the homeowners association. He stated that the existing deck was 10' by 10', but it was falling down. It was what was considered a "builder's special" when they constructed the house in 1976.

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

Page 115, August 3, 1982
BRUCE J. BLOCK

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-S-110 by BRUCE J. BLOCK under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 10 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), on property located at 8903 Arley Drive, tax map reference 88-4 ((6)) 16A, 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 3, 1982; 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 (Cluster).
3. That the area of the lot is 9,475 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing dwelling being very close to the rear lot line. Also, the property is adjacent to open space.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 deck addition to 15.5 ft. from rear 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent).

Page 115, August 3, 1982, Scheduled case of:

12:00 NOON ALAN & CAROL MOWBRAY, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 8 ft. from side lot line such that side yards total 28.6 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), located 3215 Foxvale Dr., Carmel in the Woods Subd., R-1(C), Centreville Dist., 46-2((16))1A, 24,297 sq. ft., V-82-C-111.

Alan Mowbray presented his application. He stated that his lot was unusually narrow, and his house had been placed at an angle on the lot. On one side of the house there was a septic field that prevented him from expanding on that side. He stated that his neighbors had no objections.

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

R E S O L U T I O N

In Application No. V-82-C-111 by ALAN & CAROL MOWBRAY under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8 ft. from side lot line such that side yards total 28.6 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), on property located at 3215 Foxvale Drive, tax map reference 46-2 ((16)) 1A, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 3, 1982; 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 (Cluster).
3. That the area of the lot is 24,297 sq. ft.
4. That the building is constructed at an angle as the lot is narrow and substandard. The proposed location of the addition is the only place it could be erected, as the rear yard is not buildable due to a septic tank and pump. On the right side of Fox Vale Road is access to the applicants rear property which would not be affected by the proposed structure. Trees and screening shall be placed along lot 6 for screening of the 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:

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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs. Smith & Yaremchuk being absent).

Page 116, August 3, 1982, Scheduled case of:

12:10 P.M. JOSEPH P. JR. & PATRICIA K. O'CONNELL, appl. under Sect. 18-401 of the Ord. to allow construction of porch addition to dwelling to 22.2 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 6656 New Chandler Ct., Woodside Manor Subd., R-3(C), Springfield Dist., 88-1((7))30, 9,474 sq. ft., V-82-S-112.

Joseph O'Connell presented his application. He stated that there was an existing patio that he would like to enlarge and enclose it with a glass and screen structure. He stated that he could not fully enjoy the patio because of the poor drainage of the property to the rear of his house. Also, the addition would add to the insulation of the house in cold weather. He indicated to the Board that the adjoining property owner, Mr. Silverstein, has written a letter of support that was in the file.

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

R E S O L U T I O N

In Application No. V-82-S-112 by JOSEPH P. JR. & PATRICIA K. O'CONNELL under Section 18-401 of the Zoning Ordinance to allow construction of porch addition to dwelling to 22.2 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 6656 New Chandler Court, tax map reference 88-1 ((7)) 30, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 3, 1982; 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 (Cluster).
3. That the area of the lot is 9,474 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property, that is the building is located 10 ft. further down from the front lot line than what is required. The lot is an unusual configuration. The contiguous property owner who would be most affected, Mr. Silverstein, indicated in a letter that he has no objections to the request variance. To the rear of the property there is an existing flood plain area which indicated there would be no development on that property and it is owned by the Homeowner's Association.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs. Smith & Yaremchuk being absent).

Page 117, August 3, 1982, Scheduled case of:

12:20 P.M. CHARLES W. SMITH, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 6 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207 & 10-105), located 7821 Ridgewood Dr., R-2, Mason Dist., 59-4((9))89, 21,881 sq. ft., V-82-M-113.

Charles Smith, the applicant, presented his application. He stated that to the best of his knowledge he was not related to Chairman Smith and had not discussed the case with him. Charles Smith stated that if he placed his garage the required 15 ft. from the side lot line, the way his driveway was situated he would not be able to get into the garage. If he moved it further back to the rear, it would take up his whole backyard. He stated that he could turn the garage around to make it more accessible from the existing driveway, but his wife wouldn't let him do that. Charles Smith stated that there was a slope in his backyard, but the rest of the lot was fairly level. He stated that his neighbor had built a garage 2 feet away from the side lot line.

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

RESOLUTION

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In Application No. V-82-M-113 by CHARLES W. SMITH under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 6 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-207 & 10-105), on property located at 7821 Ridgewood Drive, tax map reference 59-4(9)89, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 3, 1982; 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 21,881 sq. ft.
4. That the applicant has asked for a 25.33 ft., square garage 6 feet from the property line. I move the Board grant construction of a garage 24 feet wide and 24 feet long and to be constructed 12 feet from the property line which would extend it not beyond the rear of the house but just about parallel with the side line of the house. This will allow the applicant to retain his garden and the woods at the rear of the property to enhance the enjoyment of his 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 2 (Messrs. Smith & Hammack) (Mr. Yaremchuk being absent).

Page 118, August 3, 1982, Scheduled case of:

12:30 P.M. HELEN M. KILLION, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 7.0 ft. from side lot line (10 ft. min. side yard req. by Sects. 3-207 & 2-412), located 6529 Oakwood Dr., Barcroft Hills Subd., R-2, Mason Dist., 60-4((12)274, 10,171 sq. ft., V-82-M-114.

Helen Killion, the applicant, presented her application. She stated that the existing chimney extended 18 inches into the proposed carport, and to keep the carport in keeping with the architecture of the neighborhood, she was going to construct a brick pillar rather than a frame. In doing this, the proposed carport would only be 11.9 feet. She stated she would loose 3 feet because of the chimney and pillar. That is why she requested a carport of this size. Also, her driveway is at an angle. Mrs. Killion said she was requesting a carport for the protection of the car and her own protection. There were no objections from any neighbors.

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

RESOLUTION

In Application No. V-82-M-114 by HELEN M. KILLION under Section 18-401 of the Zoning Ordinance to allow construction of of carport addition to dwelling to 7.0 ft. from side lot line (10 ft. min. side yard req. by Sects. 3-207 & 2-412), on property located at 6529 Oakwood Drive, tax map reference 60-4 ((12)) 274, County of Fairfax, Virginia, Mr. DIGulian 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 3, 1982; 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 10,171 sq. ft.
4. That the applicant's property is substandard as to lot width and lot area. There is somewhat of 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent).

Page 119, August 3, 1982, Scheduled case of:

12:40 P.M. ALEXANDER & ERLINA OCAMPO, appl. under Sect. 18-406 of the Ord. to allow dwelling to remain as located, with total side yard of 36.2 ft. and with deck 15.4 ft. from rear lot line (40 ft. total min. side yard and 19 ft. min. rear yard req. by Sects. 3-107 & 2-412), located 12331 Cannonball Rd., Buckner Forest Subd., R-1(C), Springfield Dist., 56-3((8))23, 20,000 sq. ft., V-82-S-115.

Christy Lowrey, from the firm of Bengston, DeBell, Elkton & Titus, the agents for the applicant, presented the application. She stated that the mistake was made by the Christland Corporation during the construction of the building. A building permit was secured, but the house was rotated on the lot slightly during construction, to preserve two large trees at the rear corner of the lot. She stated that the violation was committed unintentionally. To the rear of the lot was open space owned by the Buckner Forest Homeowners Association. Because of the lot configuration and the location of the septic field, the building had to be located to the extreme rear of the lot.

Paul Katus, the president of Christland Corporation, spoke regarding the application. He stated that the subdivision contained 17 homes and was heavily wooded. He stated that this was his model home, and when it was laid out, he wanted to save two large oak trees in the rear corner. He stated that he had no idea he had overstepped his bounds. When the final location house survey was issued for the residential use permit, it was brought to his attention that there was a problem.

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

RESOLUTION

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In Application No. V-82-S-115 by ALEXANDER & ERLINA OCAMPO under Section 18-401 of the Zoning Ordinance to allow dwelling to remain as located, with total side yard of 36.2 ft. and with deck 15.4 ft. from rear lot line (40 ft. total min. side yard and 19 ft. min. rear yard req. by Sects. 3-107 & 2-412), on property located at 12331 Cannonball Road, tax map reference 56-3 ((8)) 23, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 3, 1982; and

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

That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit. Christland Corporation moved the house askew on the lot from the plans in order to save two large oak trees. This is due to the fact there is a septic field in the front yard and the house had to be placed at the far end of the lot. The applicants are asking 3.8 ft. total side yard variance and 4.6 ft. rear yard for the deck. The rear property is owned by the Homeowner's Association and it is not indicated it would be built upon. The two neighbors have no objections.

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

1. 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.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner who purchased it after the builder made the error.

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.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent).

Page 120, August 3, 1982, Scheduled case of:

12:50 P.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, appl. under Sect. 3-303 of the Ord. to amend S-80-M-040 for church and related facilities to permit the addition of satellite earth station to existing facilities, located 3900 Howard St., R-3, Mason Dist., 60-3((1))18A, 7.9440 acres, S-82-M-060.

James Reese, 8133 Leesburg Pike, Vienna, counsel for the church, presented the application. He stated that this satellite unit would be a receiving unit only for church related activities. The church wanted to install this unit approximately ten feet from the existing building structure. Mr. Reese stated that he had been advised by the Zoning Administrator that it was his position on this type of receiving antennas that it was a permitted use, as long as the existing special permit was amended. Mr. Reese indicated that the signal received by this antenna would be transmitted within the existing structure only. The building and the surrounding dwellings are separated by a fence of shrubbery, and the building itself is not visible from the surrounding dwellings. Therefore, the addition of an antenna will not be visible to the surrounding houses. Mr. Reese indicated that the antenna would be on the ground surrounded by a chain link fence.

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

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-M-060 by CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-80-M-040 for church and related facilities to permit the addition of satellite earth station to existing facilities, located at 3900 Howard Street, tax map reference 60-3 (1) 18A, 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 3, 1982; 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. That the area of the lot is 7.9440 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 provisions of S-80-M-040 shall continue to be in force.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Yaremchuk being absent).

Page 121, August 3, 1982, Scheduled case of:

1:10 P.M. MONTEBELLO ASSOCIATES, appl. under Sect. 3-3003(6) of the Ord. to permit a bank teller machine, unmanned, located 5900 Mount Eagle Dr., R-30, Mt. Vernon Dist., 83-3(1)86, 34.54782 acres, S-82-V-056.

Howard Middleton from the firm of Thomas & Fisk, 510 King Street, Alexandria, presented the application. He stated that this was a condominium complex with about a thousand units. A community service and recreation building has been approved for this property, and Montebello Associates is asking for an automatic teller machine to be located there. This machine will be a wall unit within a building, and will be associated with the Dominion National Bank of Northern Virginia. It will be used by Montebello Condominium residents and their guests only, and will not be open to the public. One person will come in once a day to replenish the cash and other materials as necessary. Mr. Middleton stated that there would be no traffic impact since the residents would be the only ones using the machine.

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

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R E S O L U T I O N

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Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-V-056 by MONTEBELLO ASSOCIATES, under Section 3-3003 (6) of the Fairfax County Zoning Ordinance to permit a bank teller machine, unmanned, located at 5900 Mount Eagle Drive, tax map reference 83-3 (1) 86, 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 3, 1982; 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-30.
3. That the area of the lot is 34.54782 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 automatic teller machine will be a wall unit located inside the community center.
8. The machine will perform normal teller operations including but not limited to accepting deposits, cash and checks, providing withdrawals of savings accounts and the like.
9. The machine will be available only for walk-in customers inside the community center and will be made available only to Montebello residents and their guests.
10. The teller machine shall be accessible during normal hours of operation of the community center as determined by the Montebello Associates organization.
11. There shall be no external advertising of the equipment.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Yaremchuk being absent).

Page 122, August 3, 1982, Scheduled case of:

1:30 P.M. GEORGE L. & NORMA E. PFAFF, appl. under Sect. 18-401 of the Ord. to allow expansion and enclosure of carport to 12.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4829 Willlet Dr., Springbrook Forest Subd., R-2, Annandale Dist., 69-2((7))(4)3, 15,030 sq. ft., V-82-A-081. (DEFERRED FROM 7/15/82 TO ALLOW APPLICANT TIME TO REVIEW ORDINANCE AND FROM 7/22/82 FOR FULL BOARD)

Norma Pfaff, the applicant, reviewed her request for the Board. She stated that her lot was a substandard, 90 foot lot. She stated that if her lot was the required 100 foot lot, a variance would not be needed. She stated that the 2.2 ft. variance requested, was not visible from the street and would have no visual impact on any abutting property. Mrs. Pfaff stated that the adjoining neighbors on lot 4 were in favor of the application. Their house is higher than hers, and that side of the house was a blank wall.

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

RESOLUTION

In Application No. V-82-A-082 by GEORGE L. & NORMA PFAFF under Section 18-401 of the Zoning Ordinance to allow expansion and enclosure of carport to 12.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 4829 Willet Drive, tax map reference 69-2 ((7)) (4) 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 3, 1982; 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 15,030 sq. ft.
4. That the applicant's property is substandard in width and has an unusual condition in the location of the existing buildings on the subject property. The carport partially exists now.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent).

Page 123, August 3, 1982, Scheduled case of:

1:45 P.M. WILLIAM L. & ALIKI M. BRYANT, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that a proposed private indoor tennis court is not a permitted accessory use to a single family detached dwelling located at 1019 Saville Lan., McLean, VA., Langley on the Potomac Subd., R-1, Dranesville Dist., 22-4((1))8A, 1.444 acres, A-82-D-015. (DEFERRED FROM JULY 29, 1982 FOR FULL BOARD)

Philip Yates was present at the meeting to answer any questions regarding the staff report presented to the Board on this appeal application. He stated that his position was set forth in the staff report.

Mr. Hyland inquired whether or not this would be considered an accessory use if this was not a covered tennis court. Mr. Yates stated he would approve it if it were an outdoor tennis court. If this was a public use, it would be permitted by right. Mr. Yates informed the Board that an outdoor tennis court and a swimming pool already existed on this property. This proposal was to construct an additional indoor tennis court on the subject property. Mr. Yates noted that the square footage of the proposed facility was approximately 8,262 sq. ft., and the proposed height was 35 ft.

Dexter Odín, 10505 Judicial Drive, Fairfax, represented the applicant. He stated that it was his understanding that if this structure had been part of a dwelling, that is, it had been connected, then it would be permitted. Mr. Yates replied that the provision addressing accessory uses did not necessarily address detached or attached facilities. He stated that he was not in a position at the moment to rule if this was a proposed addition to the dwelling, and that was not the issue at the moment.

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In response to a question from Mr. Hammack, Mr. Yates replied that he would have come to the same conclusion about the proposed structure no matter how large the parcel was. He pointed out to the Board that the proposed structure was situated on lot 8A, which did not contain the main residence of the Bryants.

Continuing with his presentation, Mr. Odin stated that the Board should make a distinction between accessory uses and bulk dimensions which are permitted in residential zones. On this lot, you could actually have a 90,000 sq. ft. residential house. In terms of the bulk permitted in the zone, this proposal is well within the dimensions. Mr. Odin stated that this structure was partially underground, and the street was at a 106 foot elevation. The base of the proposed building was at 91 feet, so 15 feet of the structure would be below street level. The structure was designed so that the walls would be two feet above grade. The indoor tennis court structure would have a cedar shake roof, and the structure would be 40 feet from floor to ceiling. It will be built in a wooded area, and the purpose of the cedar shakes is so that the wooden structure can be fertilized and moss will grow on it. This structure will blend into the wooded surroundings and visibility will be slight. Mr. Odin stated that this was not a commercial facility and was not going to be a community use. There will be no showers or locker facilities in the structure. It is completely an accessory use. The applicants intend to permit its use by the family or by an occasional guest on a social basis. The purpose of this indoor court is to provide entertainment for the family. Mr. Odin submitted letters in support of the appeal application to the Board members for the file.

Chairman Smith read a letter of opposition from H. D. Sterrett, 1027 Savile Lane, McLean, into the record. Mr. Sterrett indicated that he lived downhill from the Bryant's property, and every time it rained, his land was flooded. He felt that this structure would further aggravate this situation. Mr. Sterrett also felt that the proposed building was not suitable in appearance for a private residential area.

On a motion from Mrs. Day, it was the consensus of the Board to defer decision on this application to allow the Board to view the property, and for further information regarding the drainage problem mentioned by Mr. Sterrett. Mr. Hammack seconded the motion and it passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent)

The application was deferred to September 21, 1982 at 11:45 A.M.

Page 124, August 3, 1982, AFTER AGENDA ITEMS

LAZAROWITZ/V-82-D-094: The Board was in receipt of a letter requesting a reconsideration for V-82-D-094 for a greenhouse addition to dwelling. It was the consensus of the Board to deny the request based on a ruling they received from the County Attorneys Office.

// There being no further business, the Board adjourned at 5:00 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on July 10, 1984

APPROVED: July 17, 1984
Date

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The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, August 5, 1982. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 2 P.M.); and John Ribble. (Messrs. DiGiulian and Yaremchuk were absent).

The Chairman opened the meeting at 10:30 A.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY BOARD MEMBERS: Mr. Hyland informed the Board that Rev. Kearshe had asked that the Board consider as an after agenda item his request for a bathroom addition to the Bethlehem Baptist Church on Fordson Road to replace the bathroom which was destroyed by an auto accident. The new bathroom addition would bring the structure out 3 ft. and be parallel with sides of the structure. Mr. Hyland stated that he had advised Rev. Kearshe that the expansion of the existing building would mean that he had to go through the special permit application process. Mr. Hyland stated that, apparently, the same advice had been to the architect. Mr. Hyland suggested that the Board advise Rev. Kearshe of the special permit process and that it consider granting him an out-of-turn hearing.

Chairman Smith stated that the church was allowed to make emergency repairs without coming back to the Board. Chairman Smith stated that the matter of an out-of-turn hearing brought up a problem with the Board's agenda as it was overloaded for September. Chairman Smith stated that the Clerk had arranged for the Board Room on September 16 to help relieve some of the pressure of the cases. Chairman Smith stated that the Board's average caseload was 12 cases per meeting.

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Page 125, August 5, 1982, Scheduled case of

10:00 RICHARD & JUDITH A. WELLS, appl. under Sect. 18-401 of the Ord. to allow sub-
A.M. division into three (3) lots, two of which have width of 6 ft. and one having
width of 12 ft. (150 ft. min. lot width req. by Sect. 3-106), located 2740
Hunter Mill Rd., Bonnet Subd., R-1, Providence Dist., 37-4((1))pt. of 17, 3.38
acres, V-82-V-116.

Mr. Thomas Lawson, an attorney in Fairfax, represented the applicants. He informed the Board that Mr. & Mrs. Wells were out-of-town and unable to attend the meeting. Accordingly, he asked the Board for a deferral. It was the consensus of the Board to schedule the deferral until September 16, 1982 at 10:00 A.M.

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Page 125, August 5, 1982, Scheduled case of

10:10 JOHN F. ROOT, appl. under Sect. 18-401 of the Ord. to allow subdivision into two
A.M. lots each being less than 2 acres in size, with proposed corner lot 1 having width
of 163 ft. and an existing dwelling 32.53 ft. from proposed front lot line, with
proposed lot 2 having an existing dwelling 1.03 ft. from proposed front lot line,
and to allow the keeping of horses on each of the proposed lots, (225 ft. min.
corner lot width req. by Sect. 3-E06; 50 ft. min. front yard req. by Sect. 3-E07;
and 2 acres min. lot size for keeping livestock req. by Sect. 2-512), located 730
Leigh Mill Rd., R-E, Dranesville Dist., 13-1((1))70, 4.0012 acres, V-82-D-117.

The Board deferred the variance application until September 16, 1982 at 10:10 A.M. at the request of the applicant.

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Page 125, August 5, 1982, Scheduled case of

10:20 SANG YONG & BOGNIM CHOI, appl. under Sect. 18-401 of the Ord. to allow enclosure
A.M. of existing carport 7 ft. from side lot line (12 ft. min. side yard req. by Sect.
3-307); located 6806 Jerome St., Loisdale Estates Subd., R-3, Lee Dist., 90-4((16))
136, 10,504 sq. ft., V-82-L-118.

As the required notices were not in order, the variance was deferred until September 16, 1982 at 10:20 A.M.

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Page 125, August 5, 1982, Scheduled case of

10:30 ROBERT F. & JUDITH A. ROSENBAUM, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of addition to dwelling to 27 ft. from a street line of a corner lot
(30 ft. min. front yard req. by Sect. 3-307), located 1601 Mary Ellen Ct., McLean
West Subd., R-3, Dranesville Dist., 30-3((23))22, 13,862 sq. ft., V-82-D-119.

At the request of the applicant, the Board deferred the variance until September 16, 1982 at 10:30 A.M. for a full Board.

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Page 126, August 5, 1982, Scheduled case of

10:40 ROBERT A. MASUMURA, appl. under Sect. 18-401 of the Ord. to allow enclosure of
A.M. carport into attached garage 9.6 ft. from side lot line such that total side
yards would be 19.6 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect.
3-307), located 7003 Gillings Rd., Rolling Valley Subd., R-3(C), Springfield
Dist., 89-3(5)428, 10,435 sq. ft., V-82-S-120.

Chairman Smith inquired of Mr. Masumura whether he wished to proceed with the hearing since there were only four Board members present or whether he wished a deferral. Chairman Smith stated that the applicant would have a better chance with a hearing by the full seven members. Chairman Smith stated that this was a new subdivision and was cluster. Mr. Masumura replied that the subdivision was built in 1968. Chairman Smith stated that cluster was a new concept. Mr. Hyland informed Mr. Masumura that Chairman Smith was being very candid with him that it would be difficult to get a 100% approval of the four Board members present. He stated that the applicant had the right to request a deferral to be heard in September. Mr. Masumura asked that the Board proceed with the hearing. Chairman Smith warned the applicant to ask for a deferral. Mr. Masumura stated that he did not want to wait any longer. He informed the Board that he wished to enclose his existing carport into an attached garage. He wanted to put his car inside during the winter. He needed a variance of 4/10 of a foot in order to be in compliance with the regulations.

Chairman Smith inquired as to the hardship. He informed the applicant that the other residents were in the same position. Mr. Masumura stated that he wanted to be able to work on his car during the winter. The garage would house his tools, etc. Mr. Masumura stated that the garage would be the same distance as the present carport. He was only going to construct a wall and add sideboards.

Chairman Smith inquired as to how long Mr. Masumura had owned the property and was informed since 1971. Mr. Masumura stated that he owned two cars. Mrs. Day inquired if the garage would house two cars. Mr. Masumura stated that only one car would fit into the garage. Mrs. Day inquired as to what the back yard was like. Mr. Masumura replied that his back yard was level with the house for 20 ft. and then it dropped off into the back.

There was no one else to speak in support and no one to speak in opposition. Chairman Smith closed the public hearing. Chairman Smith stated that this was an example where a staff report would have helped the situation. He stated that he had no way of knowing how close the other carports were from the lot lines. Mr. Hyland stated that information could be obtained from the applicant.

Mrs. Day inquired as to what was on lot 429 which faced the carport. Mr. Masumura replied it was a bedroom. Mrs. Day stated that the neighbor would see less if the carport was enclosed. Mr. Masumura stated that his neighbor would not see the junk. Chairman Smith stated that did not have any effect on his vote. Chairman Smith inquired as to the general conditions of the subdivision. He stated that he would like to support the application but only if he could be assured that this was the only house in the subdivision with the condition. Mr. Masumura replied that most of the carports had 8 ft. or more. His was too close. Chairman Smith stated that this was a situation where he did not know how many people had open carports. Mr. Covington stated that only one corner of the proposed garage caused the need for the variance. Chairman Smith stated that the carport was constructed in this manner and it was a reasonable use of the property. If this was an unusual situation and there were not any others like it, it would be a better case.

Mr. Ribble moved that the Board defer the application because the BZA did not have the entire picture. Mr. Hyland seconded the motion. Mr. Ribble asked for a staff report on the conditions on the existing subdivision. Chairman Smith stated that he wanted a full report. Mr. Covington stated that there were approximately 500 homes in the subdivision. Chairman Smith stated that this was one of the first cluster subdivisions in the County. They were very small lots and the houses were squeezed tight together. The vote on the motion to defer passed by a vote of 3 to 1 (Mr. Smith). It was the consensus of the Board to defer it until September 14, 1982 at 11:30 A.M.

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Page 127, August 5, 1982, Scheduled case of

10:50 D. B. JOHNSON, appl. under Sect. 18-401 of the Ord. to allow addition to dwelling
A.M. to 1.6 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located
6647 Hawthorne St., Bryn Mawr Subd., R-4, Dranesville Dist., 30-4((4))(B)27A,
12,387 sq. ft., V-82-D-121.

Mr. D. B. Johnson stated that he would ask for a deferral since there were only four Board members present. However, he wanted to be heard before September. The Board deferred the variance until September 14, 1982 at 11:40 A.M.

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Page 127, August 5, 1982, Scheduled case of

11:00 LAWRENCE S. BAHL, appl. under Sect. 18-401 of the Ord. to allow construction of
A.M. porch addition to dwelling to 19.3 ft. from rear lot line (25 ft. min. rear yard
req. by Sect. 3-307), located 5017 Mignonette Ct., Longbranch Subd., R-3(C),
Annandale Dist., 69-4((12))135, 10,069 sq. ft., V-82-A-122.

As there were only four Board members present, the applicant requested a deferral. It was the consensus of the Board to defer the variance until September 14, 1982 at 11:50 A.M.

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Page 127, August 5, 1982, After Agenda Items

Approval of Minutes: The Board was in receipt of Minutes for December 22, 1980 and January 6, 1981. Mrs. Day moved that the Board approve the Minutes. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hammack being absent).

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Page 127, August 5, 1982, Board Discussion

Rainwater Appeal Case: The Board was apprised by staff that the Board of Supervisors had voted not to fund the appeal of the decision in the Rainwater case. Mr. Hyland stated that it raised an interesting question as to the decision that the BZA made which the Board of Supervisors did not like so they did not authorize the bringing of the appeal. On the other hand, this was a decision of the Zoning Administrator which the BZA had upheld and the result was a proper decision. However, the Board of Supervisors could not support that decision of their own Zoning Administrator. Mr. Hyland stated that it raised serious questions as to the selectiveness of the appellant process.

Mr. Hyland asked the Clerk to provide a transcript of the Board of Supervisors motion on the matter. Chairman Smith stated that the matter had been discussed in Executive Session. Chairman Smith stated that the Board should receive a memorandum from the County Executive's Office.

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Page 127, August 5, 1982, Scheduled case of

11:15 LANGLEY SCHOOL, appl. under Sect. 3-303 of the Ord. to amend S-319-79 for school
A.M. of general education to permit one room addition to school administrative office,
located 1411 Balls Hill Rd., McLean Knolls Subd., R-3, Dranesville Dist., 30-1((22))
42A, 43 & 2A, 9,848 acres, S-82-D-061.

There was a question on the notices. Chairman Smith stated that this was similar to the notice problem of the National Memorial Park application in which the Zoning Administrator had ruled that the notices were in order because the application only involved a part of the parcel. Chairman Smith inquired if the Board wanted to proceed with the hearing for Langley School since this was a similar problem. Mrs. Day stated she had no problem with proceeding. Chairman Smith stated that the only reason he would consider proceeding was because the Board did have a similar case and because the required minimum notice had been met.

Mr. Richard Porter of 1203 Stable Gate Court in Reston represented the school. Mr. Porter was President of Langley School and had other people from the school. Mr. Art Walsh, the school's attorney, was to have presented the application but was unable to attend the meeting. What the school was proposing to do was to construct a 13'x17' one story addition to a building which served as the administrative building which was situated on parcel 43. Mr. Porter stated that the school was not aware of any opposition from the citizens in the area. The addition would not increase the number of students or staff.

With respect to the notices, Mr. Porter stated that when he had received the notice from the County, he had called to find out who to notify and had followed that direction. Mrs. Day questioned condition 10 of S-319-79 in which there was a requirement for review of the parking after five years. Mr. Porter replied that the school was aware of that obligation. In May, the school had hired an architect to come in and design a master plan. He stated that the school hoped to come back in the fall with the request for additional parking spaces and a road network to relieve traffic on Balls Hill Road.

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Mr. Porter stated that the school was not supposed to come back with the parking plan until the following summer. Mrs. Day stated that all of that would come under Site Plan Control and Design Review. Mrs. Day stated that the staff report indicated that the school wanted to have 62 parking spaces on site by 1983. Mr. Porter stated that was not a request but an obligation on the part of the school to have that number created. Presently, there were 54 parking spaces on site. With the last major construction process, there was a condition that the school increase their parking to 62 in order to have more spaces for people who might be visiting the school. Mrs. Day stated that the regulation in the staff report had 59 off-site parking spaces and 42 on-site. She inquired if the school expected to have 62 parking spaces on-site by 1983. Mr. Porter replied that the school was not requesting anything to do with parking at this time.

Chairman Smith stated that Langley School had been in existence for some time. Mr. Porter stated that the school was started in 1942. Chairman Smith stated that the 1980 application was only an expansion and not the original special permit.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-D-061 by LANGLEY SCHOOL under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-319-79 for school of general education to permit one room addition to school administrative office, located at tax map reference 30-2((22))42A, 43 & 2A 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 5, 1982; 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. That the area of the lot is 9.848 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. All previous conditions of S-319-79 shall remain in effect.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk & Hammack being absent).

At 11:40 A.M., Mr. Hyland moved that the Board go into an Executive Session to discuss legal matters regarding the Hollin Hall School and the special permit application of A Child's Place. Mr. Hyland stated that the Board could have lunch at the same time. The Board reconvened at 1:50 P.M. to continue with the scheduled agenda.

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Page 129, August 5, 1982, Scheduled case of

11:30 A CHILD'S PLACE, T/A HOLLIN HALL SCHOOL AGE CENTER, appl. under Sect. 3-303 of the Ord. for a child care center, located 1500 Shenandoah Rd., R-3, Mt. Vernon Dist., 102-2((1))2A, 10.98 acres, S-82-V-062.

The Board was informed that the notices did not meet the 15 day time requirement. Accordingly, the special permit could not be heard. Mrs. Mildred Frazer informed the Board that she did have a waiver of the time segment from the contiguous property owners. She stated that two of the neighbors were gone and would not be back until the weekend. They had not received the original notices. Mr. Hyland stated that it was ironic that the person who had not been notified was his former secretary, Ellen Sneider. Mrs. Frazer stated that the Sneiders were due back on the 10th from Kansas. Mrs. Frazer stated that the Executive Advisory Board chaired by Mr. Gerald Fill had met with her regarding the application. Mr. Hyland stated that the Board had a memo from the Advisory Board on the matter.

(Mr. Hammack arrived at the meeting at 2:00 P.M.) He was informed by Chairman Smith that the notices were not in order for the special permit application. Mr. Hyland moved that since it was clear that there were not sufficient votes on the Board to go forward with the application and because the waivers did not include all persons who would normally be notified, he suggested that the Board defer the hearing until the 14th of September and that the notices be sent to the persons who were the contiguous property owners. Mr. Ribble seconded the motion. It was the consensus of the Board to approve the motion and schedule the hearing for Tuesday, September 14, 1982 at 12:00 Noon for notices.

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Page 129, August 5, 1982, Scheduled case of

11:45 POTOMAC EDUCARE PARTNERSHIP, appl. under Sect. 4-803 of the Ord. for a child care center within shopping center, located 6333A South Kings Hwy., C-8, Lee Dist., 83-3((5))1)pt. of 23, 1.16 acres, S-82-L-063.

Mr. Tinsley, one of the principals residing at 2816 Georgia Avenue, Washington, D.C., stated that the special permit application was for a child care center to be located at 6333A South Kings Highway. Dr. Saraba and Mrs. Eagle of the school were also present. Mr. Tinsley stated that the property was zoned C-8. They were requesting approval of the special permit and a waiver of the playground requirements. Mr. Tinsley stated that they felt that the child care center would not cause any adverse effects on the abutting landowners and would be an asset to the community. There was space provided for an open playground. Mr. Tinsley stated that originally the plan was to bus the children to surrounding parks. Chairman Smith advised Mr. Tinsley that without an application and a request for a variance, the BZA did not have the authority to act on the waiver request. He stated that was up to the Health Department as to whether the playground met the requirements under the State Code. Chairman Smith stated that the required play area was not a requirement of the Board of Zoning Appeals and they did not have the right to waive it.

Chairman Smith inquired as to the number of children and was informed there would be 45 to 50 children on an average and no more than 90 as to the total enrollment. There would never be more than 45 children at any one time. The hours of operation would be from 7:30 A.M. to 6:30 P.M., on a year round basis. Mrs. Day inquired about the lease arrangement and the terms of the lease. Mr. Tinsley replied the lease was for five years with a five year option to renew. There would be nine fulltime employees. Mr. Hyland inquired as to the parking spaces. Mr. Tinsley stated there were 72 for the center and an additional 70 which were common to make a total of 142 spaces. Mr. Tinsley informed the Board that there was strong support from the community. Mr. Tinsley stated that the concept was a first time type of program.

Mr. Ribble inquired if the school would provide bus service. Mr. Tinsley stated that bus service would be provided to the school and to the parks. Chairman Smith inquired if the school planned to paint the buses. Mr. Tinsley stated they would meet all of the requirements of the Code. Chairman Smith inquired if Mr. Tinsley had a copy of the Health Department report as the Board did not receive one. Mr. Tinsley stated that the Health Department had not completed its report. He was working with Mr. Pricci in order to be open by the 1st of September. Chairman Smith inquired if the school had submitted its plans to the Health Department yet and was informed they had. However, the plans did not get to the Health Dept. in time for them to make a report to the BZA. Mr. Tinsley stated that it was his understanding that as long as there was a playground area available, the children could be bussed to the park. Chairman Smith stated that condition was not under the BZA's jurisdiction. Mr. Tinsley stated that the playground was a public park. Chairman Smith stated that if the school used any other leased space, then it would come under the Board's review.

Chairman Smith inquired if Mr. Tinsley had discussed the playground situation with the Health Department. Mr. Tinsley stated that he had discussed the matter with Mr. Harvey Mitchell who saw no objection to it since there was not any requirement for a play area. Mr. Hyland stated that this placed the Board in an interesting position as the standards for child care centers required a playground area which was defined in the Ordinance. He was intrigued with the position that there was no real problem. Mr. Tinsley stated that the position was that there should be an open playground area to be provided by the applicant. He believed that the school had met that requirement by providing transportation to the park. As an alternative to that if it did not meet the Health Department's requirements, Mr. Tinsley stated that the landlord was available at the hearing and could address additional space on the site.

Chairman Smith asked the applicant to address the alternative playground space. Mr. Tinsley stated that there was open space provided by a Vepco easement. The space was under the control of the landlord. Chairman Smith stated that he would prefer the public park but the BZA could fall back on the easement if it limited the number of people outside.

Mr. Hyland stated that a child care center was a Group III use. It was clear to Mr. Hyland that the standards for such uses would require the outdoor recreational facility to be limited to the location of the center. Mr. Hyland stated that the easement appeared to be a reasonable solution and he wanted to know if that was a proper alternative. Mr. Tinsley stated it was an alternative in the Health Department's report. He stated that the school could meet the requirement even with that liberal interpretation. The bussing of the children was not an alternative. By using the easement, it would cut down on expenses for the center but Mr. Tinsley stated he would have to rely on the position of the Health Department with respect to the open space.

Chairman Smith stated that the Board had to consider the use itself. The requirements would have to be resolved by the Health Department. Mr. Hyland stated that he had a question with that as Sect. 18-305 of the Ord. required that the open area be delineated on a plat as filed. Chairman Smith stated that the Board would need new plats prior to final approval. Chairman Smith stated that the Board was getting hung up on the play area requirement.

There was no one else to speak in support and no one to speak in opposition.

Page 130, August 5, 1982
POTOMAC EDUCARE PARTNERSHIP

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-L-063 by POTOMAC EDUCARE PARTNERSHIP under Section 4-803 of the Fairfax County Zoning Ordinance to permit a child care center within shopping center located at 6333A South Kings Highway, tax map reference 83-3((5))(1)pt. of 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 August 5, 1982; 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 1.16 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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.

RESOLUTION

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 from 7:30 A.M. to 6:00 P.M., Monday through Friday, year round.
8. There shall be a full-time staff of nine (9) persons.
9. The maximum of ninety (90) children will be participating in a preschool program, ages 2½ through 5 years.
10. This special permit is conditioned upon the applicant complying with Section 8-305 of the Standards which are applicable to day care centers and the applicant shall be required to meet the requirements for outdoor recreation area, said requirements to be established and approved by the Health Department. Further, in the event that an outdoor recreation area is not to be provided on the area on the plat submitted by the applicant outlined in red which is the VEPCO easement, that the applicant be required to submit a corrected plat to show the outdoor recreation area.
11. This special permit is granted for a period of five (5) years with the Zoning Administrator empowered to extend the permit for an additional five years consistent with the terms as outlined in the lease agreement.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian & Yaremchuk being absent).

Page 131, August 5, 1982, Scheduled case of

12:00 AUSTIN J. YERKS, appl. under Sect. 18-401 of the Ord. to allow enclosure of exist-
NOON ing carport 10.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307)
located 1529 Wrightson Dr., McLean Manor Subd., R-3, Dranesville Dist., 30-4((17))
89, 10,995 sq. ft., V-82-D-123.

Mr. Austin J. Yerks, Jr. of 1529 Wrightson Drive in McLean informed the Board that his justification for the variance was the fact that he had been burglarized twice in the last two years and was trying to protect his property by enclosing two sides of the carport. Mr. Yerks stated that his property bordered on two streets, Longfellow and Wrightson. By blocking off the carport, it would reduce an entry to his property. Mr. Yerks stated that he had notified all of his neighbors and no one objected to the variance.

There was no one else to speak in support and no one to speak in opposition.

Page 131, August 5, 1982
AUSTIN J. YERKS

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-D-123 by AUSTIN J. YERKS, JR., under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to 10.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 1529 Wrightson Drive, tax map reference 30-4((17))89, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 5, 1982; 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 10,995 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and there have been robberies in the neighborhood.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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:

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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian & Yaremchuk being absent)

Page 132, August 5, 1982, Scheduled case of

12:10 P.M. PROVIDENCE SAVINGS & LOAN, appl. under Sect. 18-401 of the Ord. to allow signs for individual enterprises located within an interior mall of Woodlawn Shopping Center to be erected over Mall entrance, located 8700 Richmond Highway, Woodlawn Shopping Center, C-6, Lee Dist., 109-2((1))24, 8.70 ac., V-82-L-124.

Mr. George Lawson of 3318 Executive Avenue was informed that the Board of Supervisors passed an amendment to the Sign Ordinance and that the variance would have to be deferred for additional posting and notices. The Clerk was directed by the Board to send the required notices. Mr. Lawson talked to the Board about the difficulty of having the variance deferred as it caused a hardship for his client. It was the consensus of the Board to schedule the hearing for as soon as possible. The variance was scheduled for September 14, 1982 at 12:30 P.M.

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Page 132, August 5, 1982, Matters

Mr. Hammack informed the Board that an application scheduled for later in the day by the name of Paradise Child's Haven, Inc., S-82-A-021, was going to seek a deferral because of only four Board members being present. Mr. Hammack inquired if the Board could announce its intent at this point in the meeting to accommodate the applicant and the attorney. It was the consensus of the Board to defer the matter until September 21, 1982 at 12:00 Noon.

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Page 132, August 5, 1982, Scheduled case of

12:30 P.M. JULIANA CAMPAGNA, appl. under Sect. 3-E03 of the Ord. to amend S-81-D-030 for school of general education & summer day camp to permit construction and use of an additional classrooms building, driveway and parking lot with ten (10) additional spaces, increase in max. no. students to 160, and change in hours of operation to 7 A.M. to 6 P.M., located 1616 Hunter Mill Rd., Lester Cooper Subd., Dranesville Dist., R-E, 18-3((3))1, 5 acres, S-82-D-065.

Mrs. Juliana Campagna of 11428 Purple Beach Drive informed the Board that when the special permit application was originally granted a year ago, there was a barn on the property which could not be used for space. Mrs. Campagna intended to take down the barn and put up a classroom building. The new building would be wider than the old barn but not longer. Mrs. Campagna stated that she planned to spread the children out in the additional space. When she originally applied for a permit, she had asked for a total of 160 children but was now revising that figure to 120 which was an increase of 50% rather than 100%. Mrs. Campagna stated that an increase of 100% would have caused problems with the driveway. She stated that her biggest problem at the original hearing had been the driveway. Mrs. Campagna stated that the maximum parking provided was 78 but the most who had driven on the property were 24 cars. Mrs. Campagna stated that she would keep the ratio as low as possible. The majority of the children would arrive at the property by bus. Mrs. Campagna stated that she had three buses and they had seatbelts in them. A lot of the children would be dropped off at Sunrise Valley Drive school and then bussed to the Hunter Mill site.

Mrs. Campagna stated that there was a three way stop sign at the intersection which had helped the traffic pattern. She stated that the parents who picked up their children did have to travel through the three way stop sign. There had been a lot of traffic congestion but it was cut in half with the sign. Mrs. Campagna stated that the DMV was leveling the hill and had been removing signs after leveling. She stated that she did not want the stop sign removed as people slowed down for the stop sign.

Mrs. Campagna stated that a lot of people had been concerned about her application a year ago. She was now asking for a revision. Mr. Poole had been concerned about changes every year. Mrs. Campagna stated that she did not mind being limited to 120 children permanently. Mrs. Campagna explained that the reason she was seeking the revision at this time was because the Small Business Administration had made money available in the form of loans.

Mrs. Campagna stated that she was seeking a change of hours from 7 A.M. to 6 P.M. as she had an after school program. She explained that the biggest impact would be to Mr. Poole who lived next door. Mr. Bachman owned 116 acres and would only be able to see some stables. The other neighbor to be impacted was Mr. Adeler. Mrs. Campagna stated that she and Mr. Adeler had become friends and had agreed to have a bird sanctuary. He had asked for a stockade fence and for Mrs. Campagna to control trash cans and lids. Mrs. Campagna stated that the school had been a good neighbor. Mrs. Campagna stated that the school had provided a good community service and had tried to keep the traffic down. The only reason for requesting the changes was because of money being available. She stated that after the addition of the building, the school would be finished. Ten parking spaces were being provided for the convenience of staff and for deliveries. A kitchen would be added also.

In response to questions from the Board, Mrs. Campagna stated that the site contained five acres. The school was not covered by Chapter 30 as it was not a day care but a private school. She stated that the day camp was covered by the Fire Marshal's Office. Mrs. Campagna stated that she wanted to lower the ages of the children to five years to allow kindergarten at the school. She stated that it would take five years for the school to reach the 120 capacity. The Board was in receipt of a memo listing eleven standards that Mrs. Campagna had agreed to if she were permitted to expand to 120 children. The standards concerned fencing, drainage and transportation. Mrs. Campagna was concerned about widening the road to 12 ft. of the centerline as she did not believe it would help the traffic. However, she stated she did not have a problem with it if it increased safety.

There was no one else to speak in support. Mr. J. Kirk Winkle of 1406 Southwind Ct. spoke in opposition. He lived one mile from the facility. Mr. Winkle requested the Board to postpone the decision. He was representing the Richland Hunt Community Association who were concerned with the traffic. Mrs. Kelsey explained the staff analysis on transportation from the Office of Transportation which had prepared a draft recommending denial based on the 160 students based on the number of vehicle trips per day that would be generated. When the applicant agreed to drop the number to 120 children and to provide bus transportation, the Office of Transportation felt that Hunter Mill Road could accommodate the traffic.

Mr. Hyland was concerned about the traffic as there was no indication as to the number of vehicles per day on Hunter Mill Road at the present time. Accordingly, Mr. Hyland moved that the Board defer the decision in order that the Office of Transportation submit a report in reference to the reduced application to 120 children. Mr. Ribble seconded the motion. Following discussion of the motion, the vote was 3 to 2.

As there was a question on the number of votes necessary to pass the motion, the Board adjourned into an Executive Session to discuss the point of order. When the Board reconvened into public session, the Board continued with the speakers in opposition.

Mr. Jonathan Pearlman of 1621 Hunter Mill Road informed the Board that he had been in opposition to the original request and had hoped that it represented Mrs. Campagna's ultimate objectives. He stated that each time she justified her objectives, they seemed more and more reasonable and the opposition seemed irate. Mr. Pearlman felt very strongly about the proposed expansion. He stated that he was on the Board of Directors of the Crowell Corners Association. They were concerned about traffic and the fact that the proposal was not in keeping with the residential farm area of the community. There were several schools already located on better sites. Mr. Pearlman stated that the increase of children to 120 would destroy the natural setting Mrs. Campagna was seeking. Additional parking would take away trees and the expansion would be a sore point. Mr. Pearlman stated that the community had a right to question the gradual expansion of the facility as it was a planned process. He stated that if this addition were approved, future requests would be harder and harder to reject. Mr. Pearlman requested the Board to defer the decision until an evening meeting when Mr. Adeler would be present to speak.

The next speaker in opposition was Mr. William E. Poole of 13602 Mountain View Court who stated that it did not do much good to oppose the school. He stated that he had talked to Mrs. Campagna previously and she had agreed to limit herself to 100 students. Mr. Poole stated that it was a shame to put a school in an area where the prices of houses were \$225,000. He stated that he was afraid to finish building as this would downgrade the community. Mr. Poole stated that Mrs. Campagna should sign some papers indicating that the school would not increase more than 100 children.

During rebuttal, Mrs. Campagna stated that she was willing to sign a contract with the BZA that she would not be back to ask for more students or to expand the facility. She stated that the Small Business Administration had just made money available and she would stick to her present proposal. She informed the Board that the subdivision of Richland Hunt was 1 1/2 miles away and would not be impacted because very few people from her facility would travel that road.

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With respect to the increase in hours, Mrs. Campagna explained that it would allow a better traffic pattern as not everyone would be arriving and departing at the same time. Mrs. Campagna stated that she had improved the site by putting in trails, trees and gardens. She disagreed that Mr. Adeler was in opposition to the present proposal.

Mr. Hyland inquired if Mrs. Campagna had indicated that she would reduce the number of children to 100 instead of 120. Mrs. Campagna stated that she did not wish to build a university and would be willing to sign a contract with the BZA. She wanted to be a good neighbor. The school was always open and she welcomed people to come see it.

The Board discussed the number of students proposed and the length of time it would take to reach that capacity. Mrs. Campagna explained that at the present time, the facility would only house 67 students. Eighty students had been approved with the original permit. Mrs. Campagna assured the Board that she would be able to accommodate 120 students with the improvements. The Board questioned whether the limiting of the students to 120 would change any of the proposed dimensions of the addition. Mrs. Campagna stated that she would change the exterior and possibly the location of the drainage fields.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-D-065 by JULIANA CAMPAGNA under Section 3-E03 of the Fairfax County Zoning Ordinance to amend S-81-D-030 for school of general education & summer day camp to permit construction and use of an additional classrooms building, driveway & parking lot with ten (10) additional spaces, increase in maximum number of students to 160, and change in hours of operation to 7 A.M. to 6 P.M., located at 1616 Hunter Mill Road, tax map reference 18-3((3))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 August 5, 1982; 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-E.
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;

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application, except that a revised plan which reflects the conditions relating to transitional screening and transportation shall be submitted for BZA review and approval prior to site plan approval.
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. Transitional screening shall be modified and provided in accordance with the plat, provided the dense growth of existing trees remain surrounding all property lines. At the time of site plan review, if an on-site inspection reveals any areas where supplemental screening should be provided, it shall be required at the discretion of the Director. The requirement for a barrier shall be waived except as indicated on the plat which shows a stockade fence along the southern property line.

R E S O L U T I O N

7. The maximum number of students and staff shall be limited to 120 persons for the facility.
8. The hours of operation shall be from 7:00 A.M. to 6:00 P.M.
9. The minimum number of parking spaces provided shall be 20.
10. The ages of the students shall be from 5 years through 10 years, kindergarten through fifth grade.
11. A limit of clearing shall be established around the proposed building and proposed driveway to avoid disturbance of the drainage swale and to preserve existing vegetation as may be determined by the Fairfax County Arborist.
12. The following transportation conditions shall be required:
- (a) Dedicate right-of-way to 45 ft. from centerline on Hunter Mill Road;
 - (b) Widen the road to 12 ft. from the centerline with a standard shoulder along the site frontage; and
 - (c) Provide a right-turn deceleration lane for the site entrance as per DEM and VDH&T requirements.
13. The applicant shall provide bus transportation for at least fifty (50) percent of the total number of children enrolled.
14. That the maximum height of the proposed building shall not exceed thirty-five (35).
15. The applicant shall not be permitted to increase the operation of the facilities until the improvements are completed on the site and on Hunter Mill Road.

Mrs. Day seconded the motion.

The motion FAILED by a vote of 3 to 2 (Messrs. Hyland and Ribble).

Page 135, August 5, 1982, Scheduled case of

12:45 P.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, appl. under Sect. 3-103 of the Ord. to amend S-146-73 for church and related facilities to allow addition of Satellite Earth Station to existing facilities, located 2719 Hunter Mill Road, Providence Dist., R-1, 37-4((1))22A, 5.2067 ac., S-82-P-064.

Mr. Warren Chappman from Oakton represented the church. He stated that they wanted to allow the installation of a satellite building. In response to questions from the Board, Mr. Chappman stated that the disc would be three meters wide and would be on a concrete base with a fence around it.

There had been a question on notices but the BZA accepted the notices as being proper.

Page 135, August 5, 1982

Board of Zoning Appeals

CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-P-064 by CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-146-73 for church and related facilities to allow addition of Satellite Earth Station to existing facilities, located at 2719 Hunter Mill Road, tax map reference 37-4((1))22A, 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 5, 1982; 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 has been changed to 5.1901 acres which is different from the former special permit due to the dedication of the road.
4. That compliance with the Site Plan Ordinance is required.
5. The satellite will be used only to receive transmissions within the facility and will not be used to distribute or transmit programs to other locations.

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 on the application and is not transferable to other land.

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2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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 previous conditions of S-146-73 shall remain in effect.

8. The size of the satellite disc shall be approximately 9 to 10 ft. in diameter, which slants in an upward position and which stands on a concrete base and is surrounded by a fence

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian & Yaremchuk being absent).

Page 136, August 5, 1982, Scheduled case of

1:00 P.M. L. H. PROPERTIES, INC., appl. under Sect. 4-803 of the Ord. for a bowling alley, located 13814 Lee Highway, C-8, Springfield Dist., 54-4((1))26, 3.2248 acres, S-82-S-044. (DEFERRED FROM JULY 27, 1982 FOR NOTICES).

Ms. Ann Hirst Hardock of 4103 Chain Bridge Road represented the applicant. The subject property contained 3.2 acres and was located at 13814 Lee Highway. Ms. Hardock presented the Board with a rendering of the proposed building which would be screened from the adjacent residential properties with a fence and trees in accordance with the Code. The bowling alley would have 32 lanes and a snack bar and game room. The hours of operation would be from 8 A.M. to 2 A.M., seven days a week. Thirty-five employees were anticipated. Traffic would be minimal and occur during off peak hours. The parking was in excess of what was required. The applicant was proposing 179 spaces and only 138 were required. The customers would be drawn from a five mile radius. The nearest other bowling facility was in Manassas. The bowling alley was for family entertainment.

Ms. Hardock stated that the center would be operated by FairLanes who owned 14 other centers. The bowling alley would be part of the community and would offer programs to the youth and senior citizens. Ms. Hardock stated that the applicants were prepared to meet the conditions of the staff report.

There was a question about the deceleration lane required by the Office of Transportation. Ms. Kelsey stated that John Gressick from Transportation had discussed the travel lane on the western border of the property and had indicated that it could be eliminated. The Board was concerned that the staff report had not been amended to reflect that revision for the record.

Mr. John H. Rust, an attorney at law, located at 4069 Chain Bridge Road in Fairfax spoke in support of the application. He represented Mr. Caudle Lee Saunders, Trustee of the property adjacent to the bowling alley. Mr. Saunders' family had owned the property for more than 40 years and was not a newcomer to the area. Mr. Saunders would be much more valuable with the proposed improvements next door.

The Board was in receipt of several letters in support of the bowling alley. Another speaker in support was Mr. Bob Buttafusco of 6307 Hidden Canyon Road who owned the United Metal Detectors located next door to the proposed bowling alley. Mr. Buttafusco was in support of the request as it would bring in more business to the community and help his business.

There was no one to speak in opposition. Mr. Hyland stated that the staff report indicated on page three that the special permit be conditioned on the applicant providing a service drive and a deceleration lane with some other suggested modifications. Mr. Rust stated that the suggestion had been to the internal circulation. He had made a suggestion that there be a loop lane around the building. However, Mr. Rust stated that if the applicant could not do it, he would not hold up the proposal.

Mr. John Gressick from the Office of Transportation discussed with the Board the modifications or changes in the staff report. One change concerned the entrance to the east and the elimination of parking to provide a better circulation pattern. Mr. Bruce Preston, Director of Fairlanes, spoke to the Board about the suggestions. The first suggestion was that the eastern curb cut between the service drive and the parking lot be removed and that the eastern entrance be moved west to line up with the second curb on the front of the property. Mr. Preston had a problem with that suggestion because of the traffic flow not having a way to get out. Staff suggested that six parking spaces be eliminated to provide better traffic flow. Mr. Preston stated that they had not agreed to that suggestion as he was not certain it was 100% necessary. Mr. Preston proposed that the curb cut be shifted to the west to align with the service drive.

Mr. Gressick informed the Board that the suggestions made were only suggestions and not crucial. The questions of the curb cut was moot without the travel aisle. Chairman Smith questioned handicapped parking and was informed it would be covered under Site Plan.

There was no one else to speak in support or opposition.

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-S-044 by L. H. PROPERTIES, INC. under Section 4-803 of the Fairfax County Zoning Ordinance to permit a bowling alley located at 13814 Lee Highway, tax map reference 54-4(1)26, 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 5, 1982; 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-8.
3. That the area of the lot is 3.2248 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 the 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 thirty-five (35).
8. The hours of operation shall be from 8:00 A.M. to 1:00 A.M. seven days a week.
9. The minimum number of parking spaces shall be 138 and of those 138 parking spaces, 6 shall be designated for handicapped persons. The plat shall be amended to reflect the location of the handicapped spaces.

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R E S O L U T I O N

10. In accordance with the recommendation of the Office of Transportation, the applicant shall be required to dedicate and construct a standard service drive and construct a deceleration lane as per VDHT standards.

11. The applicant shall be required, as a condition of the permit, to shift the easternmost curb cut, between the service drive and the westbound lanes of Lee Highway, to the west to align with the curb cut between the service drive.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian & Yaremchuk being absent).

Page 138, August 5, 1982, Recess

At 5:45 P.M., the Board recessed the meeting for a short break and reconvened the meeting at 5:50 P.M. to continue with the scheduled agenda.

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Page 138, August 5, 1982, Scheduled case of

1:15 MOST REVEREND THOMAS J. WELSH/MONASTERY OF THE POOR CLARES, appl. under Sects.
P.M. 3-203 of the Ord. to amend S-79-77 for a monastery to permit construction of new chapel and additional parking spaces, located 2503 Stone Hedge Dr., Calvert Park Subd., R-2, Mt. Vernon Dist., 93-3((8))1, 2, 3 and 93-3((1))4, 6.4514 acres, S-82-V-052. (DEFERRED FROM 7/22/82 FOR NOTICES).

Mr. Fred Sheridan, an architect with an office on N. Hyland Street in Arlington, represented the church. He stated that he was amending the special permit granted in 1977 in order to begin the second stage of the building program. The parking had been planned back in 1967 but since that time, the Ordinance had changed. Now, the church had to add some additional parking. The proposed chapel was a one story structure with a basement. Only three parking spaces were being added to meet the Code requirements.

Mr. Sheridan commented about the staff report and informed the Board that he intended to ask the Director of DEM to waive the storm water detention requirement. Chairman Smith stated that the BZA did not get involved in such matters.

There was no one else to speak in support and no one to opposition.

Page 138, August 5, 1982

Board of Zoning Appeals

MOST REVEREND THOMAS J. WELSH/MONASTERY OF THE
POOR CLARES

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-V-052 by MOST REVEREND THOMAS J. WELSH/MONASTERY OF THE POOR CLARES, under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-79-77 for a monastery to permit construction of new chapel and additional parking spaces, located at 2503 Stone Hedge Drive, tax map reference, 93-3((8))1, 2, & 3 and 93-3((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 August 5, 1982; 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-2.
3. That the area of the lot is 6.4514 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 on the application and is not transferable to other land.

RESOLUTION

2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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 total number of parking shall be increased to 16 spaces.

8. All other provisions of the previous special permit shall remain in effect.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian & Yaremchuk being absent).

Page 139, August 5, 1982, Scheduled case of

1:30 P.M. PARADISE CHILD'S HAVEN, INC., appl. under Sect. 3-403 of the Ord. to amend S-80-A-065 for child care center to permit addition of modular nursery building to existing facilities, increase max. number of children to 87, and change name of permittee, located 4616 Ravensworth Rd., R-4, Annandale Dist., 71-1((1))63, 41,282 sq. ft., S-82-A-021. (DEFERRED FROM MAY 11, 1982 FOR NOTICES: JUNE 29, 1982 FOR FULL BOARD & JULY 27, 1982 FOR FURTHER INFORMATION).

It was the consensus of the Board to further defer the special permit application until September 21, 1982 at 12:00 Noon.

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Page 139, August 5, 1982, Scheduled case of

2:00 P.M. T. T. GREEN, appl. under Sect. 18-406 of the Ord. to allow living space addition to dwelling to remain 6.8 ft. from side lot line and garage addition to remain 6.7 ft. from side and 27.2 ft. from front lot lines (12 ft. min. side yard and 30 ft. min. front yard req. by Sect. 3-307), located 6003 Lebanon Dr., Forrest J. Hall Subd., R-3, Springfield Dist., 51-4((5))1A, 20,538 sq. ft., V-82-S-105. (DEFERRED FROM JULY 29, 1982 FOR CONTRACT WITH BUILDER & FOR HEARING BY FULL BOARD.)

Mr. T. T. Green informed the Board that his garage was built by a licensed contractor in June of 1982. He stated that he had purchased his house in March 1981 and thought it would be usable for living space for his family. Mr. Green stated that he had three children and one grandchild and it was very difficult to put the family up in such a small area. He stated that he could not build a basement because of the high ground water. He decided to finish his carport which did not encroach any closer to the side yard than before. Mr. Green stated that he did not have any other place on his property on which to extend or build onto his house. The builder had assumed that Mr. Green had gotten a building permit. Mr. Green stated that he did apply for a building permit after construction had begun after being notified by the building inspector. Mr. Green stated that all of his neighbors were aware of the construction. There had not been any discussion about a building permit.

In response to questions from the Board, Mr. Green stated that his contract with the builder did not mention who would get the building permit. Chairman Smith stated that Mr. Green's first mistake was enclosing the carport without a building permit. The second mistake was not getting a building permit for the garage. Mrs. Day stated that she did not understand how a contractor would not know enough to obtain a building permit.

Mr. Green stated that construction was pretty far along. He was not aware of any way to offset the structure of change it to meet the Zoning regulations. He stated that his neighbors had not registered any complaints. He stated that if it would help the situation, he would shield the structure if necessary. Chairman Smith was concerned about the three requested variances.

There was no one else to speak in support of the requested application. Mr. D. W. Fairfax of 6307 Brooke Drive spoke in opposition since the structure was in violation. He stated that if the Board permitted the violation then anything goes.

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RESOLUTION

Mrs. Day made the following motion:

WHEREAS, Application No. V-82-S-105 by T. T. GREEN under Section 18-406 of the Zoning Ordinance to allow living space addition to dwelling to remain 6.8 ft. from side lot line and garage addition to remain 6.7 ft. from side and 27.2 from front lot lines (12 ft. min. side yard and 30 ft. min. front yard req. by Sect. 3-307), on property located at 6003 Lebanon Drive, tax map reference 51-4((5))1A, 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 on August 5, 1982; and

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

THAT the property owner had contracted with Keystone Builders, said contract being signed by Wayne A. Hobbs, and neither the builder nor the homeowner obtained a building permit prior to the start of construction.

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

THAT the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian & Yaremchuk being absent)

Page 140, August 5, 1982, Scheduled case of

2:15 KIDDIE COUNTRY DAY CARE LTD., EDNA H. ANULEWICZ AND FRED T. LOWERY, appl. under
P.M. Sect. 3-103 of the Ord. for a child care center and nursery school, located 9601
Old Keene Mill Rd., R-1, Springfield Dist., 88-1((1))19, 3.95 acres, S-82-S-046.
(DEFERRED FROM JULY 29, 1982 AT REQUEST OF APPLICANT).

Mr. Michael Horwatt, an attorney with offices located at 10505 Judicial Drive in Fairfax, represented the applicants. For further information regarding the hearing procedures, please refer to the verbatim transcript on file in the Clerk's Office.

Page 140, August 5, 1982

Board of Zoning Appeals

KIDDIE COUNTRY DAY CARE LTD., EDNA H. ANULEWICZ
AND FRED T. LOWERY

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-S-046 by KIDDIE COUNTRY DAY CARE LTD., EDNA H. ANULEWICZ AND FRED T. LOWERY, under Section 3-103 of the Fairfax County Zoning Ordinance to permit a child care center and nursery school located at 9601 Old Keene Mill Road, tax map reference 88-1((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 August 5, 1982 being deferred from July 29, 1982 at request of the applicant; 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 3.95 acres.
4. That compliance with the Site Plan Ordinance is required.

R E S O L U T I O N

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application, except that a revised plat which reflects the conditions relating to transitional screening and transportation shall be submitted for BZA review and approval prior to site plan approval.
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. Transitional Screening shall be modified and provided in accordance with the plat, provided the dense growth of existing trees remain surrounding all property lines. At the time of site plan review, if an on-site inspection reveals any areas where supplemental screening should be provided, it shall be required at the discretion of the Director. The requirement for a barrier shall be waived except for the 42 inch chain link fence which shall be provided approximately ten (10) feet from Lee Chapel and Old Keene Mill Roads. This fence is to be installed so as not to disturb the existing trees.
7. The following transportation conditions shall be required.
 - (a) On Lee Chapel Road, the applicant shall dedicate right-of-way to 45 ft. from centerline.
 - (b) On Old Keene Mill Road, the applicant shall dedicate to 60 ft. from centerline with a standard shoulder.
 - (c) At the site entrance, a right-turn deceleration lane shall be provided. Should this require action by the County to obtain right-of-way by condemnation proceedings, the applicant should reimburse the County for the costs associated with condemnation. In such event, the applicant should prepare the necessary plats and ensure that adequate funds are available to allow for acquisition by the County when required.
 - (d) These requirements will be subject to VDH&T approval and Department of Environmental Management (DEM).
8. The maximum number of students shall be 160 full-time and 80 part-time.
9. The hours of operation shall be from 6:30 A.M. to 6:30 P.M.
10. The minimum number of parking spaces to be provided shall be 44.
11. There shall be a staff of 43 persons.

Mr. Ribble seconded the motion.

The motion*FAILED by a vote of 3 to 2 (Mr. Smith & Mrs. Day)(Messrs. DiGiulian & Yaremchuk being absent).

NOTE: *(By Court Order dated October 4, 1982; Law No. 58095, it was determined that the application was approved subject to the above-listed conditions).

// There being no further business, the Board adjourned at 7:20 P.M.

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

Daniel Smith
Daniel Smith, Chairman

APPROVED: July 17, 1984
Date

Submitted to the Board on July 10, 1984

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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 14, 1982. The following Board Members were present: Daniel Smith, Chairman; Ann Day and Paul Hammack. (John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and John Ribble being absent).

Chairman Smith announced that the Board of Zoning Appeals meeting scheduled for September 14, 1982 had to be rescheduled because of a lack of a quorum. He informed the public that the Clerk would notify all applicants and contiguous property owners of the new meeting time. He informed everyone that the applications had been rescheduled for October 21, 1982.

10:00 A.M. ELEANOR C. THOMPSON, appl. under Sect. 18-401 of the Ord. to allow subdivision into 4 lots, 3 of which would have width of 6 ft. each (80 ft. min. lot width req. by Sect. 3-306), located 7537 Idylwood Rd., R-3, Providence Dist., 40-3((1))68, 1.3942 acres, V-82-P-056. (DEFERRED FROM 6/15/82 TO GIVE APPLICANT TIME TO RESOLVE THE SEWER PROBLEM ON THE PROPERTY).

The Board rescheduled the variance until October 21, 1982 at 10:00 A.M. due to lack of a quorum.

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Page 142, September 14, 1982, Scheduled case of

10:10 A.M. THE MADEIRA SCHOOL, INC., appl. under Sect. 3-E03 of the Ord. to amend S-128-74 for school of general education to permit new track facilities (400 M) and relocation of existing riding ring & dressage area, located 8328 Georgetown Pk., R-E, Dranesville Dist., 20-1((1))14, 375 acres, S-82-D-036. (DEFERRED FROM 7/13/82 FOR NOTICES).

The Board rescheduled the Special Permit application until October 21, 1982 at 10:10 A.M. due to lack of a quorum.

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Page 142, September 14, 1982, Scheduled case of

10:30 A.M. GREAT FALLS SWIM & TENNIS CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend S-82-D-019 for community swim & tennis club to change hours of operation of tennis courts from 7 A.M. - 9 P.M. to 7 A.M. - 10 P.M., located 761 Walker Rd., R-1, Dranesville Dist., 13-1((1))27, 5.5244 acres, S-82-D-030. (DEFERRED FROM 7/20/82 FOR FULL BOARD).

The Board rescheduled the Special Permit application until October 21, 1982 at 10:30 A.M. due to lack of a quorum.

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Page 142, September 14, 1982, Scheduled case of

10:40 A.M. REDSTONE DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow sign at arcade entrance for three individual enterprises within shopping center, located 7245 Arlington Blvd., C-6, Mason Dist., 50-3((1))5A, 3.29 acres, V-82-M-072. (DEFERRED FROM 7/20/82 FOR FULL BOARD).

The Board was informed that the application had been administratively withdrawn due to the amendment of the Sign Ordinance.

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Page 142, September 14, 1982, Scheduled case of

10:50 A.M. TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB, appl. under Sect. 3-103 of the Ord. to amend S-134-78 for community swimming & tennis club to eliminate parking lot on 1 acre parcel and to permit operation of all existing facilities with existing 138 parking spaces, located 9117 Westerholme Way, R-1, Centreville Dist., 28-4((1))47 & 45A, 6.696 acres, S-82-C-025. (DEFERRED FROM MAY 18, 1982 FOR ADDITIONAL INFORMATION FROM JUNE 29, 1982, JULY 15, 1982 & JULY 20, 1982 FOR FULL BOARD).

The Board rescheduled the Special Permit application until October 21, 1982 at 10:40 A.M. due to lack of a quorum.

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Page 143, September 14, 1982, Scheduled case of

11:00 PAUL THOMAS HADDOCK, appl. under Sect. 18-401 of the Ord. to allow construction
A.M. of a deck with spa addition to a townhouse 7.5 ft. from rear lot line (14 ft. min.
rear yard req. by Sects. 3-507 & 2-412), located 2282 Covent Gardens Ct., Pine-
crest Townhouse Subd., PRC, Centreville Dist., 26-1((11))(4B)42, 1,667 sq. ft.,
V-82-C-092. (DEFERRED FROM 7/22/82 FOR NOTICES).

The Board rescheduled the variance application hearing until October 21, 1982 at 11:20 A.M.
due to lack of a quorum.

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Page 143, September 14, 1982, Scheduled case of

11:10 TOWLSTON ROAD PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow sub-
A.M. division into 2 lots and an outlet with proposed lot 2 having width of 20 ft.
(200 ft. min. lot width req. by Sect. 3-E06), located 839 Towlston Rd., R-E,
Dranesville Dist., 20-1((1))48A, 5.6521 acres, V-82-D-096. (DEFERRED FROM
7/29/82 FOR FULL BOARD).

The Board rescheduled the variance application hearing until October 21, 1982 at 11:00 A.M.
due to lack of a quorum.

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Page 143, September 14, 1982, Scheduled case of

11:20 WILLIAM B. & JEAN M. BECKER, appl. under Sect. 18-401 of the Ord. to allow
A.M. subdivision into 5 lots with proposed lot 33 having a width of 10 ft. and
proposed corner lot 36 having a width of 80 ft. (80 ft. min. interior lot
width & 105 ft. min. corner lot width req. by Sect. 3-306), located 9086
Wexford Dr., Wexford South Subd., R-3, Centreville Dist., 28-4((27))A, 2.2210
acres, V-82-C-069. (DEFERRED FROM 7/13/82 FOR ADDITIONAL INFORMATION AND FROM
7/29/82 FOR FULL BOARD).

The Board rescheduled the variance application hearing until October 21, 1982 at 11:30 A.M.
due to lack of a quorum.

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Page 143, September 14, 1982, Scheduled case of

11:30 ROBERT A. MASUMURA, appl. under Sect. 18-401 of the Ord. to allow enclosure
A.M. of carport into attached garage 9.6 ft. from side lot line such that total
side yards would be 19.6 ft. (8 ft. min., 20 ft. total min. side yard req. by
Sect. 3-307), located 7003 Gillings Rd., Rolling Valley Subd., R-3(C), Spring-
field Dist., 89-3((5))428, 10,435 sq. ft., V-82-S-120. (DEFERRED FROM AUGUST 5,
1982 FOR HEARING BY FULL BOARD).

The Board rescheduled the variance application hearing until October 21, 1982 at 11:40 A.M.
due to lack of a quorum.

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Page 143, September 14, 1982, Scheduled case of

11:40 D. B. JOHNSON, appl. under Sect. 18-401 of the Ord. to allow addition to
A.M. dwelling to 1.6 ft. from side lot line (10 ft. min. side yard req. by Sect.
3-407), located 6647 Hawthorne St., Bryn Mawr Subd., R-4, Dranesville Dist.,
30-4((4))(B)27A, 12,387 sq. ft., V-82-D-121. (DEFERRED FROM AUGUST 5, 1982
FOR HEARING BY FULL BOARD).

The Board rescheduled the variance application hearing until October 21, 1982 at 11:50 A.M.
due to lack of a quorum.

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Page 143, September 14, 1982, Scheduled case of

11:50 LAWRENCE S. BAHL, appl. under Sect. 18-401 of the Ord. to allow construction of
A.M. porch addition to dwelling to 19.3 ft. from rear lot line (25 ft. min. rear yard
req. by Sect. 3-307), located 5017 Mignonette Ct., Longbranch Subd., R-3(C),
Annandale Dist., 69-4((12))135, 10,069 sq. ft., V-82-A-122. (DEFERRED FROM
AUGUST 5, 1982 FOR HEARING BY FULL BOARD).

The Board rescheduled the variance application hearing until October 21, 1982 at 12:00 NOON
due to lack of a quorum.

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Page 144, September 14, 1982, Scheduled case of

12:00 NOON A CHILD'S PLACE T/A HOLLIN HALL SCHOOL AGE CENTER, appl. under Sect. 3-303 of the Ord. for a child care center, located 1500 Shenandoah Rd., R-3, Mt. Vernon Dist., 102-2((1))2A, 10.98 acres, S-82-V-062. (DEFERRED FROM AUGUST 5, 1982 FOR NOTICES.)

The Board rescheduled the special permit application until October 21, 1982 at 12:20 P.M. due to lack of a quorum.

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Page 144, September 14, 1982, Scheduled case of

12:15 P.M. ASLAN CORPORATION AND THEODORE BODNAR, JR., THEODORE BODNAR, SR., & BARBARA BODNAR, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that appellant's Non-Residential Use Permit and two sign permits are null and void because of a determination that the use is a quick-service food store, for which Special Exception approval is required in the I-5 district, located 8213 Lee Hwy., I-5, Providence Dist., 49-4((1))6, 20,000 sq. ft., A-82-P-016. (DEFERRED FROM AUGUST 3, 1982 AT THE REQUEST OF THE APPELLANT).

The Board rescheduled the appeal application until October 21, 1982 at 12:40 A.M. due to lack of a quorum.

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Page 144, September 14, 1982, Scheduled case of

12:30 P.M. PROVIDENCE SAVINGS & LOAN, appl. under Sect. 18-401 of the Ord. to allow signs for individual enterprises located within an interior mall of Woodlawn Shopping Center to be erected over Mall entrance, located 8700 Richmond Highway, Woodlawn Shopping Center, C-6, Lee Dist., 109-2((1))24, 8.70 ac., V-82-L-124. (DEFERRED FROM AUGUST 5, 1982 FOR REAPPLICATION DUE TO SIGN ORDINANCE AMENDMENT).

The Board was informed that the variance had been administratively withdrawn due to the amendment to the Sign Ordinance provisions.

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The meeting adjourned at 12:30 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on July 15, 1984

APPROVED: July 17, 1984

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145

The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, September 16, 1982. The following Board members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack and John Ribble. (Messrs. DiGiulian, Yaremchuk and Hyland were absent).

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

10:00 RICHARD & JUDITH A. WELLS, appl. under Sect. 18-401 of the Ord. to allow
A.M. subdivision into three (3) lots, two of which having width of 6 ft. and one having width of 12 ft. (150 ft. min. lot width req. by Sect. 3-106), located 2740 Hunter Mill Rd., Bonnet Subd., R-1, Providence Dist., 37-4((1))pt. of 17, 3.38 acres, V-82-P-116. (DEFERRED FROM AUGUST 5, 1982 FOR HEARING BY FULL BOARD).

Mr. Ribble moved that the Board allow a further deferment until October 28, 1982 at 10:00 A.M. for a hearing by a full Board. Mrs. Day seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hyland being absent).

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Page 145, September 16, 1982, Scheduled case of

10:10 JOHN F. ROOT, appl. under Sect. 18-401 of the Ord. to allow subdivision into
A.M. two lots each being less than 2 acres in size, with proposed corner lot 1 having width of 163 ft. and an existing dwelling 32.53 ft. from proposed front lot line, with proposed lot 2 having an existing dwelling 1.03 ft. from proposed front lot line, and to allow the keeping of horses on each of the proposed lots, (225 ft. min. corner lot width req. by Sect. 3-E06; 50 ft. min. front yard req. by Sect. 3-E07; and 2 acres min. lot size for keeping livestock req. by Sect. 2-512), located 730 Leigh Mill Rd., R-E, Dranesville Dist., 13-1((1))70, 4.0012 acres, V-82-D-117. DEFERRED FROM AUGUST 5, 1982 AT THE REQUEST OF THE APPLICANT.

Ms. Sarah Reifsnnyder, an attorney with the firm of Blankingship & Keith with an office on University Drive in Fairfax, represented the applicant. She informed the Board that her client wished to formally amend his application to only require two variances instead of the four original variances requested. Ms. Reifsnnyder stated that the two variances would relate to Sect. 3-E06 and 3-E07 regarding lot width and the front yard setback. Ms. Reifsnnyder stated that each of the lots would have 2 acres and would not require a variance for the keeping of horses. Ms. Reifsnnyder stated that she was prepared to renotify property owners.

It was the consensus of the Board to defer the variance until October 28, 1982 at 10:10 A.M. to allow Ms. Reifsnnyder an opportunity to amend the application.

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Page 145, September 16, 1982, Executive Session

At 10:20 A.M., Mr. Hammack announced that the County Attorney had a need to discuss the case involving the National Memorial Park, Inc. v. the BZA which was pending in Circuit Court. Therefore, he moved that the Board convene in an Executive Session to discuss the case. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hyland being absent).

The Board reconvened the meeting at 11:10 A.M. to continue with the scheduled agenda.

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Page 145, September 16, 1982, Scheduled case of

10:20 SANG YONG & BOGNIM CHOI, appl. under Sect. 18-401 of the Ord. to allow enclosure
A.M. of existing carport 7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6806 Jerome St., Loisdale Estates Subd., R-3, Lee Dist., 90-4((16))136, 10,504 sq. ft., V-82-L-118. (DEFERRED FROM AUGUST 5, 1982 FOR NOTICES).

The Board deferred the variance until October 28, 1982 at 10:20 A.M. for notices and for lack of representation at the meeting.

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Page 145, September 16, 1982, Scheduled case of

10:30 ROBERT F. & JUDITH A. ROSENBAUM, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of addition to dwelling to 27 ft. from a street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307), located 1601 Mary Ellen Ct., McLean West Subd., R-3, Dranesville Dist., 30-3((23))22, 13,862 sq. ft., V-82-D-119. (DEFERRED FROM 8/5/82 FOR FULL BOARD.)

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As there was not a full Board present, the Board deferred the variance until October 28, 1982 at 10:30 A.M.

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Page 146, September 16, 1982, Scheduled case of

10:40 A.M. CECIL JR. & NANCY PRUITT, appl. under Sect. 18-401 of the Ord. to allow the continued keeping of four (4) dogs on a lot containing 11,760 sq. ft. (12,500 sq. ft. min. lot area for keeping 4 dogs req. by Sect. 2-512), located 10503 Zion Dr., The Knolls Subd., R-2, Annandale Dist., 68-4((7))8, 11,760 sq. ft., V-82-A-125.

The Board was in receipt of a letter dated September 3, 1982 indicating that the applicants wished to withdraw the application. Mr. Ribble moved that the Board allow the withdrawal without prejudice. Mr. Hammack seconded the motion and it passed by a vote of 4 to 0 (Messrs DiGiulian, Yaremchuk and Hyland being absent).

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Page 146, September 16, 1982, Scheduled case of

10:50 A.M. EDWIN T. OLIVER, JR., appl. under Sect. 18-401 of the Ord. to allow enclosure of existing attached carport into a garage 21 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-307), located 5730 Clarence Ave., Hammer Park Subd., R-3, Mason Dist., 61-4((20))5, 10,609 sq. ft., V-82-M-126.

As there was not a full Board present, the BZA deferred the variance until October 28, 1982 at 10:40 A.M.

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Page 146, September 16, 1982, Scheduled case of

11:00 A.M. RICHARD W. MISSELL, appl. under Sect. 18-401 of the Ord. to allow extension and enclosure of existing carport into a 2-car garage and an enclosed porch 9.167 ft. from side lot line such that side yards total 17.77 ft. (8 ft. min., 24 ft. total min. side yards req. by Sect. 3-207), located 8517 Frost Way, Winterset Subd., R-2(C), Providence Dist., 59-3((15))116, 10,504 sq. ft., V-82-P-127.

As the required notices were not in order, the Board deferred the variance until October 28, 1982 at 10:50 A.M.

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Page 146, September 16, 1982, Scheduled case of

11:10 A.M. ALLEN H. & ELIZABETH W. NORDGREN, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 4.3 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), located 1901 Anderson Rd., Pimmit Hills Subd., R-4, Dranesville Dist., 40-1((16))173, 11,200 sq. ft., V-82-D-128.

As there was not a full Board present, the BZA deferred the variance until October 28, 1982 at 11:00 A.M.

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Page 146, September 16, 1982, Scheduled case of

11:20 A.M. CHRISTIAN FELLOWSHIP CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-196-77 for church and related facilities to permit addition of land area and construction of additional parking lot with 171 spaces, located 10237 Leesburg Pike, Dranesville Dist., R-1, 18-2((7))A, B & C, 7.5472 acres, S-82-D-066.

Reverend James Ahlman of Herndon requested the Board to defer the special permit application because there was not a full Board present to hear the case. The BZA deferred the matter until October 28, 1982 at 11:10 A.M.

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11:40 OAKTON SWIM & RACQUET CLUB, INC., appl. under Sect. 3-103 for a community swim and
A.M. tennis club, located 11600 Waples Mill Rd., Waples Mill Estates, R-1, Centreville
Dist., 46-2((1))pt. 20, 6.75214 acres, S-82-C-067.

Mr. Ralph Dell of 2806 Freehill Road in Oakton, a member of the Board of Directors, represented the swim club. After a brief recess with the staff members and the speakers attending the public hearing, Mr. Dell stated that the club would agree to a deferral until September 21, 1982 at 12:45 P.M. for a hearing by a full Board.

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12:00 BURKE CENTRE DAY SCHOOL, INC., appl. under Sect. 5-303 of the Ord. for a child
NOON care center as permitted by S-80-S-056, expired, located Oak Leather Dr. & Burke
Centre Pkwy., Burke Centre Subd., I-3, Springfield Dist., 77-1((1))71, 1.25 acres,
S-82-S-068.

Mrs. Frances Batchelder of Cannonball Road in Fairfax informed the Board that she was applying for renewal of a special permit which had expired as she had neglected to ask for an extension. Mrs. Batchelder stated that she was President of the school which was to be located at Oak Leather Drive & Burke Centre Parkway. The property was zoned R-3 but had been rezoned I-3. The original special permit was granted by the BZA on July 30, 1980. The building had not been constructed yet and Mrs. Batchelder neglected to seek an extension.

The special permit was granted for the operation of a child care center for 160 children. There would be 17 employees. The center was licensed by the Health Department and met the Fire Codes. She informed the Board that she had other centers and took care of infants as well as toddlers. The renewal would not cause any impact on the area. She stated that everything would remain as previously granted as she was not requesting any changes.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-S-068 by BURKE CENTRE DAY SCHOOL, INC. under Section 5-303 of the Fairfax County Zoning Ordinance to permit child care center as permitted by S-80-S-056, expired, located at Oak Leather Dr. & Burke Centre Pkwy., tax map reference 77-1((1))pt. 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 September 16, 1982; 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 I-3.
3. That the area of the lot is 1.25 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 number of children shall be 160, ages infant through ten years.
8. The hours of operation shall be from 6:30 A.M. to 6:30 P.M., Monday through Saturday.
9. The number of employees shall be no more than seventeen (17).

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk & Hyland being absent).

Page 148, September 16, 1982, Scheduled case of

12:10 P.M. MICHAEL J. KUHLMANN, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport into an attached garage and second-story living space addition over a portion of the garage, all to be located 7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7111 Catlett St., North Spfd. Subd., R-3, Annandale Dist., 80-1((2))(5)23, 11,200 sq. ft., V-82-A-129.

As there was not a full Board present, Mr. Kuhlmann sought a deferral of the variance. It was the consensus of the Board to defer the matter until October 28, 1982 at 11:20 A.M.

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Page 148, September 16, 1982, Scheduled case of

12:20 P.M. BOARDMAN SHAW MOWRY, appl. under Sect. 18-401 of the Ord. to allow extension and enclosure of carport to 9.4 ft. from the side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7933 Bayberry Dr., Sherwood Hall Subd., R-3, Mt. Vernon Dist., 102-1((29))9, 15,490 sq. ft., V-82-V-130.

Mr. Roger Mowry of 7933 Bayberry Drive in Alexandria acted as agent for his father. As there was not a full Board present, the BZA deferred the variance until October 28, 1982 at 11:30 A.M.

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Page 148, September 16, 1982, After Agenda Items

Approval of Minutes: The Board was in receipt of Minutes for January 13, 1981; January 22, 1981 and January 27, 1981. Mrs. Day moved that the Minutes be approved as written. Mr. Hammack seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hyland being absent).

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Page 148, September 16, 1982, After Agenda Items

Jack P. Chocola: The Board was in receipt of a letter from Mr. Howell B. Simmons requesting an extension of the variance granted to Mr. Jack P. Chocola. Four six month extensions previously had been granted by the Board. After considerable discussion, Mrs. Day moved that the Board grant another six month extension but directed that the applicant be notified it was the final extension. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hyland being absent).

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Page 148, September 16, 1982, After Agenda Items

Andrea Field, V-81-D-007: The Board was in receipt of a request from Mr. Howell B. Simmons for an extension of the variance granted to Andrea Field in 1981. After discussion, it was the consensus of the Board to have the applicant explain in further detail as the hardship was in not getting the subdivision recorded.

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Page 1484 September 16, 1982, Scheduled case of

12:30 P.M. ROBERT & LAURIE HICKERSON, appl. under Sect. 18-401 of the Ord. to allow enlargement and enclosure of carport into two-car attached garage 2.0 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 4991 DeQuincy Dr., Briarwood Subd., R-3, Annandale Dist., 69-1((9))29, 9,331 sq. ft., V-82-A-131.

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As there was not a full Board present to hear the variance, Mr. Hickerson asked for a deferral. It was the consensus of the Board to defer the variance until October 28, 1982 at 11:40 A.M.

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Page 1484 September 16, 1982, After Agenda Items

Tuckahoe Recreation Club, Inc.: The Board was in receipt of a letter from Tuckahoe Recreation Club seeking a modification of the Board's motion with respect to the operating hours as specified by the BZA at its hearing on July 22, 1982. The staff report had inadvertently left out one of the numerous resolutions pertaining to Tuckahoe in which the hours of operation were stated as being from 8 A.M. to 10 P.M. Based on the resolutions in the staff report, the Board specified hours of 9 A.M. to 9 P.M. Tuckahoe was requesting the hours be modified to what had been granted previously by the Board in the 1975 hearing.

Chairman Smith asked that the matter be deferred until there was a full Board to consider it.

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Page 1484 September 16, 1982, After Agenda Items

Paul R. Rothwell: The Board was in receipt of a letter from Paul R. Rothwell requesting an out-of-turn hearing on his variance application. Mr. Hammack moved that the Board deny the request. Mrs. Day seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Yaremchuk and Hyland being absent).

//

Page 1484 September 16, 1982, After Agenda Items

New Life Community Church: The Board was in receipt of a letter from Mr. Richard L. Smith requesting a change in the maximum number of students allowed in the school as specified in the BZA's resolution on July 22, 1982. Mr. Smith questioned the limit of 26 students when the facility could accommodate many more students.

Chairman Smith advised that the limit was 26 unless the applicant wanted to submit a new application and go through a new public hearing.

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Page 1484 September 16, 1982, After Agenda Items

Linda Blankenship, V-81-V-021: The Board was in receipt of a letter from Mrs. Blankenship requesting an extension of the variance granted by the BZA on March 31, 1981 for 18 months to allow the construction of two additions to the dwelling within 17.4 ft. & 18.4 ft. of the rear property line & within 10.3 ft. of the side property line.

It was the consensus of the Board to defer the matter until there was full Board to consider the request.

// 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

Submitted to the Board on July 10, 1984

APPROVED: July 17, 1984
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, September 21, 1982. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Ann Day, Gerald Hyland, John Ribble, and Paul Hammack. John Yaremchuk was absent.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

//Mr. Hyland moved that the Board go into Executive session to address a legal matter.

//The meeting reconvened at 11:05 A.M. and the Board took up with the scheduled case of:

10:00 A.M. GREGORY & MARCIA HOLLAND/RYAN HOMES, INC., appl. under Sect. 18-406 of the Ord. to allow a dwelling to remain 17.3 ft. from the front lot line (20 ft. min. front yard req. by Sect. 3-507), located 3205 Shaw Park Ct., Brosar Park Subd., R-5, 101-2((13))27, Mt. Vernon Dist., 7,811 sq. ft., V-82-V-074. (DEFERRED FROM 7/20/82 FOR NOTICES)

There was no one present at the meeting to represent the applicant. It was the consensus of the Board to defer the application to October 5, 1982 at 11:50 A.M.

Page 149, September 21, 1982, Scheduled case of:

10:10 A.M. VICTOR SMITH, JR., & MARLENE H. SMITH, appl. under Sect. 18-401 of the Ord. to allow construction of a carport addition to dwelling to 2.5 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), and of a 13 ft. high detached garage 5.0 ft. from a side lot line and from the rear lot line (10 ft. min. side yard and 13 ft. min. rear yard req. by Sects. 3-407 & 2-412), located 6313 Virginia Hills Ave., Virginia Hills Subd., R-4, 82-4((14))1023, Lee Dist., 11,077 sq. ft., V-82-L-101. (DEFERRED FROM 7/29/82 FOR FULL BOARD)

Chairman Smith asked the applicant if she wanted to defer the case because there were only five Board members present. Marlene H. Smith, the applicant, decided to ask for a deferral.

Bruce Nash, representing Mr. & Mrs. Harry Nash, 6401 Virginia Hills Ave, next door to the property in question, spoke regarding the deferral. He indicated that his parents would be out of town the first week in October, and asked the Board to reschedule the case at a time his parents could be present.

It was the consensus of the Board to defer the application to October 12, 1982 at 11:40 A.M.

Page 149, September 21, 1982, Scheduled case of:

10:20 A.M. CORRINNE NARANJO, appl. under Sect. 18-401 of the Ord. to allow enlargement and enclosure of existing carport into an attached 2-car garage 6.7 ft. from side lot line such that side yards total 15.7 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 7103 Danford Pl., Rolling Valley Subd., R-3(C), 89-3((5))570, Springfield Dist., 10,462 sq. ft., V-82-S-102. (DEFERRED FROM 7/29/82 FOR NOTICES)

Corrinne Naranjo presented her application. She stated that she wanted to enlarge her existing one-car carport into a two-car garage. The property is located on a cul-de-sac, and, therefore, the lot is irregular in shape and pie-shaped. The house and present carport are situated on a narrow portion of the lot. All of the neighbors are in favor of this application. The proposed garage would face the back of the home next door. The surrounding area is a mixture of garages and carports.

There was no one to speak in support or opposition.

Page 149, September 21, 1982
CORRINNE NARANJO

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-S-102 by CORRINNE NARANJO under Section 18-401 of the Zoning Ordinance to allow enlargement and enclosure of existing carport into an attached two-car garage 6.7 ft. from side lot line such that side yards total 15.7 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), on property located at 7103 Danford Place, tax map reference 89-3((5))570, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 21, 1982; 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 (Cluster).
3. The area of the lot is 10,462 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging side lot lines and has an unusual condition in the location of the existing buildings on the subject property being placed to the front of the property where the lot lines converge to the detriment of the property owner.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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:

A variance shall be granted that would allow construction of a garage addition 22 ft in width which would result in a variance of 2.54 ft. side yard variance.

1. This variance is approved 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 eighteen (18) months after this date unless construction has started and is diligently pursued or unless a renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Ribble and Yaremchuk being absent)

Page 150, September 21, 1982, Scheduled case of:

10:30 A.M. JOHN H. MORRISON, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to dwelling to 10.5 ft. from a street line on a corner lot (30 ft. min. front yard req. by Sect. 3-307), located 5716 Norton Rd., Burgundy Farm Subd., R-3, 82-2(5)(A)9, Lee Dist., 13,652 sq. ft., V-82-L-104. (DEFERRED FROM 7/29/82 FOR A FULL BOARD)

The applicant, John Morrison, presented his variance application. He stated that his property was on a corner lot and had two front yards. To the rear of the property is a sloping rear yard and underground springs which make the rear and side yard marshy all year round. These topographic problems prevent him from constructing elsewhere on the lot.

Mrs. Day asked the applicant what the addition would be used for. Mr. Morrison replied that it would have a two-car garage underneath and above it would be a formal dining room with a study, a master bedroom with a walk-in closet, and a bathroom. In the existing house now there were two bedrooms and a bath, a living room, and a kitchen. He also had a basement. Mr. Morrison stated that he had purchased the house in 1975.

Mrs. Day asked Mr. Morrison if he repaired and sold vehicles. Mr. Morrison stated that he only repaired his vehicles. He had nine vehicles on his property. He stated that five of the vehicles were licensed and insured. The other vehicles were not being driven at this time. One of the vehicles was a moped, one was a trailbike, and the other was a motorcycle. The other six were automobiles. Mr. Morrison stated that the size of the proposed addition, 24.8 ft. x 30 ft., would enable him to store all of his vehicles and more. He stated that he didn't repair any other persons vehicles other than his own and he didn't plan to.

Chairman Smith asked Mr. Morrison what his profession was. Mr. Morrison replied that he was retired. Chairman Smith inquired whether Mr. Morrison was a mechanic by profession before he retired. Mr. Morrison answered that he was not.

Doug Lamont, spoke regarding the application. He did not speak in support or opposition, because he was not sure what the intent of the application was. He stated that his only concern was that the structure would be compatible with the neighborhood. He felt that the structure was to close to the side lot line and might not be aesthetically appealing.

Mangesh Hoskote, 3604 Kendall Place, spoke regarding the application. He asked Mr. Morrison who the licensed builder was the would be doing the construction. Chairman Smith stated that that question was irrelevant and Mr. Morrison was not required to answer that question. Mr. Morrison replied that he was the contractor. Mr. Hoskote asked what Mr. Morrison's profession was before he retired, and why he retired. Mr. Hyland stated that this was completely inappropriate and it didn't make any difference to him.

Georgia Woods, 5720 Norton Road, spoke in opposition. She stated that the neighbors were not in favor of the application, because having the addition come out that far would give an alley appearance. The entrance into Kendall Place is quite narrow, and the addition would block the view. This appears to be in excess of what Mr. Morrison could ask for. Also, Mr. Morrison parks cars on the narrow street which creates a problem.

Chairman Smith stated that the Board was in receipt of a petition signed by several neighbors on Norton Road and Kendall Place in opposition.

During rebuttal, Mr. Morrison stated that the petition indicated that he was going to start a business out of his home, and he had no intentions of doing that.

There was no one else to speak regarding the application.

R E S O L U T I O N

In Application No. V-82-L-104 by JOHN H. MORRISON under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 10.5 ft. from a street line on a corner lot (30 ft. min. front yard req. by Sect. 3-307), on property located at 5716 Norton Road, tax map reference 82-2((5))(A)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 September 21, 1982; 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 13,652 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 uses of the reasonable use of the land and/or buildings involved.

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs. Ribble and Yaremchuk being absent)

Page 151, September 21, 1982, Scheduled case of:

10:40 A.M. WILLIAM E. MATTHEWS, appl. under Sect. 18-406 of the Ord. to allow a deck to remain 1.6 ft. from the rear lot line (14 ft. min. rear yard req. by Sects. 3-507 & 2-412), located 10008 Georgian Woods Ct., Burke Centre Subd., PRC, 77-4((17))22, Springfield Dist., 3,825 sq. ft., V-82-S-106. (DEFERRED FROM 7/29/82 FOR FULL BOARD)

William Matthews asked that his application be deferred for a full board. The case was rescheduled for October 5, 1982 at 11:40 A.M.

10:50 A.M. WALTER A. BAWELL/ALEXANDROUR INTERNATIONAL PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 8 ft. from side lot lines (15 ft. min. side yard req. by Sect. 3-207), located 8515 Engleside St., Engleside Subd., R-2, 101-3((7))29, Lee Dist., 5,600 sq. ft., V-82-L-132.

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Walter Bawell, 4823 Aspen Hill Road, Rockville, Maryland, presented the application. He stated that the application also listed the partnership that existed between himself and his wife who were both previously married. In his case, the property settlement had not been entirely completed when he remarried, and he had been advised that it would be proper to protect their interests to form a partnership.

Mr. Bawell stated that he wanted to build a house 24 ft. x 40 ft. This would leave 8 ft. side lots, and necessitate a variance. The lot is substandard, being 40 feet wide and 5,600 square feet in area. The Zoning Ordinance requires a minimum lot width in an R-2 zone of 100 feet for an interior lot and a minimum lot area of 15,000 square feet. Mr. Bawell showed pictures to the Board of other houses in the area that had been constructed within 7 to 10 feet of side lot lines. Mr. Bawell stated that this lot was a gift from his mother and he had taken title to it in 1981.

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

Page 152, September 21, 1982 Board of Zoning Appeals
WALTER A. BAWELL/ALEXANDROUR INTERNATIONAL PARTNERSHIP
RESOLUTION

In Application No. V-82-L-132 by WALTER A. BAWELL/ALEXANDER INTERNATIONAL PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 8 ft. from side lot lines (15 ft. min. side yard req. by Sect. 3-207), on property located at 8515 Engleside Street, tax map reference 101-3 ((7)) 29, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 21, 1982; 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 5,600 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, substandard in size, and extremely narrow in width. The property has exceptional topographic problems. The applicant is unable to enlarge this lot and is surrounded by similar conditions on the neighboring lots. The improvements on this lot will be an enhancement to the neighborhood.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 variance is approved 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 eighteen (18) months after this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs. Ribble and Yaremchuk being absent)

Page 153, September 21, 1982, Scheduled case of:

11:00 A.M. MICHAEL L. LEWIS, appl. under Sect. 18-401 of the Ord. to allow deck addition to dwelling 13.1 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 7743 Middle Valley Dr., Middle Valley Subd., R-3(C), 98-1((5))40, Springfield Dist., 9,500 sq. ft., V-82-S-133.

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Michael Lewis, the applicant, presented his application. He stated that his property was located at the dead end of Middle Valley Drive. The lot is small, and slopes in the back. With the existing contour, the location of the heat pump and the location of the exits from the rear of the house, this is the best location for the deck addition. He stated that the topography was changed when several large tree were removed from the property, causing a more severe slope. Mr. Lewis also stated that there was an easement located on his property. The proposed deck would be consistent in size with other decks in the neighborhood.

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

Page 153, September 21, 1982
MICHAEL L. LEWIS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-S-133 by MICHAEL L. LEWIS under Section 18-401 of the Zoning Ordinance to allow deck addition to dwelling 13.1 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), on property located at 7743 Middle Valley Drive, tax map reference 98-1((5))40, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 21, 1982; 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 (Cluster).
3. The area of the lot is 9,500 sq. ft.
4. That the applicant's property has exceptional topographic problems as indicated by the applicant's testimony and written statement, particularly in the rear yard which has a dramatic drop off. The lot size is exceptionally small.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 variance is approved 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 eighteen (18) months after this date unless construction has started and is diligently pursued or unless a renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Ribble and Yaremchuk being absent

Page 153, September 21, 1982, Scheduled case of:

11:10 A.M. GORDON L. ERNEST, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots with proposed lot 1 having width of 25 ft. (100 ft. min. lot width req. by Sect. 3-206), located 9934 Vale Rd., Acreage Subd., R-2, 38-3((1))6, Centreville Dist., 74,649 sq. ft., V-82-C-134.

Gordon Ernest, 3311 Valentino Court, Oakton, presented the application. He stated that the hardship was the unusual configuration of the lot being narrow and deep. The surrounding

property does not permit access to the proposed lot 1 in any other method. Ingress and egress to both lots will be by a single point on Vale Road. Mr. Ernest stated that an application for rezoning from R-1 to R-2 was approved by the Board of Supervisors. The density and subdivision is in conformance with the comprehensive plan. Mr. Ernest stated that by stacking the lots one behind the other, he was able to more than meet any rules of the minimum conformance with the comprehensive plan. He stated that facing the piece of property to the right and the left there was a single family dwelling. To the rear of the property was a court that housed four pieces of property backing up to it. This property is completely surrounded by other single family structures.

Mr. Covington stated to the Board members that on July 19, 1982 the Board of Supervisors rezoned this lot from the R-1 zone to the R-2 zone with knowledge that a variance would be necessary to implement the rezoning.

Alberta Hadley, 9938 Vale Road, to the left of the property in question, spoke in opposition to the application. She stated that the area in general was for one structure per acre. She stated that a 25 foot lot would not be in keeping with the neighborhood. Chairman Smith explained that the 25 feet referred to the access to the property, not the width of the lot.

There was no one else to speak in support or opposition.

R E S O L U T I O N

In Application No. V-82-C-134 by GORDON L. ERNEST, under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots with proposed lot 1 having width of 25 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 9934 Vale Road, tax map reference 38-3(1)6, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 21, 1982; 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 74,649 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow, which justifies the variance the applicant seeks.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Ribble and Yaremchuk being absent)

**This resolution was revised on May 4, 1984 to include the correct limitations listed above.

//The Board recessed for lunch at 12:35 P.M. and returned at 1:25 P.M. to take up the scheduled agenda.

11:20 A.M. MOUNT VERNON UNITARIAN CHURCH, appl. under Sect. 18-401 of the Ord. to allow subdivision into five (5) lots, and a remaining parcel proposed lot 1 having width of 25.00 ft. (100 ft. min. lot width req. by Sect. 3-206), located 1909 Windmill Ln., R-2, Mt. Vernon Dist., 93-3(1)10B, 10.4456 acres, V-82-V-158.

11:20 A.M. MOUNT VERNON UNITARIAN CHURCH, appl. under Sect. 3-203 of the Ord. to permit construction of new church and related facilities on site of existing church and related facilities, located 1909 Windmill Ln., R-2, Mt. Vernon Dist., 93-3(1)10B, 10.4456 acres, S-82-V-069.

(FOR FURTHER DETAILED INFORMATION ON THESE APPLICATIONS, PLEASE SEE THE VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE)

The Mount Vernon Unitarian Church applications were deferred to October 12, 1982 at 11:50 A.M.

//At 2:50 P.M. Mr. Hyland moved that the Board go into Executive session to address a legal matter regarding National Memorial Park. The meeting reconvened at 3:25 P.M.

Page 155, September 21, 1982, Scheduled case of:

11:30 A.M. RONALD P. LEMLEY, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 18.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 7312 Foxe Pl., North Spfd. Subd., R-3, 71-3(4)(27)26, Annandale Dist., 10,592 sq. ft., V-82-A-135.

John Kepler, 1928 Duke Street, presented the application. He stated that the applicant's dwelling was placed 13.5 ft. further to the rear of the lot than what is required by the Ordinance. Also, the lot is an odd shape and very shallow. The addition would be a recreation room that would be accessible to the kitchen. The property was purchased in June of 1976.

There was no one to speak in support or opposition.

Page 155, September 21, 1982
RONALD P. LEMLEY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-A-135 by RONALD L. LEMLEY under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 18.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 7312 Foxe Place, tax map reference 71-3(4)(27)26, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 21, 1982; 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 10,592 sq. ft.
4. That the applicant's property is exceptionally irregular in shape. The building was placed 13.5 ft. further to the rear of the property than what was required by the Ordinance, thus making it difficult for the owner to enlarge his house without a variance. This is the only feasible place the applicant could add on to the house.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 variance is approved 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 eighteen (18) months after this date unless construction has started and is diligently pursued or unless a renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

*The motion FAILED by a vote of 3 - 1 (Mr. Smith) (Messrs. Hyland, Ribbie and Yaremchuk being absent)

Page 156, September 21, 1982, Scheduled case of:

11:45 A.M. WILLIAM L. & ALIKI M. BRYANT, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that a proposed private indoor tennis court is not a permitted accessory use to a single family detached dwelling located at 1019 Savile Lan., McLean, VA., Langley on the Potomac Subd., R-1, Dranesville Dist., 22-4((1))8A, 1.444 acres, A-82-D-015. (DEFERRED FROM JULY 29, 1982 FOR FULL BOARD AND FROM AUGUST 3, 1982 TO VIEW PROPERTY AND FOR FURTHER INFORMATION)

Chairman Smith stated that in view of the fact that only four Board members were present, the applicant might want to request a deferral on the decision. The applicant agreed and requested a deferral. The appeal application was rescheduled for September 28, 1982 at 8:50 P.M.

Page 156, September 21, 1982, Scheduled case of:

12:00 NOON PARADISE CHILD'S HAVEN, INC., appl. under Sect. 3-403 of the Ord. to amend S-80-S-065 for child care center to permit addition of modular nursery building to existing facilities, increase max. number of children to 87, and change name of permittee, located 4616 Ravensworth Rd., R-4, 71-1((1))63, Annandale Dist., 41,282 sq. ft., S-82-A-021. (DEFERRED FROM 5/11/82 FOR NOTICES, 6/29/82 FOR FULL BOARD, 7/27/82 FOR FURTHER INFORMATION, AND FROM 8/5/82 FOR FULL BOARD)

The applicant requested a deferral in view of the fact that only four Board members were present. The special permit application was rescheduled for November 16, 1982 at 10:00 A.M.

Page 156, September 21, 1982, Scheduled case of:

12:15 P.M. THOMAS A. & SUSAN E. NEAL, appl. under Sect. 18-401 of the Ord. to amend Y-129-78, allowing subdivision into 2 lots with one lot having less than min. req. lot width, by deleting condition #3, requiring applicant to provide one common driveway for the two lots, located 6846 Georgetown Pike, Langley Forest Subd., R-1, Dranesville Dist., 21-4((6))35A-1, 1.6566 acres, Y-82-D-152.

Robert Swan, an attorney from Oakton, represented the applicants. He stated that he was aware of the fact that only four Board members were present and it would take an affirmative vote of all four to grant the request. The Board of Zoning Appeals granted the applicants a variance to permit subdivision of the parcel into two lots, lot 35A having less than the required lot width. The variance was granted subject to the applicant providing one common driveway for the two lots. The applicant came back to the Board for clarification. After discussion and examination of the plat, Mr. DiGiulian moved that one common driveway be provided to 25 feet of the proposed dedication line. The applicant is now requesting that this requirement be deleted because he feels that this requirement will encumber ownership of individual properties. Mr. Swan stated that the applicants had requested a common entranceway not a common driveway, and that the term has been confused since the original application. Mr. Swan asked the Board to either delete the condition or change the wording from common driveway to common entranceway.

Mr. Swan stated that Mr. Neal had sold the front portion of the lot to a Mr. Singh. Mr. Singh was upset with this common driveway condition because he was not aware of it at the time of purchase. Mr. DiGiulian stated that when the property was sold, a subdivision plat had to accompany the sale. He stated that it would seem to him that the requirement for the common driveway would be spelled out somewhere in the deed. Mr. Swan stated that it was not in the deed and not shown on the dedication plat approved by the County. Chairman Smith replied that it was up to the engineer that drew the plat to be responsible for including that condition on the plat.

Chairman Smith stated that the applicant had not presented a hardship showing why they couldn't comply with the condition. He stated that Mr. Swan kept mentioning the man that bought a portion of the property, Mr. Singh, and that he isn't a party to that condition. The party to that condition are the applicants.

Thomas Neal, 7005 Hector Road, McLean, spoke to the Board members. He said that when he received the letter and resolution from the County saying common driveway, he didn't feel that it was what was discussed at that meeting. Chairman Smith stated that this condition was reaffirmed at a later date.

There was no one else to speak with regard to the application.

R E S O L U T I O N

In Application No. V-82-D-152 by THOMAS A. & SUSAN E. NEAL under Section 18-401 of the Zoning Ordinance to amend V-129-78, allowing subdivision into 2 lots with one lot having less than min. req. lot width, by deleting condition #3, requiring applicant to provide one common driveway for the two lots, on property located at 6847 Georgetown Pike, tax map reference 21-4((6))35A-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 September 21, 1982; 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 1.6566 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 uses of the reasonable use of the land and/or buildings involved.

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 - 0 (Messrs. Hyland, Ribble and Yaremchuk being absent)

Page 157, September 21, 1982, Scheduled cases of:

12:30 P.M. BETHLEHEM BAPTIST CHURCH, appl. under Sect. 3-203 of the Ord. to permit the addition of toilet facilities and a sign to existing church and related facilities, located 7836 Fordson Rd., R-2, 102-1((1))67A & 68A, Mt. Vernon Dist., 3.79085 ac., S-82-V-072.

12:30 P.M. BETHLEHEM BAPTIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow enlargement of church having portions of driveways and parking spaces with gravel surface(dustless surface req. by Sect. 10-102), located 7836 Fordson Rd., R-2, 102-1((1))67A & 68A, Mt. Vernon Dist., 3.79085 ac., V-82-V-143.

Due to the fact that the notices were not in order, it was the consensus of the Board to defer the applications to October 19, 1982 at 12:30 P.M.

12:45 P.M. OAKTON SWIM & RACQUET CLUB, INC., appl. under Sect. 3-103 of the Ord. to permit a community swim and tennis club, located 11600 Waples Mill Rd., Waples Mill Estates, R-1, Centreville Dist., 46-2((1))pt. 20, 6.75214 ac., S-82-C-067.

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Ralph Dowell, 2806 Briehill Road, Oakton, represented the swim club. He stated that the applicant was seeking approval of the special use permit for a swim club to be built in open space in the Waples Mill Subdivision. The property to the southeast of the pool is planned for development in the fall and will provide access to the pool parking area. The area north of the pool is scheduled for development within three to four years. This site is isolated from the adjacent communities of Fox Dale, Waples Mill Estates, Section 1, and Foxwood, and is located north of Waples Mill Road. The facility itself would include four lighted tennis courts, a 25 meter competition swimming pool, a bathhouse, and a parking lot for 88 vehicles. Also an active recreation area is planned for a future baseball diamond and soccer field. Chairman Smith indicated that the Board could only approve what was shown on the plat, and any future uses would have to be requested on an amended special use permit.

Mr. Dowell stated that this club was the combination of a lot of years of effort by citizens in the Vale area to obtain recreational facilities which are not otherwise available. The best way to look at the facility is to look at the motion made by Mrs. Pennino which was adopted by the Board of Supervisors in February of 1982.

Mr. Dowell stated that this was a good site because it sits of the middle of undeveloped subdivision and has no adjoining current homeowners. Anyone who moves in next to the facility would be aware of what they are next to. We are fully in agreement with staff on all the development conditions.

William Hopeck, 3502 Willow Green Court, spoke in support of the application. He represented the Waples Mill Estates Homeowners Association. He stated that the members of the homeowners association have reviewed the plan, and as the closest community to the site, they have found the Oakton Swim & Racquet Club to be sensitive and responsive to their concerns with regard to the location and operation of the proposed facility.

There was no one else to speak in support or opposition to the application.

Page 158, September 21, 1982
OAKTON SWIM & RACQUET CLUB

Board of Zoning Appeals

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-C-067 by OAKTON SWIM & RACQUET CLUB, INC. under SEct. 3-103 of the Fairfax County Zoning Ordinance to permit a community swim and tennis club, located at 11600 Waples Mill Road, tax map reference 46-2((1))pt.20, County of Fairfax, Virginia, has been property filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 21, 1982; 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 6.75214 acres.
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 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 on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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3. 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. The membership of the club shall be limited to 500.

7. Transitional screening and a barrier shall be waived and in lieu thereof shall be the following:

The area between the tennis courts and the adjacent properties shall be planted in evergreens as indicated on the certified plat submitted with the application.

The areas along all other property lines shall remain in its natural wooded state as shown on the plats. Supplemental screening shall be required at the discretion of the Director. At such time as the active recreation area is developed, the applicant shall provide transitional screening as approved by the Director along the common boundary line with lots 91, 92, 88, 87, 72 and 86.

8. The tennis court lights shall be either of a low design which projects light only on the tennis courts, or shall be shielded so as to prevent glare on adjacent properties. An automatic shut-off shall be installed to prevent use except during approved hours of operation.

9. In consideration of local soil conditions, the pool shall be engineered and constructed to ensure pool stability, including the installation of an adequate number of hydrostatic relief valves.

10. A water discharge system shall be provided in accordance with plans approved by the Health Department, and the Health Department shall be notified before any pool waters are discharged during any draining or cleaning operation.

11. Stormwater management measures and best management practices shall be provided as deemed appropriate by the Director.

12. If a public address system or loudspeaker is installed, it shall be oriented toward the north to northwest, and its use shall be limited to swim meets, special parties, and emergencies. Its volume shall be modulated to comply with the requirements of the Noise Ordinance.

13. Hours of operation shall be between 9:00 A.M. and 9:00 P.M. for the swimming pool, except that competitive teams from the swim club be allowed to practice as early as 7:00 A.M., and between 7:00 A.M. and 10:00 P.M. for the tennis courts. After hours parties shall be governed by the following:

- *limited to six (6) per season;
- *limited to Friday, Saturday and pre-holiday evenings;
- *shall not extend beyond 12:00 midnight;
- *shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity;
- *requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after hour party.

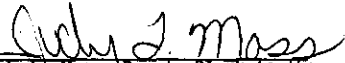
14. A dustless surface parking lot shall be provided for a maximum of 48 spaces. Additional spaces may be allowed provided a variance to the dustless surface requirement is obtained.

15. Residents of the surrounding Waples Mill Estates Subdivision will be granted priority for membership.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 - 0 (Messrs. Hyland, Ribble and Yaremchuk being absent)

// There being no further business, the Board adjourned at 5:00 P.M.

By: 
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals


DANIEL SMITH, CHAIRMAN

Submitted to the Board on July 24, 1984

APPROVED: July 31, 1984
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, September 28, 1982. The following Board members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack and John Ribble. (Mr. John Yaremchuk was absent).

The Chairman opened the meeting at 8:25 P.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY BOARD MEMBERS:

Mr. John DiGiulian moved that the Board go into an Executive Session to discuss the legal matter of the National Memorial Park, Inc. v. Board of Zoning Appeals. Mr. Ribble seconded the motion. However, the Assistant County Attorney informed the Board that he was willing to wait until the end of the meeting to discuss the merits of the case.

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Page 161, September 28, 1982, Scheduled case of

8:00 P.M. CONSTANCE L. GOLDBERG, M.D., appl. under Sect. 3-303 of the Ord. to amend S-297-79 for home professional office (pediatrician) to permit continuation of the use without term, located 3814 Fort Hill Dr., Wilton Woods Subd., R-3, Lee Dist., 82-4((28))7, 14,733 sq. ft., S-82-L-058. (DEFERRED FROM JULY 29, 1982 FOR HEARING BY FULL BOARD).

Dr. Constance L. Goldberg informed the Board that she was a pediatrician and had appeared before the Board 2 1/2 years ago to practice medicine in her home part-time. She stated that she was a sole practitioner and wanted to remain at home with her children. Dr. Goldberg stated that her business had been established for 2 years and had grown into all of her desires. Dr. Goldberg stated that she wished to continue her practice for half-a-day. Any emergencies or illnesses could be handled the next day or could be referred to the local emergency room or Ms. Goldberg could make house calls.

Dr. Goldberg stated that occasions had arisen where she had seen children in her home after the approved office hours because the two alternatives were not practical. However, it had happened on rare occasions. She stated that she tried to handle after hour situations by phone. Sometimes she had sick children arrive prior to the 8:45 office hours so as not to have the child mingle with the children in the waiting room. Children receiving allergy shots often came to see her after school as Dr. Goldberg did not have Saturday hours.

Dr. Goldberg stated that because her practice was solo, she had not reached the point of moving her office. She felt that the minor violations of the special permit were not justification for ceasing the office. Dr. Goldberg informed the Board that her practice had been visited on occasion by the Zoning Enforcement Branch and she had received a letter from the Zoning Administrator informing her to cease the operation. Dr. Goldberg stated that she had been confused and outraged as she could not stop the practice without a reasonable notice to the patients. Dr. Goldberg stated that she had received many offers from professionals to join them in their practice. After receiving the letter from the Zoning Administrator, she accepted an offer from a colleague to join his practice on Seminary Road. Subsequent to that acceptance, Dr. Goldberg received another letter revoking the enforcement notice. Dr. Goldberg informed the Board that she remained confused and felt harassed. She stated that she partially had moved her office to the Seminary Road practice to the dismay of her children.

At this time, Dr. Goldberg was seeking a renewal of the special permit. She stated that her intentions remained the same; i.e., to work part-time and be available to both her children and her patients. In response to questions from the Board, Dr. Goldberg stated that she was obligated to her patients for a period of 6 to 9 months. Mr. Hyland questioned Dr. Goldberg regarding the comments in the staff report about the original special permit being granted for a two year period only. He was also concerned about the alleged violations in 1981 and 1982 which had been addressed in the Zoning Administrator's letter. Dr. Goldberg replied that not all of the visits cited in the letter had been patient visits. Some of the visitations had been Monday allergy shots. Mr. Hyland stated that the special permit did not give Dr. Goldberg the authority to receive patients in her home after 12 o'clock. Dr. Goldberg agreed that had been the condition. She stated it had worked fine when the practice was small. However, she stated that it was the understood nature of the medical profession that there are emergencies and she had tried to state that in the original hearing.

Chairman Smith questioned why the non-residential use permit was not applied for until July of 1980. Dr. Goldberg replied she had applied for it in June. Chairman Smith stated that it had not been issued until June 3, 1980. Dr. Goldberg stated that after receiving the special permit in December 1979, she had waited several months for the affects to die down before applying for the occupancy permit in 1980. Chairman Smith questioned the turnaround driveway and why it was not provided. Dr. Goldberg stated that her property had a steep hill and was pie-shaped. The only thing she could provide was a three-point turn which had been

approved by Fairfax County. Chairman Smith questioned the date of approval for the non-residential use permit but was involved it was included in the staff report.

Mr. John Gardner of 3305 Fort Hill Drive spoke in support of the application. He stated that he resided 2 to 3 blocks from Dr. Goldberg. Mr. Gardner stated that he had a 12 month old son with a serious heart defect who needed to be under constant supervision. Dr. Goldberg was his pediatrician and had hospitalized him four times. Mr. Gardner stated that he was one of the offenders on the Zoning Administrator's list for visiting the office outside of the 9 to 12 office hours. Mr. Gardner stated that Dr. Goldberg had brought medicine to his home but the equipment needed was at her office. Mr. Gardner stated that he often visited Dr. Goldberg's office but because he lived in the neighborhood, there was not any additional traffic impact. Mr. Gardner stated that Dr. Goldberg was very thorough and did a fine job and was a credit to her profession.

The next speaker was Ms. Jane Becker-Smith of Alexandria who lived 1/4 mile from Dr. Goldberg's office. She stated that her son had been a patient for 20 months. Ms. Becker-Smith stated that she had visited the office 20 times in the past 22 months. Never had she passed a moving vehicle in the area or even seen a resident or a child. It was a very quiet area. Ms. Becker-Smith stated that Dr. Goldberg had a very professional practice and a very unusual practice. Ms. Becker-Smith stated that she had not known about any zoning restrictions. When her son was ill, Dr. Goldberg visited him elsewhere.

The next speaker in support was Mrs. Nancy Duprew of 3816 Fort Hill Drive who worked for Dr. Goldberg. She stated that Dr. Goldberg was a good employer and a good friend. Nothing but good had ever been done for the families and the children of the community.

Mr. John Renege of 5910 Beech Tree Drive also spoke in support. He stated that he was from New York and used to seeing children in a turn-style fashion. He was amazed at the quality of medicine in Dr. Goldberg's office. She never had more than one patient at a time and his children liked to go to Dr. Goldberg.

Mr. Julian Grant informed the Board that his children had been patients of Dr. Goldberg for about two years of which he had visited the office 16 to 20 times. There was never any congestion. Mr. Grant endorsed the previous comments made by supporters. He stated that all of his family's appointments had been between the hours of 9 to 12. Mr. Grant stated that he had referred friends to Dr. Goldberg as he felt it would benefit the community.

Mr. Eric Olson of 5840 Cameron Terrace resided five to ten miles from Dr. Goldberg. He stated that she had strong support and the parents appreciated the time she took as it was a very rare service. The office was an increase in property values and would attract more young people. Mr. Olson stated that children got sick at times other than from 9 to 12 and there had to be exceptions to every rule. He asked the Board to allow Dr. Goldberg to continue her practice.

Mrs. Victoria Dunn of 5915 Beech Tree Drive resided several blocks away from Dr. Goldberg who was an excellent doctor. Mrs. Dunn stated that the community counted on Dr. Goldberg. The fears of the community had not been met. Instead there was evidence of property values increasing. Mrs. Dunn stated that she was a working mother with four children. She had gone to Children's Hospital with her children. However, some of her children were playmates with Dr. Goldberg's children and she often returned to visit.

Mr. Mark Goldberg presented the Board with letters of support from the people residing in his cul-de-sac. Mr. Goldberg stated that his wife had a small practice and spent time with her patients. Two years ago she had applied for a special permit and was granted one from the BZA. Then the Zoning Administrator's office placed restrictions on the office. Mr. Goldberg stated that it cost \$35,000 to change his house into the medical office. He asked that the Board allow the continuation so his wife could meet the costs as he still had to pay off the loan. He informed the Board that it was not possible to develop a large practice on a cul-de-sac. He stated that the office was not a major issue but only a small service to the community. However it was a tremendous thing to his wife as she did not want a large practice in a high-rise. Mr. Goldberg stated that his wife's patients loved her and she was willing to provide the service.

Mr. Dick Delby stated that the main issue was whether Dr. Goldberg could practice in the community in a better fashion. He informed the Board that he had called the BZA Office for a record and it took three days to research the archives for evidence. Mr. Delby stated that the community was unaware of any restrictions on Dr. Goldberg. He stated that his child had become sick on Christmas Day and Dr. Goldberg had treated him. However, he had to go to Arlington to get the prescription. Mr. Delby stated that Dr. Goldberg had acted in good faith and lived up to her agreements with the BZA. The neighbors wanted her to continue the practice.

The following persons spoke in opposition. Mr. Milton Key of 3815 Fort Hunt Drive represented a number of people. He stated that a number of persons speaking in support from the community were not known to him. He stated that he represented the people who lived there everyday. They did not enjoy the luxury of working in their home and commuted to work. He stated that

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distance was not all that big a factor. He stated that almost anywhere people went to get groceries, there were doctors available. He presented the Board with a petition signed by 35 of the neighbors who were in opposition to the medical office. Thirteen of the people represented 25 homes that lined Fort Hunt Drive. Two of the homes were from Pine Brooke which had to be accessed by Fort Hill Drive. Six homes were on Old Telegraph Road which also accessed Fort Hill Drive.

Mr. Key stated that the residents in the area opposed Dr. Goldberg's special permit as they saw no difference in her operation than a lawyer, interior decorator, travel agent, etc. Mr. Key argued that Rose Hill Shopping Center and Beacon Mall were close by so Dr. Goldberg could establish an office in the midst of her patients. Mr. Key was concerned about the traffic with patients travelling Fort Hill Drive. He stated that there were 20 children living on the street.

The Board discussed the letter Mr. Key had written to the Zoning Office regarding the use at Dr. Goldberg's office. Mr. Key stated that all incidents had been observed by either himself or his wife. Mr. Key stated that the traffic was intrusion into the neighborhood.

The next speakers in opposition were Dr. Rajae and Dr. Parvin who resided next door to Dr. Goldberg. They felt that the neighborhood was losing its privacy and were concerned that other residents might be granted the same privilege of starting a business. Mr. Rajae informed the Board that it was possible to open a medical office nearby to be convenient to patients. He stated that it was better for the patients to go to the hospital during an emergency than to be seen at home.

Mr. William T. Bateman also spoke in opposition. He resided at 3707 Fort Hill Drive which he stated was a raceway for cars. He was at the bottom of a blind hill. He stated that the neighbors were aware of the situation but other people would not be familiar with it. Mr. Bateman stated that the added cars to the area created a problem. He did not wish Dr. Goldberg to use her home as an office.

Mr. Arnold Herzer of 3810 Fort Hill Drive informed the Board that he had not opposed the use at the original hearing. However, he was concerned that his area remain private as there were expensive homes. Other residents included lawyers, doctors, accountants, etc.

Mr. Thomas E. May of 3708 Fort Hill Drive stated that he had lived in the area since 1970 and resented all the house building. He had not liked the precedent being set two years ago for businesses to come into the area. He was against the continuation for Dr. Goldberg. He stated that Seminary Road was not that far away for the establishment of a medical office.

Dr. Elwood Shamo of 3712 Fort Hill Drive stated that he could not understand why a doctor would want to build an office in a private residence. He stated that Dr. Goldberg could have sufficient patients to move out into a commercial office without a great loss.

During rebuttal, Mark Goldberg stated that only six or seven homes on Fort Hill Drive opposed the zoning request. They had the use of military service for their care or they were retired people without the need for a pediatrician. Mr. Goldberg stated that he had presented letters in support. With respect to the traffic situation, Mr. Goldberg stated that seven cars would be the maximum his wife would have in a day. During emergencies, it was better to have the parents bring the child to the house than to drive 25 miles to the hospital. With regard to testimony involving economics, Dr. Goldberg did not want a turn style medical practice as it would not be service to the community. He stated that doctors needed to support families. Dr. Goldberg did not support her family and did not have the requirement for rent which necessitated other doctors to work hard.

Mr. Goldberg informed the Board that the front of his home had remain unchanged. Two years ago his wife had been granted the special permit and they had invested \$35,000 into the business which had not been recouped. At present, they were only meeting the cost of running the practice.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-L-058 by CONSTANCE L. GOLDBERG, M.D., under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-297-79 for home professional office (pediatrician) to permit continuation of the use without term, located at 3813 Fort Hill Drive, tax map reference 82-4((28))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 September 28, 1982; 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. That the present zoning is R-3.
3. That the area of the lot is 14,733 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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 [to allow home professional office (pediatrician)] with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 12 Noon, Monday through Friday, with the additional provision that the doctor shall be allowed to see patients outside the office hours on a bona fide emergency basis.
8. The number of patients be limited to one at a time with total of (three per hour) nine per day.
9. This permit is granted for a period of three years.

Mr. DiGiulian seconded the motion.

The motion *FAILED by a vote of 3 to 3 (Mr. Yaremchuk being absent).

Page 164, September 28, 1982, Scheduled case of

8:15 P.M. MOUNT VERNON-LEE ENTERPRISES, INC., appl. under Sect. 3-403 of the Ord. to amend S-240-79 for school of special education to permit continuation of the use beyond present expiration date of October 16, 1982, located 6120 North Kings Highway, Penn Daw Subd., R-4, 83-3((4))1, 2 & 3, Lee Dist., 27,9064 sq. ft., S-82-L-070.

There was a question on notices which Chairman Smith ruled to be in order. There were not any objections from the Board members. Mr. Joseph Hemelings represented Mount Vernon-Lee Enterprises, Inc. He explained that they were applying for an extension of their special permit which was to expire in October. The facility handled adult handicapped persons who were mostly citizens of the Mt. Vernon area. Mr. Hemelings stated that the extension would only be necessary for three to four months as the center was building a new facility and would be able to move in January.

There was no one else to speak in support or in opposition.

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Board of Zoning Appeals

MOUNT VERNON-LEE ENTERPRISES, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-82-L-070 by MOUNT VERNON-LEE ENTERPRISES, INC. under Section 3-403 of the Fairfax County Zoning Ordinance to amend S-240-79 for school of special education to permit continuation of the use beyond present expiration date of October 16, 1982, 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

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WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 28, 1982; 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 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 year.

Mrs. Day seconded the motion.

The motion passed by a vote of 6 yo 0 (Mr. Yaremchuk being absent).

Page 165, September 28, 1982, Scheduled case of

8:30 P.M. MOUNT VERNON-LEE ENTERPRISES, INC., appl. under Sect. 3-304 of the Ord. to allow a private school of special education (handicapped adults), located 1500 Shenandoah Rd., R-3, 102-2((1))2A, Mt. Vernon Dist., 10.98 ac., S-82-V-071.

Mr. Joseph Hemelings represented the Mount Vernon-Lee Enterprises, Inc. There was a question regarding notices as the applicant had failed to notify a property that touched at the corner. However, Mr. Hemelings presented the Board with a waiver from that property owner. Mr. DiGiulian moved that the Board accept the notices as being proper. Mr. Hammack seconded the motion.

Mr. Hemelings informed the Board that the facility had been looking for an adequate place to meet as many people were waiting for them to provide the service. Mr. Hemelings stated that he had a letter of intent from the School Board to use the facility. There would be designated parking available.

Chairman Smith stated that there were several uses going into Hollin Hall School and he wanted to ensure that each use had designated parking for each of the uses. Mr. Hemelings stated that the maximum enrollment would be 60 and there would be 20 employees. The hours of operation would be from 8 A.M. to 4 P.M., Monday through Friday, year-round. Chairman Smith stated that the Board would need a copy of the signed contract with the School Board. Mr. Hemelings stated that the lease would be for two years.

Mr. Richard Dugan from Safeway Stores spoke in support of the application. He stated that Safeway owned two of the homes on Baltimore Avenue. He supported the care for the handicapped and welcomed them as neighbors.

Mr. Edward Dall of 1806 Shenandoah Road resided three blocks from Hollin Hall School. He was on the Advisory Council working with the citizens and Gerry Fill from the School Board. He stated that the proposed use was consistent with the Council's community use and would be of mutual benefit.

Mr. William O'Connor of the Mt. Vernon-Lee Enterprises Board of Directors stated that the facility would allow clients to move more freely in a community lifestyle.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-V-071 by MOUNT VERNON-LEE ENTERPRISES, INC. under Section 3-304 of the Fairfax County Zoning Ordinance to allow a private school of special education (handicapped adults) located at 1500 Shenandoah Road, tax map reference 102-2((1))2A, 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 28, 1982; 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-3.
3. That the area of the lot is 10.98 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 60 transported by way of van. None of the students shall drive to the school.
8. The hours of operation shall be 8 A.M. to 4 P.M., Monday through Friday, on a year round basis.
9. There shall be twenty (20) designated parking spaces.
10. The special permit shall run with the terms of the lease and is subject to the ratification of the signing of the lease.
11. There shall be a maximum of twenty (20) employees.
12. The applicant shall meet site plan requirements.

RESOLUTION

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Yaremchuk being absent).

Page 167, September 28, 1982, Scheduled case of

8:45 JAMES F. & KATHLEEN I. SAUER, T/A NEW VISTA SCHOOL, appl. under Sect. 3-303
P.M. of the Ord. to permit nursery school, located 6626 Costner Dr., Southgate
Subd., 50-2((1))54 & 58, Providence Dist., 3.363 ac., R-3, S-82-P-076.

Mr. James Sauer presented the Board with a letter certifying that the lease had been agreed to but could not be presented to the Board at this time. Mr. Sauer stated that the church already had a nursery school called Mother Goose which had closed. Mr. Sauer proposed to have 70 students from 7 A.M. to 6 P.M. with arrivals from 7 A.M. to 9 A.M. and departures from 4 P.M. until 6 P.M. From experience, there would only be 3 to 4 leaving at any one time so as not to create a big rush. Twenty-seven parking spaces were provided with 46 more adjacent to the facility. The children would be transported by parents. The lease was for five years with an option to renew for an additional five.

With regard to the road widening, Mr. Sauer stated that he did not have the financial resources to repair the road or widen it. He was not certain of the County's standards. He stated that two cars could pass on the road but that was all. The surface was asphalt and it was narrow. The road had remained the same during the previous use.

There was no one else to speak in support and no one to speak in opposition.

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Board of Zoning Appeals

JAMES F. & KATHLEEN I. SAUER, T/A
NEW VISTA SCHOOL

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-P-076 by JAMES F. & KATHLEEN I. SAUER, T/A NEW VISTA SCHOOL under Section 3-303 of the Fairfax County Zoning Ordinance to permit nursery school, located at 6626 Costner Drive, tax map reference 50-2((1))54 & 58, 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 28, 1982; 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-3.
3. That the area of the lot is 3.363 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 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 70.

8. The hours of operation shall be 7 A.M. to 6 P.M., five days a week, year round.

9. There shall be twelve (12) employees.

10. This special permit is granted for a period of five (5) years with the option to have it renewed for an additional period of five years consistent with the terms of the lease.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Yaremchuk being absent).

Page 168, September 28, 1982, Scheduled case of

8:50 WILLIAM L. & ALIKI M. BRYANT, appl. under Sect. 18-301 of the Ord. to appeal
P.M. Zoning Administrator's decision that a proposed private indoor tennis court is
no not a permitted accessory use to a single family detached dwelling located at
1019 Savile Ln., McLean, VA., Langley on the Potomac Subd., R-1, Dranesville
Dist., 22-4((1))8A, 1.444 acres, A-82-D-015. (DEFERRED FROM AUGUST 3, 1982 TO
VIEW PROPERTY & FOR FURTHER INFORMATION & FROM SEPTEMBER 21, 1982 FOR DECISION
OF FULL BOARD).

Mr. Bryant was prepared to hear a decision from the Board of Zoning Appeals. The Board had several questions of the Zoning Administrator regarding whether the proposed use was subordinate in purpose, area or extent as specified in the Ordinance for accessory uses. Mr. Hammack stated that if the use did not meet all three tests of the Ordinance, then the Zoning Administrator could deny the use. Mr. Hyland was concerned about the definition section of the Ordinance.

Mr. Hammack stated that he felt as Mr. Hyland did that the decision of the Zoning Administrator dealt to a large extent with the area not being subordinate. From his own analysis and review of the Code and from the additional testimony of Mr. Yates, it was Mr. Hammack's feeling that the Zoning Ordinance could not be applied that strictly even though there was not a specific permitted use. He could not deny an indoor tennis court because it was not subordinate in area to the dwelling house when the County permitted barns and other things. Chairman Smith stated that barns were for agricultural uses. Mr. Hammack stated that it was still a permitted use. Mr. Hyland stated that a horse barn was a recreational use.

Mr. Hammack stated that there was another section of the Code that would limit the size of any given use on a parcel in the 30% limitation of all accessory uses. He felt that the applicant had a clear permission of right for an outdoor tennis court. The only criteria for denying the indoor tennis court was that the building was not subordinate in area. Mr. Hammack felt the Code had three separate tests and he felt that Mr. Bryant had met those tests by the indoor tennis court being subordinate in purpose. In addition, he felt the applicant met the further test of the maximum amount of area that the accessory use could govern on the parcel as set forth in Section 10-103.

Accordingly, Mr. Hammack moved that the Board of Zoning Appeals overrule the decision of the Zoning Administrator. Mr. DiGiulian seconded the motion. The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

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Page 168, September 28, 1982, After Agenda Items

Linda Blankenship, V-81-V-021; tax map ref.: 102-2((2))(17)28: The Board was in receipt of a letter from Ms. Linda Blankenship seeking an extension of the variance granted to allow the construction of two additions to the dwelling within 17.4 ft. and 18.4 ft. of the rear property line and within 10.3 ft. of the side property line.

Mr. DiGiulian moved that the Board grant a six month extension. Mr. Hammack seconded the motion and it passed by a vote of 5 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

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Page 168, September 28, 1982, Executive Session

At 11:10 P.M., the Board convened into an Executive Session to discuss legal matters pursuant to a letter from Judge Middleton involving the National Memorial Park Cemetery. At 12:55 P.M., the Board reconvened into public session to adopt the draft response to Judge Middleton. Mr. DiGiulian moved that the draft be finalized and Mr. Hyland seconded the motion. The motion passed by a vote of 6 to 0 (Mr. Yaremchuk being absent).

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There being no further business, the Board adjourned at 1:05 A.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 *July 24, 1984*

Approved: *July 31, 1984*
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, October 5, 1982. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Ann Day, Gerald Hyland, John Ribble, and Paul Hammack. John Yaremchuk was absent.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. FRANCIS C. & MARGARET S. PALMER, appl. under Sect. 18-401 of the Ord. to allow continued keeping of two pet chickens on a lot of 13,900 sq. ft. and in a portable cage which, wherever located on the lot, would be less than 100 sq. ft. from some lot line (keeping of fowl on any lot less than two (2) acres in area not allowed by Sect. 2-512; structures for confining poultry req. to be located no closer than 100 ft. to any lot line by Sect. 10-105), located 7305 Carol Ln., Broyhill Park Subd., R-4, Mason Dist., 60-1((18))24, 13,900 sq. ft., V-82-M-065. (DEFERRED FROM JULY 13, 1982 FOR REVISED PLAT INDICATING LOCATION OF CHICKEN CAGE AND FOR DECISION)

Page 170, October 5, 1982

Board of Zoning Appeals

FRANCIS C. & MARGARET S. PALMER

R E S O L U T I O N

In Application No. V-82-M-065 by FRANCIS C. & MARGARET S. PALMER under Section 18-401 of the Zoning Ordinance to allow continued keeping of two pet chickens on a lot of 13,900 sq. ft. and in a portable cage which wherever located on the lot, would be less than 100 sq. ft. from some lot line, (keeping of fowl on any lot less than two (2) acres in area not allowed by Sect. 2-512; structures for confining poultry req. to be located no closer than 100 ft. to any lot line by Sect. 10-105), on property located at 7305 Carol Lane, tax map reference 60-1((18))24, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 5, 1982; 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 13,900 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 uses of the reasonable use of the land and/or buildings involved.

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Yaremchuk being absent)

Page 170, October 5, 1982, Scheduled case of:

10:10 A.M. JEAN FEYS, appl. under Sect. 18-401 of the Ord. to allow subdivision of 7 lots with proposed lots 3 & 4 each having width of 10 ft. (80 ft. min. lot width req. by Sect. 3-306), located 8209 & 8215 Mt. Vernon Hwy., R-3, Mt. Vernon Dist., 101-4((1))27, 2.66 acres, V-82-V-136.

Charles Runyon, 7649 Leesburg Pike, represented the applicant. He stated that this property had been presented to the Board twice before. There had been an economic problem and a problem with the service drive waiver, which did not allow this property to progress. Mr. Runyon stated that the lot was irregular in shape and had narrow street frontage. Lots one through four would be served by a single access road. This request has not changed since the last request was approved. The houses will be arranged to sit around the access road similar to a cul-de-sac, so they don't look into neighboring backyards.

In response to a question from Mrs. Day, Mr. Runyon replied that this property had characteristics of poor drainage from the standpoint of percolation. He stated that this matter would be addressed at the time the building permit was submitted. He stated that a soil survey had been made on this property and had been submitted to Design Review.

The owner of the property located at 3404 Ayers Drive, asked questions about how this application would affect his property. The Board determined that his property was one lot removed from the subject property, and explained the nature of the application.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. V-82-V-136 by JEAN FEYS under Section 18-401 of the Zoning Ordinance to allow subdivision of 7 lots with proposed lots 3 & 4 each having width of 10 ft. (80 ft. min. lot width req. by Sect. 3-306), on property located at 8209 & 8215 Mt. Vernon Highway, 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 October 5, 1982; 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 frontage.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months after this date unless construction has started and is diligently pursued or unless a renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. The common driveway shall be constructed in accordance with the standards for pipestem lots in the Fairfax County Public Facilities Manual.
4. The access for lots 1 thru 4 to Old Mount Vernon Road is to be provided by one common driveway.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent)

Page 171, October 5, 1982, Scheduled case of:

10:20 A.M. RICHARD C. MAPP, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 3.9 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), located 4713 Bristow Dr., Kirby-Dale Subd., R-3, 71-1((18))10, Annandale Dist., 12,448 sq. ft., V-82-A-137.

Richard Mapp presented his application to the Board. He stated that he hoped to enhance his property and upgrade the value of his home by adding a carport. He stated that his house was located in such a way that there was a steep slope and drop in the rear. This steep slope makes this the only feasible location to place a carport.

There was no one to speak in support or opposition.

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RESOLUTION

In Application No. Y-82-A-137 by RICHARD C. MAPP under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 3.9 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 and 2-412), on property located at 4713 Bristow Drive, tax map reference 71-1((18))10, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 5, 1982; 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 12,448 sq. ft.
4. That the applicant's property has exceptional topographic problems and is a shallow 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 eighteen (18) months after this date unless construction has started and is diligently pursued or unless a renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. Caution should be exercised when grading for this addition to preclude the concentration of storm water runoff onto the adjacent lots.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent)

Page 172, October 5, 1982, Scheduled case of:

10:30 A.M. CLAUDE LAMBRECHTS, appl. under Sect. 18-401 of the Ord. to allow construction of 2 car garage addition to dwelling to 8.1 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 7814 Rebel Dr., Shamrock Heights Subd., R-2, 59-2((18))2, Mason Dist., 23,673 sq. ft., Y-82-M-138.

Russell Rosenberger, an attorney located at 9401 Lee Highway, represented the applicants. He explained to the Board that he had submitted new plats reducing the original request of a 6.9 feet variance to 2.9 feet. He stated that the lot is long and narrow, being 100 feet wide. Also, there was a considerable area to the rear of the home taken up with a storm drainage easement. Mr. Rosenberger submitted a letter to the Board signed by four of the adjoining property owners in support.

There was no one to speak in support or opposition.

RESOLUTION

In Application No. Y-82-M-138 by CLAUDE LAMBRECHTS under Section 18-401 of the Zoning Ordinance to allow construction of 2 car garage addition to dwelling to 8.1 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 7814 Rebel Drive, tax map reference 59-2((18))2, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 5, 1982; 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 23,673 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow. There is a storm sewer easement and a yard inlet that reduces the buildable area of the 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 eighteen (18) months after this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent)

Page 173, October 5, 1982, Scheduled case of:

10:40 A.M. WILLIAM P. & GWENDOLYN L. SOMERS, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport 10.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 3113 Valley La., Sleepy Hollow Manor Subd., R-3, Mason Dist., 51-3(11)211, 12,588 sq. ft., V-82-M-139.

William Somers presented his application. He stated that he planned to enclose an existing carport. To place the addition in any other area of his lot would not be practical because of the sloping rear yard. Also, storm sewer easements located on the property reduce the buildable area of the lot.

There was no one to speak in support or opposition.

Page 173, October 5, 1982

Board of Zoning Appeals

WILLIAM P. & GWENDOLYN L. SOMERS

R E S O L U T I O N

In Application No. V-82-M-139 by WILLIAM P. & GWENDOLYN L. SOMERS under Section 18-401 of the Zoning Ordinance to allow enclosure of carport 10.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 3113 Valley Lane, tax map reference 51-3(11)211, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 5, 1982; 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 R-3.
3. The area of the lot is 12,588 sq. ft.
4. That the applicant's property has exceptional topographic problems including a sloping rear yard. There is a storm sewer easement that reduces the buildable area of the 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 eighteen (18) months after this date unless construction has started and is diligently pursued or unless a renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent)

Page 174, October 5, 1982, Scheduled case of:

10:50 A.M. JOHN D. HALL, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to dwelling to 13.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located 4922 Chowan Ave., Weyanoke Subd., R-2, Mason Dist., 72-3(8)(G)61, 62, 63 & 64, 17,000 sq. ft., Y-82-M-140.

Robin Hall presented the application to the Board. She stated that the variance was necessary because the only way additional living space could be added was to the rear of the property. The lot is shallow and has an unusual configuration. Three sides of the house are right at the setback line. There is an existing deck and garage at one side of the house which prevents building at that side. To the other side of the house, the neighbors house was built to within two feet of the lot line. Mrs. Hall stated that the house was constructed approximately 10 years ago. The subdivision is very old and has many substandard lots.

There was no one to speak in support or opposition.

Page 174, October 5, 1982
JOHN D. HALL

Board of Zoning Appeals

R E S O L U T I O N

In Application No. Y-82-M-140 by JOHN D. HALL under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 13.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), on property located at 4922 Chowan Avenue, tax map reference 72-3(8)(G)61, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 5, 1982; 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 17,000.55 sq. ft.

4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems. The existing residence has been set in the far North and West corners of the property due to conditions existing at the time of construction. The property has a 20 ft. utility easement going through the front of the property and there is a deck constructed to the side of the house. There are not other feasible locations to construct the 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:

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 eighteen (18) months after this date unless construction has started and is diligently pursued or unless a renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent)

Page 175, October 5, 1982, Scheduled case of:

11:00 A.M. DONALD M. POWELL, appl. under Sect. 18-401 of the Ord. to allow construction of a detached carport in a front yard & 19.6 ft. from front lot line (accessory structure not allowed in any front yard by Sect. 10-105; 35 ft. min. front yard req. by Sect. 3-207), located 3900 Laurel Rd., Woodley Hills Subd., R-2, 101-4(9)43 & pt. 44, Mt. Vernon Dist., 34,027 sq. ft., V-82-V-141.

Donald Powell presented the application. He stated that the house was constructed in the early 1950's. The portion of the house located adjacent to the driveway was previously a two-car garage and was converted to living space before he had purchased the property. Mr. Powell stated that there were many large oak trees and several hundred azaleas and other plants that he didn't want to have to remove. He stated that the only other alternative was to install another driveway and try to place the garage in the rear of the property, which would require destruction of mature shrubbery and a fence.

There was no one to speak in support or opposition.

Page 175, October 5, 1982
DONALD M. POWELL

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-V-141 by DONALD M. POWELL under Section 18-401 of the Zoning Ordinance to allow construction of a detached carport on a front yard & 19.6 ft. from front lot line (accessory structure not allowed in any front yard by Sect. 10-105; 35 ft min. front yard req. by Sect. 3-207), on property located at 3900 Laurel Road, tax map reference 101-4(9)43&pt. 44, 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 October 5, 1982; 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 34,027 sq. ft.

4. That the applicant's property is exceptionally irregular in shape and narrow. It has street frontage on two sides. The configuration of the existing building in an L shape does not leave room to add the carport in any other location.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months after this date unless construction has started and is diligently pursued or unless a renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. The variance is to be constructed to within 27.6 ft. of the property line of Laurel Road. This would allow the same size carport as proposed but the carport would abut against the front overhang of the existing building.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent)

Page 176, October 5, 1982, Scheduled case of:

11:10 A.M. LARRY N. & LAURA LEE WILEY, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 17.0 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 4119 Nomis Dr., The Knolls Subd., R-3, 58-4((34))6, Annandale Dist., 11,020 sq. ft., V-82-A-142.

The Chairman announced that the notices were not in order for this application. It was the consensus of the Board to defer the case to November 16, 1982 at 10:00 A.M.

Page 176, October 5, 1982, Scheduled case of:

11:30 A.M. FOX HUNT SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-219-79 for community tennis & swim club to permit addition of deck, extension of bathhouse porch & addition of brick storage area to existing facilities, located 7024 Spaniel Rd., Orange Hunt Estates Subd., R-2, 88-4((2))D & 7A, Springfield Dist., 5.83655 ac., S-82-S-073.

The Chairman announced that the notices were not in order for this application. It was the consensus of the Board to defer the case to November 16, 1982 at 10:10 A.M.

Page 176, October 5, 1982, Scheduled case of:

11:40 A.M. WILLIAM E. MATTHEWS, appl. under Sect. 18-406 of the Ord. to allow a deck to remain 1.6 ft. from the rear lot line (14 ft. min. rear yard req. by Sects. 3-507 & 2-412), located 10008 Georgian Woods Ct., Burke Centre Subd., PRC, Springfield Dist., 77-4((17))22, 3,825 sq. ft., V-82-S-106. (DEFERRED FROM SEPTEMBER 21, 1982 FOR FULL BOARD)

Bob Lawrence represented the applicant. He stated that the deck was existing, and it was not the fault of the property owners. This is in the PRC zone and there are no setback requirements. The setback comes in under the general regulations for a structure in a rear yard. The deck was not included on the building permit application by a clerical oversight of the previous owners, Globe, USA. Mr. Lawrence stated that the builder has never before had any problems with zoning enforcement. The property backs up to flood plain and open space, so there is no impact on any neighbors. Also, the lot configurations around the subject property make it difficult for any adjacent property owners to see the deck.

There was no one to speak in support or opposition.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. V-82-S-106 by WILLIAM E. MATTHEWS under Section 18-406 of the Zoning Ordinance to allow a deck to remain 1.6 ft. from the rear lot line (14 ft. min. rear yard req. by Sects. 2-507 & 2-412), on property located at 10008 Georgian Woods Court, tax map reference 77-4((17))22, County of Fairfax, Virginia, has been properly filed in accordance with applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 5, 1982; and

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

1. That non-compliance was the result of an error by Globe USA & Tristar, Inc. in the location of the building subsequent to the issuance of a building permit.
2. That non-compliance was no fault of the applicant.
3. The applicant represents that the house is the same that the plat indicates.
4. The said deck was not shown on the development plan.
5. The rear of the property overlooks a sanitary sewer easement and open land. The glass sliding door on the house requires the deck for safety reasons.

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

1. 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.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Yaremchuk being absent)

Page 177, October 5, 1982, Scheduled case of:

11:50 A.M. GREGORY & MARCIA HOLLAND/RYAN HOMES, INC., appl. under Sect. 18-406 of the Ord. to allow a dwelling to remain 17.3 ft. from the front lot line (20 ft. min. front yard req. by Sect. 3-507), located 3205 Shaw Park Ct., Brosar Park Subd., R-5, 101-2((13))27, Mt. Vernon Dist., 7,811 sq. ft., V-82-V-074. (DEFERRED FROM 7/20/82 FOR NOTICES AND FROM 9/21/82 FOR LACK OF REPRESENTATION)

Don Ashbaugh, a Ryan Homes employee, 7880 Backlick Road, Springfield, represented the applicant. He stated that during construction of the house it was placed in the wrong position. There is no visual detriment, and the house sits very nicely on the lot. Mr. Ashbaugh stated that this mistake occurred when the concrete was being poured. It was a field mistake.

There was no one to speak in support or opposition.

Page 177, October 5, 1982

Board of Zoning Appeals

GREGORY & MARCIA HOLLAND/RYAN HOMES, INC.

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. V-82-V-074 by GREGORY & MARCIA HOLLAND/RYAN HOMES, INC. under Section 18-406 of the Zoning Ordinance to allow a dwelling to remain 17.3 ft. from the front lot line (20 ft. min. front yard req. by Sect. 3-307), on property located at 3205 Shaw Park Court, tax map reference 101-2((13))27, County of Fairfax, Virginia, has been properly filed in accordance with applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 5, 1982; and

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit. The error was on the part of the builder, who did not take into account that this house had a protruding garage.

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

1. 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.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Yaremchuk being absent)

Page 178, October 5, 1982, AFTER AGENDA ITEMS

Discussion by Board Members of newspaper article in The Fairfax Journal regarding absenteeism of BZA members.

The Board members had a discussion about improving the BZA meetings and the attendance, and came up with the following suggestions:

1. Schedule an additional night meeting every month and delete one of the day meetings.
2. Start the day meetings at 9:00 A.M.
3. Start the night meetings earlier.
4. Hear all cases if a quorum is present and discontinue the practice of giving the applicants an opportunity to defer for a full Board.
5. Limit lunch breaks to 30 minutes.
6. Schedule one meeting a month with extra cases and work a full day from 9:00 A.M. to 5:00 P.M. possibly taking care of two agendas.
7. Schedule executive meetings at other times rather than at the beginning or the middle of a scheduled agenda.
8. An executive meeting item like National Memorial Park that takes a considerable amount of time should be scheduled as a special meeting.
9. Set time constraints to limit the speakers time.
10. Ask large groups to appoint a spokesman if possible.
11. If an applicant goes over his time limit, defer the case to the end of the agenda.

Page 178, October 5, 1982, AFTER AGENDA ITEMS:

CANTERWOOD HOMEOWNERS ASSOCIATION/S-81-D-016 & Y-81-D-048: The Board was in receipt of a letter requesting an 18 month extension for the above referenced permits due to the current economic conditions in the building industry. It was the consensus of the Board to grant a 6 month extension. The new expiration date was May 19, 1982.

// There being no further business, the Board adjourned at 1:35 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Sept. 6, 1984

APPROVED: Sept. 11, 1984

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 12, 1982. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland (arriving at 10:20 A.M.); Ann Day; Paul Hammack and John Ribble. (Messrs. John DiGiulian and John Yaremchuk were absent).

The Chairman opened the meeting at 10:05 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 OLIVER M. & JULIA C. LEE, appl. under Sect. 18-401 of the Ord. to allow sub-
A.M. division into two lots, proposed lot 1B having width of 12 ft. (100 ft. min.
lot width req. by Sect. 3-206), located 7324 Beulah St., R-2, Lee Dist.,
91-3(4)1, 1.2 acres, V-82-L-144.

Mr. Lee informed the Board that the property had been rezoned in September of 1975 from the RE-1 category to the R-17 category. The purpose of the rezoning was to allow the construction of a dwelling on the property. The rear lot was 1/4 acre and the lot frontage requirement was a minimum of 100 ft. The applicant was asking for a variance of 90 ft. He stated that the variance would not affect the adjoining property as the existing entrance would be as shown on the plat. Mr. Lee stated that he had owned the property since 1949. In response to questions from the Board, Mr. Lee stated that this parcel was the only lot involved in the rezoning. It had been rezoned in order to resubdivide it. Mrs. Day questioned why the property was listed as R-2 if it had been rezoned. She was informed that the Ordinance had changed the districts.

Chairman Smith inquired about the two sheds on the property and was informed they would be removed. Chairman Smith asked if the property would remain in Mr. Lee's name but was informed it would be placed in Mr. Lee's daughter and son-in-law's names. Chairman Smith inquired about the development in the area and was referred to the tax map. He inquired as to how many others had subdivided their property but Mr. Lee did not know. Mrs. Day inquired as to whether the comment from Design Review to have the applicant dedicate was pertinent to the application. Chairman Smith stated that the applicant would have to meet the requirements of Subdivision Control. Mr. Covington stated that the application would not have to if it was subdivided as a gift lot situation.

Mr. Hammack inquired as to the minimum lot size for the R-2 district and was informed it was 15,000 sq. ft. Chairman Smith stated that the applicant had enough land to construct three lots but he did not advise doing so. Mr. Covington stated that the property backed up to land zoned R-8 so it would not cause any adverse impact.

There was no one else to speak in support and no one to speak in opposition.

Page 179, October 12, 1982
OLIVER M. & JULIA C. LEE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-L-144 by OLIVER M. & JULIA C. LEE under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, proposed lot 1B having width of 12 ft. (100 ft. minimum lot width req. by Sect. 3-206), on property located at 7324 Beulah Street, tax map reference 91-3(4)1, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 12, 1982 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 19,584 sq. ft. which exceeds the minimum lot size.
4. That the applicant's property is exceptionally irregular in shape including a very narrow, deep 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.

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RESOLUTION

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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. The variance is subject to the removal of the two sheds on the property which are offensive to the minimum setback requirements.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. Yaremchuk, DiGiulian and Hyland being absent)

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Mr. Hyland arrived at the meeting at 10:20 A.M. to hear the remaining cases on the agenda.

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Page 180 October 12, 1982, Scheduled case of

10:10 A.M. RAYMOND A. MILUTIS, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport into an attached garage 8.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 9414 Wareham Ct., Concord Green Subd., R-3, Centreville Dist., 38-2((39))2, 13,483 sq. ft., V-82-C-145.

There was a question on notices but the Chair ruled the notices to be in order. Mr. Raymond Milutis informed the Board that he was applying for a variance of 3.9 ft. to build a carport into a garage. He stated that he was only enclosing the present carport so that the existing shrubbery and trees would not be affected. He planned to use the same architectural style as the dwelling. He stated that he needed the garage for added protection for his car and to conserve energy and increase the value of the property. In response to questions from the Board, Mr. Milutis stated that he had owned the property for 12 years and was the original owner.

Chairman Smith stated that the subdivision was cluster and there were other lots with the same situation. Mr. Milutis stated that many other had enclosed their carports, some even by way of a variance. Mrs. Day inquired if the structure could be moved back. Mr. Milutis stated that he would have to remove an old Locust Tree and would not have access to the back because of the topography. The back sloped and there was a bank. Mr. Milutis stated that he would only use the existing slab and roof and would not extend any closer to the side lot line.

There was no one else to speak in support and no one to speak in opposition.

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RAYMOND A. MILUTIS

RESOLUTION

In Application No. V-82-C-145 by RAYMOND A. MILUTIS under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport into an attached garage 8.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 9414 Wareham Ct., tax map reference 38-2((39))2, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 12, 1982; 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 13,483 sq. ft.
4. That the applicant's property is rectangular and narrow and the rear yard slopes to the rear making it unfeasible to place a garage in that area. The applicant's present carport is 8.1 ft. from the line and the enclosed garage will not extend beyond the present perimeters. In addition, the applicant's property backs up to a large, undeveloped tract.

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RESOLUTION

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian and Yaremchuk being absent).

Page 181, October 12, 1982, Scheduled case of

10:20 A.M. JOSE W. CASTRO, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 3.1 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-C07), located 6200 Knoll View Pl., Pleasant Hill Subd., R-C, Springfield Dist., 53-4((5))87, 14,259 sq. ft., V-82-S-146.

Mr. Jose Castro informed the Board that he had made an application for a variance for a two car garage to be added to the existing patio. Mr. Raul Ramos of Burke stated that he was a family friend and would assist Mr. Castro in his presentation. Mr. Ramos informed the Board that there was an existing slab next to the house. There was a water problem but the slab solved it. Mr. Castro had thought about building a one car garage but the next door neighbor did not think it would look right and had preferred a two car garage. A two car garage would enhance the home and the community. The garage would be located next to a pipestem arrangement so it would not be next to a house.

In response to questions from the Board, Mr. Casto stated that he had owned the property for three years and it was a new subdivision. Chairman Smith stated that the applicant should have been aware of the limitations and prohibitions of either a carport or a garage. Mr. Covington informed the Board that there had a downzoning which changed the setback from 8 ft. He stated that there were provisions under the amended Code for a special permit to go as close as the old setback. However, the applicant was going further than the old subdivision would have permitted.

Mrs. Day inquired as to why the applicant could not build in the rear. Mr. Ramos stated that it was matter of aesthetics. There was a low area in the back and a water problem still existed in the back. For practical purposes, it would not enhance the property by building in the rear.

Mr. Hammack inquired as to the width of the existing pipestems leading into the property but it was not shown on the plat. Mr. Ramos stated that there was a concrete driveway to the garage. To the right on the southeast part of the property was the boundary line where the pipestem was located. Mr. Ramos stated that the pipestem did not have any effect on the garage.

In response to questions from the Board, Mr. Ramos stated that Mr. Castro realized the extreme variance he was seeking. Chairman Smith stated that the applicant did have an alternate location to build but Mr. Ramos stated he would run into community opposition. Mr. Ramos stated that many of the neighbors had attached garages to their structures. He presented a letter in support of the variance from one of his immediate neighbors.

There was no one else to speak in support and no one to speak in opposition.

Page 181, October 12, 1982
JOSE W. CASTRO

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-S-146 by JOSE W. CASTRO under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 3.1 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-C07), on property located at 6200 Knoll View Place, tax map reference 53-4((5))87, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

RESOLUTION

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 12, 1982; 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-C.
3. The area of the lot is 14,259 sq. ft.
4. That the applicant's property is pie-shaped and has converging lot lines and has an unusual condition in the location of the existing buildings being set at an angle on the property. The Board has received testimony that to place the garage at any other location is not feasible because of the water problem at the rear of the lot. The Board has received a letter from an adjoining property owner indicating support and, further, no opposition was received. Under a recent amendment to the Code, the applicant could request relief under a special permit application.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 3 to 2 (Messrs. Smith and Hammack)(Messrs. Yaremchuk and DiGiulian being absent).

Page 182, October 12, 1982, Scheduled case of

10:30 JOHN A. & JEANNEMARIE A. DEVOLITES, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of 13 ft. high detached garage 2 ft. from side and rear lot
lines (10 ft. min. side yard and 13 ft. min. rear yard req. by Sects. 3-407 &
10-105), located 7204 Quincy Ave., Tyler Park Subd., R-4, Providence Dist.,
50-3(9)170, 7,200 sq. ft., V-82-P-147.

Mr. John DeVolites informed the Board that he and his wife were requesting a variance to replace a carport with a garage as it would provide better access. He stated other garages in the area had similar locations. The top of the garage was level. The lot was sub-standard. Chairman Smith inquired as to why the garage could not be moved over to meet the requirements. Mr. DeVolites stated that he wanted to provide consistency with the rest of the neighborhood. The majority of the locations were either corner of the lot. Chairman Smith advised that the other garages had been constructed under a different Ordinance. He stated that if the BZA chose to grant this variance, then the Ordinance meant nothing at all. Mr. DeVolites stated that he thought consistency was a criteria for granting the variance. He stated that to move the garage over to the middle would limit the use.

Mr. Ribble inquired as to when the detached garage next door had been built. Mr. DeVolites stated it was built eight years ago. Mrs. Day stated that if the garage were turned at an angle a variance would not be necessary or at best only a minimum amount. She stated that there would be plenty of space between the garage and the house. Mr. Hyland stated that he would not want to put the garage in the middle of the back yard as it eliminated the back yard. Chairman Smith stated that was what the Ordinance required. Mrs. Day was concerned that the applicant would not be able to walk around the garage as proposed. Mr. Hammack inquired as to the distance of the house on the other side of the property line and was informed it was 45 to 50 ft. Mr. DeVolites stated that his house had been built 37 years ago and he had owned it for 1 1/2 years. Chairman Smith stated that the applicant had purchased the house well after the change in the Ordinance and should have been aware of the restrictions.

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There was no one else to speak in support 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-82-P-147 by JOHN A. & JEANNEMARIE A. DEVOLITES under Section 18-401 of the Zoning Ordinance to allow construction of 13 ft. high detached garage 2 ft. from side and rear lot lines (10 ft. min. side yard and 13 ft. min. rear yard req. by Sects. 3-407 & 10-105) on property located at 7204 Quincy Avenue, tax map reference 50-3((9))170, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 12, 1982; 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 7,200 sq. ft.
4. That the applicant's property is substandard in size as it is a very old subdivision. The lot is narrow and has an unusual condition in the location of the existing house on the 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. That caution be exercised in the grading around the garage to minimize the concentration of storm water runoff.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. Yaremchuk and DiGiulian being absent).

Page 183 October 12, 1982, Scheduled case of

10:40 CLELIA H. FINNEY, appl. under Sect. 18-401 of the Ord. to allow construction of
A.M. garage and solarium additions to dwelling to 6 ft. from side lot line and 18 ft. from rear lot line respectively (10 ft. min. side yard & 25 ft. min. rear yard req. by Sect. 3-407), located 7403 Ellwood Pl., Crestwood Subd., R-4, Lee Dist., 80-1((5))67, 10,165 sq. ft., V-82-L-148.

Mr. Finney informed the Board that he proposed to construct a garage. In addition, he planned to add a solarium. He stated that the distance from the fence to the proposed garage was 6 ft. and it was 18 ft. from the back fence to the corner of the solarium. The neighbor at the back had a 10 ft. porch on his house which came to about 10 ft. from the rear lot line. Mr. Finney stated that he had an existing patio which had the required footings for the garage. If he enclosed it, it would improve the property. His neighbors did not object to the proposal. Mr. Finney stated that he had already purchased a greenhouse kit. The height of the solarium would be 10.4 ft. Mr. Finney presented the Board with a photograph of the proposed solarium.

There was no one else to speak in support and no one else to speak in support.

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RESOLUTION

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In Application No. V-82-L-148 by CLELIA H. FINNEY under Section 18-401 of the Zoning Ordinance to allow construction of garage and solarium additions to dwelling to 6 ft. from side lot line and 18 ft. from rear lot line respectively (10 ft. min. side yard & 25 ft. min. rear yard req. by Sect. 3-407) on property located at 7403 Ellwood Place, tax map reference 80-1((5))(60)7, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 12, 1982; 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 10,165 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual topographic condition in that it slopes away from the house and that the dwelling is placed on the lot 12.5 ft. farther to the rear than required by the Ordinance which makes the use of the lot difficult for the applicant. In addition, the lot has 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. Yaremchuk and DiGiulian being absent).

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10:50 S. LEIGH CURRY, JR., appl. under Sect. 18-401 of the Ord. to allow construction
A.M. of addition to dwelling to 12.3 ft. from side lot line (15 ft. min. side yard
req. by Sect. 3-207), located 6236 Lake View Dr., Lake Varcroft Subd., R-2, Mason
Dist., 61-3((14))82, 14,950 sq. ft., V-82-M-149.

Mr. S. Leigh Curry, Jr. of 6236 Lake View Drive in Falls Church informed the Board that he had difficulties with the present layout of the corner of his house which approached the side lot line. He stated that his house had been built in the 50's and had a narrow kitchen which prevented an eating area. The width of the kitchen was only 6.9 ft. and there were cabinets and a pantry in that area also. It was not wide enough to get a table and chair in the kitchen. Chairs had to be moved every time a cabinet was opened.

Another aspect of the 50's construction was there was not any insulation in the walls. Mr. Curry stated that the west winds swept into the house. The back of the house had been enclosed with plexi-glass panels to serve as a buffer to the winds and act as insulation. The proposed addition would allow additional insulation. Mr. Curry stated that the main reason for seeking the addition was because of an outside stairway which was dangerous as it was steeper than allowed by the present Code. The treads were 8" wide and not very adequate. The stairway was cement. Mr. Curry proposed to cover it over which led into the necessity of applying for a variance because the addition extended 2.7 ft. over the side lot restriction line. Mr. Curry stated that the addition would not impede access to the rear yard and would not have any visual effect on the neighbors. The enclosure would eliminate the dangerous stairway on the back of the house as well as increase the livability of the kitchen and bring it up to the modern day standards. In addition, it would add to the insulation of the house.

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

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RESOLUTION

In Application No. V-82-M-149 by S. LEIGH CURRY, JR. under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12.3 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 6236 Lake View Drive, tax map reference 61-3((14))82, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 12, 1982; 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 14,950 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and converging lot lines and has an unusual condition of a 10 ft. sanitary sewer easement across the lot. In addition the existing kitchen is too small to permit a comfortable eating area. The applicant's new construction permits would permit the elimination of an unsafe exterior stairway which is in violation of the present Code. The requested variance is minimal, being 2.7 ft. to the side yard and the rear of the addition would be farther into the yard.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Yaremchuk & DiGiulian).

At 11:30 A.M., the Board recessed the meeting for a short break. The Board reconvened the meeting at 11:40 A.M. to continue with the scheduled agenda.

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11:00 A.M. LORNA A. MALOOLEY, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport into an attached garage and utility shed 8.5 ft. from side lot line such that total side yards would be req. by Sect. 3-207), located 8710 Chippendale Ct., Truro Subd., R-2(C), Annandale Dist., 70-1((12))51, 12,297 sq. ft., V-82-A-150.

There was a question on notices as the applicant had failed to notify the homeowners association who owned contiguous property. The applicant was unaware that the association had to be notified since they had reviewed his architectural plans. The applicant provided the Board with a waiver letter from the homeowners association which was accepted by the Board as being proper notice.

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Lorna Malooley of 8710 Chippendale Court informed the Board that she wanted to enclose her carport in order to make her house look like the others on the street. Most of the homes had garages in lieu of carports. In addition, she wanted to protect her car and conserve energy. The enclosure would keep the northeast wind out of the house. She stated that she had owned the property for ten years and was the original owner.

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Chairman Smith was concerned about the cluster subdivision. Mrs. Malooley stated that her lot was very odd. It was higher in the front and lower in the back. It was also wider at the back and very narrow at the front. The shed would be an extension of the roof of the carport and extend down to the lower level to the patio at the back of the house. She stated that she was merely enclosing what already existed. The rear of the property sloped away from the house. Mrs. Malooley submitted photographs to the Board showing the carport.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-A-150 by LORNA A. MALOOLEY under Section 18-401 of the Zoning Ordinance to allow enclosure of carport into an attached garage and utility shed 8.5 ft. from side lot line such that total side yards would be 19.1 ft. (8 ft. min. but 24 ft. total min. side yard req. by Sect. 3-207), on property located at 8710 Chippendale Court, tax map reference 70-1((12))51, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 12, 1982; and

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

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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. Yaremchuk and DiGiulian being absent).

11:20 A.M. EDWARD & LUCILLE CERCONE, appl. under Sect. 18-401 of the Ord. to allow extension & enclosure of carport into garage 6.9 ft. from side lot line such that total side yard would be 21.7 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 9220 Winbourne Rd., Lake Braddock Subd., 69-4((10))244, Springfield Dist., PDH-3, V-82-S-155.

Mr. Edward Cercone of 9920 Winbourne Road in Burke informed the Board he had lived in his home since 1970 and was the original owner. He had saved money to construct a garage onto the home. Due to the Ordinance, there was a 8 ft. buffer required on any extension from the house. He stated that his property was irregular and the extension he needed would require 1.1 ft. variance into the buffer. The property to right was wooded and undeveloped. The garage would allow Mr. Cercone to remove two cars from the street. Winbourned Road was a dead-end street.

In response to questions from the Board, Mr. Cercone stated that the property to the east was undeveloped for about 300 yards. One corner of the garage needed a variance. The front portion of the garage could satisfy the setback requirements. In response to Mrs. Day, Mr. Cercone stated that he had already enclosed the carport and would use it for his small car. The extension and enclosure into a garage would be used for his other vehicle.

Chairman Smith inquired if the plat was correct as it showed a structure 1.7 ft. from the lot line. Mr. Covington replied that in the PDH-3 zone, when you build a structure at the initial stages, no setback was required. It was only after the initial construction that

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there were setback restrictions. Mr. Covington stated that if the garage had been constructed with the initial building, no variance would have been necessary. Chairman Smith stated that the house could have been moved over. He further stated that the property was developed based on the building plan submitted so there were restrictions.

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There was no one else to speak in support and no one to speak in opposition.

Page 187 October 12, 1982, Scheduled case of

11:30 A.M. SPRINGFIELD ACADEMY, appl. under Sect. 3-203 of the Ord. to permit continuation without term of a private school of general education and child care center as permitted by S-87-79, expired, located 5236 Backlick Rd., Leewood Subd., R-2, Annandale Dist., 71-4(3)11, 4.5890 acres, S-82-A-074.

Mr. Rodney G. Leffler, an attorney with offices at 10505 Judicial Drive in Fairfax, informed the Board he had been retained to represent the applicant after the application had been filed. Chairman Smith stated that the original permit had expired and this was a new permit request before the Board. Mr. Leffler explained that the original permit had expired due to the inadequacy of the former administrator of the school. One of the administrator's duties had been to see that permits were filed in July. Mr. Leffler stated that the school had been in existence for 20 years. Chairman Smith inquired if Mr. and Mrs. Merritt were still connected with the school and was informed that Jack Merritt, Jr. was the new administrator of the school. The number of pupils would remain the same. There were less than 90 fulltime and 126 part-time children. The hours of operation were from 7 A.M. to 6 P.M. The only difference in the request was that Mr. Leffler asked that if the new permit were granted, it run without time limitations in as much as the school had been in existence for 20 years.

There was no one else to speak in support and no one to speak in opposition.

Page 187 October 12, 1982
SPRINGFIELD ACADEMY

Board of Zoning Appeals

RESOLUTION

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-A-074 by SPRINGFIELD ACADEMY under Section 3-203 of the Fairfax County Zoning Ordinance to permit continuation without term of a private school of general education and child care center as permitted by S-87-79, expired, 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

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 12, 1982; 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-2.
3. That the area of the lot is 4.5890 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 maximum number of students shall be 90 full-time or 126 part-time for four hours or less.

8. The hours of operation shall be 7 A.M. to 6 P.M., Monday through Friday.

9. The permit is granted for the period that the applicant operates the school and is not transferable.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Yaremchuk and DiGiulian being absent).

Page 188 October 12, 1982, Scheduled case of

11:40 A.M. VICTOR SMITH, JR., & MARLENE H. SMITH, appl. under Sect. 18-401 of the Ord. to allow construction of a carport addition to dwelling to 2.5 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), and of a 13 ft. high detached garage 5.0 ft. from a side lot line and from the rear lot line (10 ft. min. side yard and 13 ft. min. rear yard req. by Sects. 3-407 & 2-412), located 6313 Virginia Hills Ave., Virginia Hills Subd., R-4, Lee Dist., 82-4((14))(10)23, 11,077 sq. ft., V-82-L-101. (DEFERRED FROM 7/29/82 & 9/21/82 FOR FULL BOARD.)

As there was not a full Board present, the Board again deferred the above-captioned variance until November 16, 1982 at 10:20 A.M.

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Page 188 October 12, 1982, Scheduled case of

11:50 A.M. MOUNT VERNON UNITARIAN CHURCH, appl. under Sect. 18-401 of the Ord. to allow subd. into five (5) lots, and a remaining parcel proposed lot 1 having width of 25.00 ft. (100 ft. min. lot width req. by Sect. 3-206), located 1909 Windmill Ln., 93-3((1))10B, Mt. Vernon Dist., R-2, 10.4456 ac., V-82-V-158. (DEFERRED FROM 9/21/82 FOR MORE INFORMATION AND TO VIEW PROPERTY.)

Chairman Smith suggested the Board recess for lunch and read the material distributed to the Board regarding the Mount Vernon Unitarian Church. In addition, he stated that staff wanted to be available for the meeting.

At 12:20 P.M., the Board recessed the meeting for lunch. The Board reconvened the meeting at 1:50 P.M. to continue with the scheduled case of Mount Vernon Unitarian Church. Chairman Smith stated that the Board would consider the variance and special permit applications at the same time.

MOUNT VERNON UNITARIAN CHURCH, appl. under Sect. 3-203 of the Ord. to permit construction of new church and related facilities on site of existing church and related facilities, and reduction in area by proposed subdivision, located 1909 Windmill Ln., R-2, Mt. Vernon Dist., 93-3((1))10B, 10.5744 acres, S-82-V-069. (DEFERRED FROM 9/21/82 FOR MORE INFORMATION AND TO VIEW PROPERTY.)

Chairman Smith stated that the variance was being sought on proposed lot 1 for the 25 ft. frontage. He stated that the real need for the variance was created only because of the request for a five lot subdivision instead of a four lot subdivision. He suggested that the applicant reduce the number of lots and then there would be two lots with frontage on Mason Hill Drive.

The other concern was the access. The Board had received information from the Office of Transportation related to the anticipated number of vehicle trips per day as well as the expansion of the driveway. The memorandum indicated an increase in traffic by 25% but the proposed seating capacity of the sanctuary was being increased more than 25%. Mr. Hyland inquired as to what the traffic impact would be if the seating was increased to its maximum. Mr. Grisock from the Office of Transportation stated that his opinion regarding the traffic impact would not change even if the facility was operated at full capacity. Mr. Grisock stated there was a low volume of traffic on Mason Hill Drive according to his counts conducted during the latter-half of 1981. To his knowledge, there had not been any increase in traffic since then. To answer Mr. Hyland's question, Mr. Grisock stated that if the church was at its fullest capacity of 350 seats, the vehicle trips on Sunday morning would be approximately 450. During the Sunday morning hours, traffic would be significantly increased but it was not serious in terms of peak hours. Mr. Grisock explained that there was not a traffic standard for churches in terms of acceptable or unacceptable amounts.

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Mr. Hammack was concerned about the number of vehicle accidents reported on Windmill Lane and Mason Hill Drive. Mr. Hammack inquired if the access on Mason Hill Drive was deleted, whether it would drastically impact traffic on Windmill Lane. Mr. Grisock stated that the church site would be better off with two ingress/egresses. Putting all of the traffic on Windmill Lane would congest the traffic on Sunday mornings and increase accidents. Mr. Hammack inquired if there had been any reported accidents on Windmill Lane in the vicinity of the church. Mr. Grisock replied that based on two intersections of Mason Hill Drive with White Oaks and Windmill Lane, the data did not reflect any accidents except between the two intersections.

Mr. Hyland inquired if the church were granted another access to the property from Mason Hill Drive whether it would accommodate the present and proposed traffic increase. Mr. Grisock stated that the impact would not be that great as most of the traffic would come out onto Mason Hill Drive anyway. Mr. Hyland suggested that the church require one way traffic for the entrance and exit. Mr. Grisock did not feel one way traffic was necessary. Mr. Ribble inquired if the proposed lot 1 would have another entrance and was informed it was to be used for a residence.

Mr. Douglas McKinley of 2107 Martha's Road represented the church. He questioned the comments of Mr. Grisock regarding the traffic counts being so low that the church traffic would not impact on the roads. Mr. Grisock assured the BZA that in his opinion even as much as 1,000 vehicles per day would not impact the roads if the traffic was spread out all day long. It would only be considered serious if the impact came during peak traffic hours. Mr. Grisock explained that the traffic count was taken by VDH&T during a 24 hour period during the week. Mr. McKinley explained to the Board that Windmill Lane was a dead-end road. All traffic must travel on Mason Hill Drive even if the BZA refused the entrance on Mason Hill Drive.

In response to questions from the Board, Mr. McKinley stated that the church presently had a preschool on the site with 30 to 35 children who arrived by carpool by 9:30 A.M. Mr. McKinley presented Mr. Louis J. Slade, a traffic engineer, with an office located at 1140 Connecticut Avenue, N.W., Suite 712, Washington, D.C. Mr. Slade explained the design of the Mason Hill Drive access. He stated that one concern of the church was for emergency vehicles since Windmill Lane was quite obscure. He agreed with Mr. Grisock regarding the practicality of having one-way traffic through the site. He stated that it could be done but the volume of traffic was not that great. He stated that the road could carry the traffic volume without being widened. Mr. Slade stated that even if the seating capacity of the church was expanded to 350 seats, there would not be an immediate increase in traffic as the growth rate of the church would be spread out over a period of time.

Mr. Hyland inquired as to which access Mr. Slade felt was safer for the church. Mr. Slade stated that the current Windmill Lane access had its own problems. It would require some improvements in order to serve the proposed facility. He stated that the Mason Hill Drive access would be designed to the VDH&T standards. There would not be any problem with Mason Hill Drive as far as sight distance. He stated that both accesses were considered to be safe. Mason Hill Drive was 36 ft. wide and Windmill Lane was 22 ft. wide.

With regard to the request for a variance, Mr. McKinley introduced the church's engineer, Mr. William H. Gordon. Mr. Gordon explained that the church was requesting a subdivision of five (5) lots, not four. The average lot area was 21,700 sq. ft. which was 4,000 sq. ft. greater than required by the Ordinance. Mr. Gordon stated that the hardship was that the shape of the site and the location of the building to be used as a residence limited the site. There was enough land area to develop into five lots. If they did not get the pipestem, the subdivision would be down to 2 lots instead of five. Mr. Gordon stated that the adjoining property owner did not have any objection to the variance or the pipestem driveway.

Mr. David Rosenfeld, counsel for the Mason Hill Citizens Association, spoke in opposition. He was concerned that one of the things not considered in determining the capacity of a road was whether the area alongside the road was residential or commercial. Mr. Rosenfeld questioned the speed limit on Mason Hill Drive and whether the road could tolerate speeds in excess of 25 m.p.h. Chairman Smith stated that Mr. Grisock did not have to answer any questions he had no knowledge of.

The next speaker in opposition was Mr. Ken Jacobs of Mason Hill Drive. He stated that a report from the Survey Office indicated that a majority of the soils were good for building support but 100% of the soils were poor for the recharge of ground soils. He stated that the basements in the area would be increasingly wet because of the additions to the property and the parking lot. Mr. Jacobs indicated that Mr. Larry Johnson indicated that the proposed additions could aggravate the marine clay soils. Mr. Jacobs was concerned that the bike trails to be constructed up Mason Hill Drive from Mt. Vernon Drive would be hazardous on Sunday morning. Mr. Jacobs stated that all traffic to the church would pass Mason Hill Drive and use the access. He stated that no one would use Windmill Lane by choice. Mr. Jacobs stated that Mason Hill Drive was unsafe and marginally acceptable. The 250 ft. sight distance was not really germane to the 25 m.p.h. speed limit as people speeded. The width of the street encouraged speeders. Mr. Jacobs stated that the Police Department showed an average speed in excess of 35 m.p.h. which would suggest a 350 ft. sight distance.

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Mr. Jacobs stated that Mason Hill Drive was dangerous because of its combination of steep curves and the excessive speed. He stated that the access road for the church could not be made safe. He stated that Windmill Lane could be widened without the disturbance of any trees. With respect to the location of the church for emergency vehicles, Mr. Jacobs stated that it was marked on the map. Mr. Jacobs stated that the new access road could not be justified and he suggested that the BZA restrict the church in order to prevent the growth. He offered a compromise that the BZA disapprove the access road but approve the balance of the project except for the drainage.

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During rebuttal, Mr. Gordon of 11196 Appling Valley Road in Fairfax, informed the BZA that the church would have to provide better storm drainage than was presently there. With regard to the trees along Windmill Lane, Mr. Gordon stated that in order to provide two lanes of traffic, they would lose trees on both sides of the existing lane. Mr. McKinley stated that the BZA had to allow the church to grow. He asked that the BZA allow the expansion for building for a modest amount and to allow the new access.

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-V-069 by MOUNT VERNON UNITARIAN CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance to permit construction of new church and related facilities on site of existing church and related facilities, and reduction in area by proposed subdivision, located at 1909 Windmill Lane, tax map reference 93-3((1))10B, 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 12, 1982; 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-2.
3. That the area of the lot is 10.5744 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 IN PART (to deny the construction of new ingress/egress access from Mason Hill Drive) with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 seating capacity in the sanctuary shall be limited to 350 people.
8. The hours of operation shall be normal hours of church activities. Presently, the church office is open daily from 9:00 A.M. to 3:00 P.M. On weekday mornings, the church sponsors a pre-school for 30-35 children from 9:00 A.M. to noon. The church conducts church related meetings, community meetings such as Alcoholics Anonymous and other church activities such as weddings, funeral services which are recognized by the Board of Zoning Appeals as being consistent with the activities of the church.

R E S O L U T I O N

9. The number of parking spaces shall be 100.
10. The church shall continue to use the existing ingress/egress from Windmill Lane and the construction of a new ingress/egress access from Mason Hill Drive is denied.
11. The site is subject to the Site Plan Ordinance. Storm water detention is required. Transitional screening and barrier requirements of Article 13 of the Zoning Ordinance shall be applicable to the site. Adequate drainage shall be provided to meet the requirements of the community.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Yaremchuk & DiGiulian being absent).

R E S O L U T I O N

In Application No. V-82-V-158 by MOUNT VERNON UNITARIAN CHURCH under Section 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, and a remaining parcel proposed lot 1 having width of 25.00 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 1909 Windmill Lane, tax map reference 93-3(1)10B, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 12, 1982; 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 10.4456 acres.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems and 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

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

The Board discussed their by-laws and possible changes or amendments. In addition, the Board was in receipt of comments from the Circuit Court regarding the conduct of the public hearing. The Judge was concerned about excessive moving around while the meetings were going on and the need to keep the citizens aware of what was happening when the Board was out of the room. The Board discussed the need to shorten the time of the meetings.

Chairman Smith directed the Clerk to have the County Attorney's Office review the number of votes necessary to grant a special permit to ensure that the Zoning Ordinance and the State Code and the by-laws were consistent. He asked that the Board discuss the by-laws at its next meeting.

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Page 192 October 12, 1982, After Agenda Items

St. John's Lutheran Church: The Board was in receipt of a request from Mr. Anthony T. Lane, regarding approval for the St. John's Lutheran Church to build a storage shed underneath the overhang eaves of the existing building. The storage shed would not extend beyond the eaves. Mr. Yates had asked the BZA to review the request to determine if it was a minor engineering change that could be approved without benefit of a public hearing.

It was the consensus of the Board to allow the Zoning Administrator to decide the issue of whether a public hearing was necessary.

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Page 192 October 12, 1982, After Agenda Items

Kiddie Country Day Care, At Law No. 58095: The Board was in receipt of Judge Fitzpatrick's decision on Kiddie Country Day Care vs. Board of Zoning Appeals reversing the BZA's denial of a special permit due to a lack of a vote of four.

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Page 192 October 12, 1982, After Agenda Items

Philip A. Wells; The Board was in receipt of a request from Mr. Philip A. Wells for an out-of-turn hearing for a special permit for a home professional (law) office and a variance to the side yard setback for his dwelling. Mr. Wells was seeking the expedited hearing because of health and financial hardship. It was the consensus of the Board to schedule the hearing for November 23, 1982.

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Page 192 October 12, 1982, After Agenda Items

Tuckahoe Recreation Club: The Board was in receipt of a request from Tuckahoe Recreation Club for clarification or amendment to the resolution regarding the hours of operation. The Board directed the Clerk to research the Minutes for 1975 to examine the hours of operation and what it covered.

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Page 192 October 12, 1982, After Agenda Items

Belle Haven Country Club: The Board was in receipt of a request from Belle Haven Country Club for an out-of-turn hearing. It was the consensus of the Board to grant the request and the hearing was scheduled for November 23, 1982.

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Page 192 October 12, 1982, After Agenda Items

American Mission Lutheran Church: The Board was in receipt of a letter from the American Mission Lutheran Church for an out-of-turn hearing. It was the consensus of the Board members present to grant the request. The hearing was scheduled for November 16, 1982.

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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

Submitted to the Board on Sept. 6, 1984

APPROVED: Sept. 11, 1984
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, October 19, 1982. The Following Board Members were present: Daniel Smith, Chairman; Ann Day, Gerald Hyland, John Ribble, and Paul Hammack. John DiGiulian was absent.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. ALBERT L. & CHARLOTTE C. RAITHEL, JR. appl. under Sect. 18-401 & 18-406 of the Ord. to allow construction of carport addition to dwelling to 28.7 ft. from a street line of a corner lot (35 ft. min. front yard req. by Sect. 3-207) and to allow dining room addition to remain 14.3 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4200 Kilbourne Dr., Rutherford Subd., R-2, Annandale Dist., 69-2(6)233, 15,036 sq. ft., V-82-A-153.

Albert Raithel, presented his application. He stated that the lot was a corner lot with double front yard requirements. The dwelling was placed on the lot at an angle making it difficult to build any additions to the house. Mr. Raithel stated that his request for a variance the previous year had been denied, and he had tried to find another location for the carport addition, but had been unable to do so. A portion of the area which would be covered by the proposed carport was unusable for parking due to the location of the concrete stoop outside the rear door of the dwelling. With regard to the .7 foot mistake on the location of the dining room addition, Mr. Raithel stated that when he had the property re-surveyed, the error was noticed. His contractor, Bob Williams, was present to speak to the Board and explain the mistake.

Robert Williams, 4101 Majestic Lane, a contractor from Williams & Sons, spoke to the Board. He stated that he was plotting the foundation with a string, because of the angle of the room, he made a mistake in measuring. He stated that it was not done intentionally.

Randolph Emtea, 4205 Kilbourne Drive, and Peter Andrikos, 4202 Kilbourne Drive, spoke in support of the application. They both felt that the expansion and improvement of the home would be an asset to the neighborhood.

There was no one else to speak.

Page 193, October 19, 1982

Board of Zoning Appeals

ALBERT L. & CHARLOTTE C. RAITHEL, JR.

R E S O L U T I O N

In Application No. V-82-A-153 by ALBERT L. & CHARLOTTE C. RAITHEL, JR. under Section 18-401 and 18-406 of the Zoning Ordinance to allow construction of carport addition to dwelling to 28.7 ft. from a street line of a corner lot (35 ft. min. front yard req. by Sect. 3-207), and to allow dining room addition to remain 14.3 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 4200 Kilbourne Drive, tax map reference 69-2(6)233, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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 15,036 sq. ft.
4. That the applicants property has an unusual condition in the location of the existing buildings on the subject property. The house is positioned at a cady-cornered angle on the property which makes double front yard requirements applicable.

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

That the applicant has satisfied the Board that physical conditions as listed above 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.

That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit and non-compliance was no fault of the applicant.

That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1. (Mr. Smith) (Mr. DiGiulian being absent)

Page 194, October 19, 1982, Scheduled case of:

10:10 A.M. WILBERN O. CISSEL, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, proposed parcel 2 having width of 37.60 ft. (150 ft. min. lot width req. by Sect. 3-106), located 9719 Braddock Rd., R-1, Annandale Dist., 69-1((1))40, 1.19023 ac., V-82-A-154.

Alvin Cisse1, 12800 Middleton Lane, Fairfax, represented the applicant. He stated that this property was located at the dead end of a private road. This lot was a gift lot from the applicant's mother and father. Due to the configuration of this lot and the location of the owners existing house and existing drainfield, the variance was requested as shown on the accompanying plat. This subdivision would allow a single family dwelling and subsurface drainfield to be constructed within the limits set forth in the Fairfax County code. This subdivision would allow each lot to remain in a relatively rectangle shape, which would retain the value and resale potential of the property. Mr. Cisse1 stated that soil and perkulation tests had been successfully completed on the proposed site.

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

Page 194, October 19, 1982 Board of Zoning Appeals
WILBERN O. CISSEL

R E S O L U T I O N

In Application No. V-82-A-154 by WILBERN O. CISSEL under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed parcel 2 having width of 37.60 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 9719 Braddock Road, tax map reference 69-1((1))40, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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-1.
3. The area of the lot is 1.19023 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 parcel1. The position of a septic field on parcel 2 and existing house on parcel 1 show the partial hardship of this application. The Site Review Branch states that the ingress and egress are adequate. The Transportation Department states there are no adverse effects in the development of this property. This application is under Chapter 101 of the gift provision. The parents are giving this land to their son and daughter-in-law. The said son and daughter-in-law will be living on the property, parcel 2. The applicant stated that the septic perk test had been approved, although he has not received it, as of this date he had verbal conformation. The pipestem lot will be a width of 37.60 ft. as stated in the staff report. The subdivision provision on 101 28 is subject to the requirements on that form. This parcel is not to be further divided without the approval from the appropriate departments.

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

That the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. DiGiulian being absent)

Page 195, October 19, 1982, Scheduled case of:

10:20 A.M. DAVID & JUDY BERTELLI, appl. under Sect. 18-401 of the Ord. to allow construction of greenhouse addition to dwelling to 5.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7524 June St., Crestwood Subd., 80-3(2)(63)24, Lee Dist., R-2, 10,848 sq. ft., V-82-L-156.

David Bertelli presented the application. He stated that the side yard in questions faced south/southeast to maximize the suns potential for both heating and growing purposes. The side yard is level and has no grading or obstruction problems as is the case with the other side yard. The greenhouse, by being attached to the dwelling, will allow maximum entry and egress, and heat transfer. Mr. Bertelli stated that this extra space would allow him to grow vegetable and dwarf fruit trees throughout the year. Space was needed in the greenhouse for water, drums, pumps, growing tables, fertilizers, holding tanks and chemicals. In response to a question from Mr. Smith, Mr. Bertelli stated that he could not build in the rear yard due to the steep slopes. There were quite a bit of runoff problems already, and he thought any construction would cause more erosion. Also, the rear of the house faced north, which wasn't a good area to build a greenhouse. Mr. Bertelli stated that the proposed greenhouse would face his neighbors garage. The roof of the greenhouse would tie into the existing roof of the house.

There was no one to speak in support or opposition.

Page 195, October 19, 1982
DAVID & JUDY BERTELLI

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-L-156 by DAVID & JUDY BERTELLI under Section 18-401 of the Zoning Ordinance to allow construction of greenhouse addition to dwelling to 5.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 7524 June Street, tax map reference 80-3(2)(63)24, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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 10,848 sq. ft.
4. That the applicant is proposing to construct a 12 ft. by 20 ft. greenhouse addition to the dwelling. The location of a greenhouse addition should be on the south/southeast side of the property where it is proposed, this being the only practical location for a greenhouse. From a review of the plats and the testimony of the applicant the rear of the property is the only other reasonable location for the location of the greenhouse which is on the northern portion, which would be inappropriate for a greenhouse. The rear of the property has topographical problems, a very steep grade behind the property at which point it levels off. If the applicant built a greenhouse there he would similarly have to request a variance because of the setback requirements in the rear yard.

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

That the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 3 - 2 (Messrs. Smith and Hammack) (Mr. DiGiulian being absent)

Page 196, October 19, 1982, Scheduled case of:

10:30 A.M. ZAFER I AHMED, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 14.6 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 1803 Sword Ln., Stratford on the Potomac, 111-1((4))539, Mt. Vernon Dist., 10,573 sq. ft., R-3(C), Y-82-V-157.

Kenneth White, 3105 Colvin Stree, Alexandria, the agent for the applicant, reviewed the application for the Board. He stated that Mr. Ahmed wanted to expand his home to include an additional bedroom and to enlarge his present dining room. Due to the irregular lot shape with the rear boundary being a converging line, the proposed addition will measure 14.6 ft. to the rear at the closest point. There was also a twenty foot storm sewer easement that traversed the lot. Mr. White stated that approval for this construction was received from Stratford on the Potomac Homeowners Association.

Mrs. Ahmed stated that there had been a mistake made on her husbands passport and his middle name had been listed as his last name. The land records showed the property being owned by Zafer Igbul, but his full name was Zafer Igbul Ahmed. Mrs. Ahmed stated that when they got their citizenship papers, the correct name was listed.

There was no one to speak in support or opposition.

Page 196, October 19, 1982
ZAFER I. AHMED

Board of Zoning Appeals

R E S O L U T I O N

In Application No. Y-82-V-157 by ZAFER I. AHMED (also known as ZAFER IGBUL) under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 14.6 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 1803 Sword Lane, tax map reference 111-1((4))539, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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(C).
3. The area of the lot is 10,573 sq. ft.
4. That the applicants property is exceptionally irregular in shape and has a storm sewer which traverses the lot.

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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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 1. (Mr. Smith) (Mr. DiGiulian being absent)

Page 197, October 19, 1982, Scheduled case of:

10:40 A.M. BARBARA H. KAPLAN & MARY M. BYERS, appl. under Sect. 4-603 of the Ord. to amend S-80-S-042 for child care center within shopping center to permit change of hours of operation to 6:30 A.M. to 6:30 P.M. and ages of children to 2 - 7, located 6226 Rolling Rd., West Springfield Center, 79-3(4)42, 43 & 44, Springfield Dist., 6.9447 ac., C-6, S-82-S-075.

Barbara Kaplan, 5806 Wood Laurel Court, Burke, presented the application. She stated that she was co-director and owner of the Little Acorn Patch, the child care center at 6226 Rolling Road. The school has been in operation since September of 1980. She stated that the request to amend the existing permit was to improve the services they offered to working parents.

There was no one to speak in support or opposition.

Page 197, October 19, 1982

Board of Zoning Appeals

BARBARA H. KAPLAN & MARY M. BYERS

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-S-075 by BARBARA H. KAPLAN & MARY M. BYERS under Section 4-603 of the Fairfax County Zoning Ordinance to amend S-80-S-042 for child care center within shopping center to permit change of hours of operation to 6:30 A.M. to 6:30 P.M. and ages of children to 2 - 7, located 6226 Rolling Road, tax map reference 79-3(4)42, 43 & 44, 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 on October 19, 1982; 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 6.9447 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 on the application and is not transferable to other land.

2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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 6:30 A.M. to 6:30 P.M. Monday thru Saturday.

8. The ages of the students shall be 2 - 7 years.

9. The number of students shall remain at 45.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. DiGiulian being absent)

Page 198, October 19, 1982, Scheduled case of:

11:00 A.M. JACK P. SR. & MARGARET D. STELL, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 14.5 ft. from front lot line (25 ft. min. front yard req. by Sect. 3-207), located 5412 Aylor Rd., Bonnie Brae Subd., R-2(C), Annandale Dist., 77-2((2))206, 12,403 sq. ft., V-82-A-165.

(FOR DETAILED INFORMATION REGARDING THIS CASE, PLEASE SEE VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE)

Page 198, October 19, 1982 Board of Zoning Appeals
JACK P. SR. & MARGARET D. STELL

R E S O L U T I O N

In Application No. V-82-A-165 by JACK P. SR. & MARGARET D. STELL under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 14.5 ft. from front lot line (25 ft. min. front yard req. by Sect. 3-207), on property located at 5412 Aylor Road, tax map reference 77-2((2))206, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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(C).
- 3. The area of the lot is 12,403 sq. ft.

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

Originally the owners had a garage on the front of the house. It was by their own choice that they converted it to living space and then deprived themselves of a garage. Requesting a garage 14.5 ft. from the property line seems to be an exception in this area. It's been brought out that the garage could be built on the southeast side without a variance and it depends on what expense they want to go to and the architectural expertise that is required.

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. Hyland seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. DiGiulian being absent)

//The Board recessed for lunch at 12:30 P.M. and returned to take up the scheduled agenda at 1:30 P.M.

Page 199, October 19, 1982, Scheduled case of:

11:10 A.M. FREEMAN W. & ANN H. WILLIAMS, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6202 Lakeview Dr., Lake Barcroft Subd., R-2, Mason Dist., 61-3(14)63, 23,400 sq. ft., V-82-M-159.

Freeman Williams presented the application. He stated that the house presently had a small, single car garage with a door into the house. This door had become the main entrance to the house by family and friends. There was presently a 1930 Model A Cabriolet stored in the garage, but additional room was needed. Mr. Williams stated that due to the physical contours and trees on the lot, only the next door neighbors would even notice it. It was not possible to move the structure to the rear of the house due to the steep slope. Also, a structure in the rear would block the view of the lake. This lot is irregular in shape with converging lot lines.

There was no one to speak in support or opposition.

Page 199, October 19, 1982
FREEMAN W. & ANN H. WILLIAMS

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-M-159 by FREEMAN W. & ANN H. WILLIAMS under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 6202 Lakeview Drive, tax map reference 61-3(14)63, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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 23,400 sq. ft.
4. That the applicant's property is exceptionally irregular in shape with converging lot lines. The property has exceptional topographic problems with a sloping rear yard which would make the location of the garage in the rear unreasonable and unattractive.

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

That the applicant has satisfied the Board that physical conditions as listed above 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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Page 201, October 19, 1982, Scheduled case of:

11:30 A.M. REGINALD F. & DOREEN S. BURNER, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 21.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 8801 Teresa Ann Ct., Fort Hunt Estates, R-3, Mt. Vernon Dist., 111-1((17))5, 16,492 sq. ft., V-82-V-161.

Reginald Burner presented the application to the Board. He stated that he had owned this property since 1974. He planned to construct a garage addition, expand the laundry room, and create some storage space. The lot is an unusual shape and the converging rear property line causes the need for a variance on one corner of the proposed garage.

There was no one to speak in support or opposition to the request.

Page 201, October 19, 1982 Board of Zoning Appeals
REGINALD F. & DOREEN S. BURNER

RESOLUTION

In Application No. V-82-V-161 by REGINALD F. & DOREEN S. BURNER under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 21.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 8801 Teresa Ann Court, tax map reference 111-1((17))5, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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 16,492 sq. ft.
4. That the applicant's property is exceptionally irregular in shape with converging lot lines. The house is situated on the lot in an unusual position.

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

That the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 2 - 3. (Messrs. Smith & Hyland and Mrs. Day) (Mr. DiGiulian being absent)

Page 201, October 19, 1982, Scheduled case of:

11:40 A.M. LEON & BETTY GAMBLE, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 14 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 1336 Springhill Rd., Adricks Subd, R-1, Dranesville Dist., 29-1((4))1, 40,110 sq. ft., V-82-D-162.

Leon Gamble presented the application for the Board. He stated that this addition was requested so he would have adequate space for his family and visitors. The house presently had two small existing bedrooms. This location was chosen because of the way the interior

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of the house was situated. If the bedroom addition was placed at the rear of the home, you would have to go through a bedroom to get to that one. Also, there was a large tree he didn't want to remove, and a sloping rear yard with drainage problems. Mr. Gamble stated that he had owned this property since 1959.

There was no one to speak in support or opposition to the request.

R E S O L U T I O N

In Application No. V-82-D-162 by LEON & BETTY GAMBLE under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 14 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 1336 Springhill Road, tax map reference 29-1((4))1, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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-1.
3. The area of the lot is 40,110 sq. ft.
4. That the applicant has lived in this residence for 23 years. The applicant's property was built prior to the keeping of building permits. The lot is irregular in shape, being narrow and 128 ft. in width. The property has exceptional topographic problems, it slopes down and then up in the rear away from the house and there is an existing well in the rear yard. The applicant needs the extra bedroom and has inadequate closed space. The applicant is unable to build the additional bedroom to the rear, as it would be necessary to go through an existing bedroom to enter the additional bedroom.

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

That the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. DiGiulian being absent)

11:50 A.M. JOHN DULETSKY, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage in the front yard and 16.5 ft. from front lot line (accessory structures req. not to be located in any front yard, and 25 ft. min. front yard req. by Sects. 10-105 & 3-207), located 11208 Leatherwood Dr., Hunters Woods Subd., PRC, Centreville Dist., 27-3((3))128, 15,658 sq. ft., V-82-C-163.

John Duletsky presented the application. He stated that he wanted to build a detached garage on his property which would be in keeping with the setting of the community and compatible with the construction practices in the cul-de-sac. He lived in a planned residential community, and the construction of garages in the front yard on his cul-de-sac

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was a part of the original plan. To place the garage in the rear yard would not be in keeping with Reston's PRC plan. Additionally, the areas between this lot and lots 27 and 29 are natural drainage areas and the slope is such that the cost of building an access drive to the back yard would make the cost prohibitive. Mr. Duletsky stated that he had a letter of approval from the Reston Architectural Review Board and photos of other residences in the area with garages located in the front yard.

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There was no one to speak in support or opposition to the request.

R E S O L U T I O N

In Application No. V-82-C-163 by JOHN DULETSKY under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage in the front yard and 16.5 ft. from front lot line (accessory structures req. not to be located in any front yard, and 25 ft. min. front yard req. by Sects. 10-105 & 3-207), on property located at 11208 Leatherwood Drive, tax map reference 27-3((3))1)28, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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 PRC.
3. The area of the lot is 15,658 sq. ft.
4. That the applicant has presented in a letter dated August 27, 1982, five reasons in support of the variance. The first is recitation of the Reston community in which he lives. He has indicated that when the property was originally purchased that the opportunity would have existed then for a garage in the front yard without the present restrictions which resulted with a change in the Zoning Ordinance. Several garages were constructed in the front yard prior to the change in the Ordinance. Construction of the garage in the front yard would be consistent with the location of garages in the area. We have testimony indicating that there are a substantial amount of garages that sit in the front yard, many of which would not meet the current setback restrictions in the front yard. The applicant has indicated from testimony that the construction would be in keeping with the aesthetic setting. The applicant has obtained approval from the Architectural Review Board for the garage addition whose approval was required under the covenants which control acquisition of property in that development. The applicant has been informed that a garage could not be built in the rear yard. The construction of the garage to the rear of the property would be impractical and not possible because of topographical problems, particularly a very steep slope in the rear.

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

That the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1. (Mr. Smith) (Mr. DiGiulian being absent)

Page 204, October 19, 1982, Scheduled case of:

12:00 NOON ERNST W. KUTHE, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 10 ft. from each side lot line and 25 ft. from front lot line (15 ft. min. side yard and 35 ft. min. front yard req. by Sect. 3-207), located 6474 Third St., Weyanoke Subd., R-2, Mason Dist., 72-3((8))(D)49, 50 & 51, 8,250 sq. ft., V-82-M-164.

Ernest Kuthe presented the application to the Board. He stated that this was probably the oldest subdivision in Fairfax County. Most the homes in this area were built 25 feet from the front lot line, and this was the last lot left in the subdivision that hadn't had a house constructed on it. The lot is substandard in area and width, being only 75 feet wide. If this home was placed 35 feet from the front lot line it would not be in line with the rest of the homes on the street.

There was no one to speak in support or opposition.

Page 204, October 19, 1982 Board of Zoning Appeals ERNST W. KUTHE

RESOLUTION

In Application No. V-82-M-164 by ERNST W. KUTHE under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 10 ft. from each side lot line and 25 ft. from front lot line (15 ft. min. side yard and 35 ft. min. front yard req. by Sect. 3-207), on property located at 6474 Third Street, tax map reference 72-3((8))(D)49, 50 & 51, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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 8,250 sq. ft.
4. That the applicant's property is substandard in area and in width, and is located in a very old subdivision which has been developed over the years. The placement of the building would be in keeping with other homes in the neighborhood.

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

That the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 1. (Mr. Smith) (Mr. DiGiulian being absent)

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12:10 P.M.

WILSON C. SHERMAN AND SRS PROPERTIES, A VIRGINIA LIMITED PARTNERSHIP, appl. under Sect. 5-507(2) of the Ord. to allow construction of a building 18 ft. from front property line (40 ft. req. by Sect. 5-507), and to allow the construction of a tower 211 ft. tall within 190 ft. of the front property line (211 ft. req. by Sect. 5-507), located 8800 Ashgrove Ln., I-5, Centreville Dist., 29-1((1))pt. 10C, 12.0 acres, V-82-C-179.

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The staff report stated that this property was rezoned on April 27, 1981 by the Board of Supervisors to the I-5 District. In conjunction with this rezoning, the Board also approved an increase in the height of the proposed tower to 211 feet. During staff's review of these requests, it was recognized that the structure must not only meet the front yard requirements along Leesburg Pike but also must maintain 75 feet of separation from the Dulles Airport Access Road in accordance with Sect. 2-414. The plats indicate that both of these requirements have been met. Ashgrove Lane, which abuts the property's southern lot line, is a private street, and therefore, a front yard must be provided. This was overlooked at the time of staff's review of the rezoning application, and the Board of Supervisors approved the rezoning, permitted a height increase, and accepted the generalized development plan showing the building 18 feet and the tower portion of the building 211 feet from the curb line of Ashgrove Lane. A subsequent review of the definition of "street" caused staff to realize that a front yard must be provided along Ashgrove Lane, or a variance obtained.

Daniel Ross, a general partner of SRS Properties, referred the matter for presentation to Mr. Ardura, the architect. Gus Ardura was with LBC & W Architects, 5203 Leesburg Pike, Falls Church. He stated that he was requesting a decrease in the minimum front yard requirement from 40 feet to 18 feet. This project is a Sheraton Hotel and conference center with restaurant and lounge facilities. It's principle features are a 22 story glass tower housing 320 rooms, and low-rise conference room and motel facilities. The parking facilities for 240 vehicles is buried beneath the complex. He stated that the variance was justified because of the specific and unusual nature of the use which was the subject of a proffered rezoning application and a special exception. Also, the shape of the subject property is unusual in that although it is nine acres in size, it is deemed to be a corner lot with two front yards. Mr. Ardura stated that under the present zoning, with the existing conditions, the proposed building use and site design are the only use that can be made of the property.

Mr. Haddock, 1544 Bartholomew Court, raised some questions about the development of the property. He stated that he lived in the general area of the request. He didn't actually show up to object, but to state some of his concerns. He said he had never received any notification of the rezoning or construction, and had found out after the fact. He stated that this tract of land was designated by Fairfax County as a historical landmark site, and wondered whether this development was affected by that. Chairman Smith indicated that the Board of Supervisors had taken that into consideration when the request had been before them.

During rebuttal, Mr. Ardura stated he had nothing to add to the original presentation, except that he had complied with all the regulations and notice requirements necessary for the special exception and rezoning applications. These requests were published extensively in the Evening Star and the Washington Post, and published in accordance with all regulations.

There was no one else to speak.

Page 205, October 19, 1982 Board of Zoning Appeals
WILSON C. SHERMAN AND SRS PROPERTIES, A VIRGINIA LIMITED PARTNERSHIP

R E S O L U T I O N

In Application No. V-82-C-179 by WILSON C. SHERMAN AND SRS PROPERTIES, A VIRGINIA LIMITED PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow construction of a building 18 ft. from front property line (40 ft. req. by Sect. 5-5-7), and to allow the construction of a tower 211 ft. tall within 190 ft. of the front property line (211 ft. req. by Sect. 5-507), on property located at 8800 Ashgrove Lane, tax map reference 29-1((1))10C, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; and

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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. The present zoning is I-5.
3. The area of the lot is 12.0 acres.
4. That the County Board of Supervisors on April 27, 1981, rezoned this property to an I-5 District and in conjunction with that rezoning approved the height of the proposed tower to 211 ft. and also approved the proposed ingress and egress into the property at that time in accordance with the PDH Development Plan. subsequently, there was an oversight in the application of the original site plan. The County staff applied a new definition to the street which is shown on the original plan as Ashgrove Lane which would require these two variances to be permitted. The only use which the applicant can make of this property is that which is shown on the PDH Plan and a deviation from it would require a variance of this nature or else the applicant would be unable to develop the property and that would create a hardship under 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 1. (Mr. Smith) (Mr. DiGiulian being absent)

Page 206, October 19, 1982, Scheduled cases of:

12:30 P.M. BETHLEHEM BAPTIST CHURCH, appl. under Sect. 3-203 of the Ord. to permit the addition of toilet facilities and a sign to existing church and related facilities, located 7836 Fordsom Rd., R-2, 102-1((1))67A & 68A, Mt. Vernon Dist., 3.79085 acres, S-82-V-072. (DEFERRED FROM 9/21/82 FOR NOTICES)

12:30 P.M. BETHLEHEM BAPTIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow enlargement of church having portions of driveways & parking spaces with gravel surface (dustless surface req. by Sect. 10-102), located 7836 Fordsom Rd., R-2, 102-1((1))67A & 68A, Mt. Vernon Dist., 3.79085 acres, S-82-V-072. (DEFERRED FROM 9/21/82 FOR NOTICES)

James Kearse, 7834 Fordsom Road, represented the applicant. He stated that earlier this year, someone driving on Sherwood Hall Lane had lost control of his vehicle and run into a portion of the restroom area totally destroying it. The church had decided to increase the space of the facility when they rebuilt it. There was also a request to build a marquee in the front of the church building on the grass area. Rev. Kearse stated that it would be a hardship for the church to have to pave all the parking areas and gravel surfaces, and that some of the parking was currently paved. Rev. Kearse stated that this church had been in operation for 118 years.

There was no one to speak in support or opposition to the request.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-V-072 by BETHLEHEM BAPTIST CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance to permit the addition of toilet facilities and a sign to existing church and related facilities, located at 7836 Fordson Road, tax map reference 102-1((1))67A & 68A, 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 19, 1982; 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-2.
3. That the area of the lot is 3.79085 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 Permits 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 seating capacity shall be 240.
8. The hours of operation shall be the hours of normal church activity.
9. There shall be 65 parking spaces, 4 of which are handicapped parking spaces.
10. The proposed expansion and remodeling will not affect traffic or other church activities and is subject to the Site Plan Ordinance.
11. The requested sign of 6 ft. in front of the building has been approved.
12. The sign erection is subject to the issuance of a sign permit by the Zoning Enforcement Branch.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. DiGiulian being absent)

R E S O L U T I O N

In Application No. V-82-V-143 by BETHLEHEM BAPTIST CHURCH under Section 18-401 of the Zoning Ordinance to allow enlargement of church having portions of driveways and parking spaces with gravel surface (dustless surface req. by Sect. 10-102), on property located at 7836 Fordson Road, tax map reference 102-1((1))67A & 68A, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 19, 1982; 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 3.79085 acres.
4. That the church has been operating at this location for a substantial period of time, namely 118 years. Testimony has indicated that the present condition of the driveway has created no problems or complaints as far as the Board is aware of. To require a dustless surface would create an undue hardship for the church. The proposed addition which was granted on a special permit application previous to this motion is a minor modification to the existing structure, namely the replacement of an existing toilet facility and the addition of one toilet and also making the mens facility consistent with the womens facility. It appears there are no substantial changes in the property and there is no reason to change the existing nature of the 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 0 (Mr. DiGiulian being absent)

//The Board went into Executive session at 3:45 P.M. to discuss legal matters.

//The Board returned at 4:45 P.M. to discuss Board matters and after agenda items.

Page 208, October 19, 1982, AFTER AGENDA ITEMS:

The Board adopted by unanimous vote the revised BZA Bylaws, with a minor wording change in Article III, Section 1.

Page 208, October 19, 1982, AFTER AGENDA ITEMS:

TUCKAHOE RECREATION CLUB, INC./S-82-D-055: The Board was in receipt of a letter with respect to the action taken by the BZA on July 22, 1982 on the above referenced application. Tuckahoe Recreation Club was seeking approval for the construction of two additional tennis courts and the enlargement of the existing indoor swimming pool building. It appears that a mistake was made with respect to the hours of operation. The club had not requested a change in the hours, but they were changed in the resolution. Mrs. Day stated that she had changed the hours deliberately in her motion because of the neighbors complaints about the hours of operation. It was the consensus of the Board to re-affirm the action taken, and deny the request to amend the resolution. If the club wanted the hours changed for their facility, they would be required to file an application and go through another public hearing.

//Mr. Hyland said there was one other matter he wanted to discuss. He had been informed at the previous meeting that Mr. Yaremchuk had resigned from the Board for health reasons. Mr. Hyland stated that he had benefitted greatly from his experience and comments, and his expertise. Mr. Hyland regretted that Mr. Yaremchuk's illness had forced him to leave the Board, and made a motion that the Board prepare and send an appropriate resolution form to Mr. Yaremchuk expressing the Board's appreciation for his long years of dedicated service and wishing him the best of health and success in the future. The motion passed by a unanimous vote of the Board members present.

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// There being no further business, the Board adjourned at 5:00 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Sept. 6, 1984

APPROVED: Sept. 11, 1984

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The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, October 21, 1982. The following Board members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack and John Ribble (arriving at 1:00 P.M.).

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer. Chairman Smith announced that Mr. John Yaremchuk, a BZA member, had resigned from the Board effective October 15, 1982.

Chairman Smith called the scheduled 10 o'clock case of:

10:00 ELEANOR C. THOMPSON, appl. under Sect. 18-401 of the Ord. to allow subdivision into 4 lots, 3 of which would have width of 6 ft. each (80 ft. min. lot width A.M. req. by Sect. 3-306), located 7537 Idylwood Rd., R-3, Providence Dist., 40-3 ((1))68, 1.3942 acres, V-82-P-056. (DEFERRED FROM 6/15/82 TO GIVE APPLICANT TIME TO RESOLVE THE SEWER PROBLEM ON THE PROPERTY AND FROM 9/14/82 FOR LACK OF A QUORUM).

Mr. Charles Huntley, an engineer, represented Mrs. Thompson. Chairman Smith announced that the public hearing had been completed on the variance application and that the Board had heard testimony from both the applicant and the opposition. Mr. Huntley advised the Board that the matter had been deferred until September in order for him to resolve the sanitary outfall on the property. Chairman Smith stated that there had been an easement problem. He was concerned that the applicant had not provided any indication that the sewer easement had been obtained.

Mrs. Gladys Lail of 4921 Seminary Road, Apt. 314, Alexandria, Virginia, informed the Board that she had never been approached regarding the sewer easement. She was concerned over the possible granting of the variance with the sewer line going through the cemetery. Mrs. Lail had presented the Board with a copy of a will regarding the cemetery since Mrs. Thompson had not been able to find any records at the courthouse. Mrs. Lail did not understand why the fight over the cemetery had to be continued as she did not condone robbing a dead man.

Chairman Smith stated that the Board had received a copy of the will dated many years ago. He stated that there was no way to providing sewer to the Thompson property without an easement. Chairman Smith asked for the Board's guidance in the matter. Mr. Hyland stated that it seemed the proper solution would be to deny the request without prejudice in order for the applicant to submit another request at such time as the matter of the sewer had been resolved. Chairman Smith stated that he was not opposed to the denial but was opposed to allowing the applicant to come back within the year.

Mrs. Day inquired if it was possible to provide sewer to the Thompson property from lot 59 which was one lot behind the subject property. Chairman Smith stated that Mr. Huntley had advised the Board that it was not possible because of the outfall.

Mr. Hyland stated that the applicant could withdraw the variance request. Mr. Huntley stated that if they were unsuccessful in getting approval of the waiver, it lessened their chances of getting the easement. He explained that Mrs. Thompson was a widow and on social security. The only thing of value she owned was her home and property. He had advised her to divide her property and keep her house in order to derive some income from the property. Then the problem came up with the sewer. He stated that they had been working with attorneys over a period of time but there was not any real power to do anything about the sewer situation unless they got a condemnation. Mr. Huntley stated that if Mrs. Thompson did not get reapproval of the variance, she would not have much of a case before the Board of Supervisors on a condemnation. Mr. Huntley stated that he had prepared an easement through the property that did not have anything to do with the cemetery.

Mrs. Lail informed the Board that she was the agent regarding the cemetery property and wanted to get the matter settled. She stated that it was not right for any citizen to latch onto the property of another. Mrs. Lail stated that her health would not allow her to continue with the fight. Mr. Hyland suggested that another heir represent the owners. Mrs. Lail stated that she represented herself and Mrs. Elmore and any of the other owners since 1942. Mrs. Lail only had a signed petition from Mrs. Elmore who had moved to New York allowing her to represent them at the public hearing. Mrs. Lail stated she could not understand why Mrs. Thompson was unable to find the deed for the cemetery in the County records as she found it in the Archives. The deed dated back to the 1900s.

Page 211 October 21, 1982
ELEANOR C. THOMPSON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-P-056 by ELEANOR C. THOMPSON under Section 18-401 of the Zoning Ordinance to allow subdivision into 4 lots, 3 of which would have width of 6 ft. each (80 ft. min. lot width req. by Sect. 3-306), on property located at 7537 Idylwood Road, tax map

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R E S O L U T I O N

reference 40-3(1)68, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 15, 1982 and October 21, 1982; 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 1.3942 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. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Ribble being absent).

Page 212 October 21, 1982, Scheduled case of

10:10 A.M. THE MADEIRA SCHOOL, INC., appl. under Sect. 3-E03 of the Ord. to amend S-128-74 for school of general education to permit new track facilities (400M) and relocation of existing riding ring & dressage area, located 8328 Georgetown Pike, R-E, Dranesville Dist., 20-1(1)14, 375 acres, S-82-D-036. (DEFERRED FROM 7/13/82 FOR NOTICES AND FROM 9/14/82 FOR LACK OF A QUORUM).

Mr. Franklin B. Smith, Treasurer and President of the Madeira School, informed the Board that the application proposed taking a riding ring and building a track on the site. He stated that the school wanted a running track. A small change had taken place regarding the site plan which involved swinging one end of the track away from the playing field. The revised plat had a setback of 280 ft. but had a distance of 20 yards from the playing field. Mr. Smith advised that the present riding ring would be moved to a pasture. The dressage area was set up inside the riding ring.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-D-036 by THE MADEIRA SCHOOL, INC. under Section 3-E03 of the Fairfax County Zoning Ordinance to amend S-128-74 for school of general education to permit new track facilities (400M) and relocation of existing riding ring & dressage area, located at 8328 Georgetown Pike, tax map reference 20-1(1)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 October 21, 1982; 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-E.
3. That the area of the lot is 240.5460 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;

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 applicant shall move the riding area to the present open pasture and construct the dressage area adjoining said area. The 400 meter track will be constructed over the current riding ring in accordance with the plat submitted at the hearing.
8. The number of students shall be 212 boarding and 124 day students. There shall be 38 teachers and 67 administrative staff.
9. The hours of operation for the day camp shall be mid-June through mid-August, Monday through Friday, for eight weeks.
10. There shall be a camp staff of 40 persons.
11. All other provisions of the previously granted special permit S-128-74 not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Ribble being absent).

Page 213 October 21, 1982, Scheduled case of

10:30 GREAT FALLS SWIM & TENNIS CLUB, INC., appl. under Sect. 3-103 of the Ord. to
A.M. amend S-82-D-019 for community swim & tennis club to change hours of operation
of tennis courts from 7 A.M. to 9 P.M. to 7 A.M. to 10 P.M., located 761 Walker
Rd., R-1, Dranesville Dist., 13-1((1))27, 5.5244 acres, S-82-D-030. (DEFERRED
FROM JULY 20, 1982 FOR FULL BOARD AND FROM SEPTEMBER 14, 1982 FOR LACK OF A QUORUM)

The Board was in receipt of a request from the Great Falls Swim & Tennis Club for another deferral until December 14, 1982 in order to bring the lights into compliance with the County Code. This action could not be taken before the club's annual meeting. Mr. Tom Mitchell, who was in opposition to the request told the BZA that the matter of the lights had been discussed in July and September. The County Zoning Inspector had determined the lights to be in violation. Chairman Smith stated that the club was trying to correct the lights.

Mr. Hyland made a motion not to allow the deferral. Mrs. Day seconded the motion. The vote on the motion to proceed with the hearing passed by a vote of 4 to 1 (Mr. DiGiulian).

Chairman Smith called for support from the audience. There was no one to speak in support of the application. Mr. Thomas Mitchell of 9801 Thunderhill Court spoke in opposition. He stated that the lights of the club were going into the windows of the houses on Thunderhill Court causing a serious hardship. He stated that the BZA had requested the Zoning Inspector to make a report. The houses were close to the tennis courts. Mr. Mitchell stated that his children went to bed at 8 o'clock.

Chairman Smith inquired if a violation notice had been issued to the club. Mr. Covington read the report from the Zoning Inspector, Douglas Leigh. Mr. Covington stated that Mr. Leigh had not issued a violation but that the BZA was in a position to shut the lights down. Chairman Smith stated that the BZA could not do that without proper notice as there had not been a notice of violation issued. Chairman Smith stated that the Enforcement Division had the authority to bring the lights into compliance. He stated that the normal procedure would have been to leave a violation notice with the club's officers. Chairman Smith inquired if the lights were being used daily at the present time.

Mr. Mitchell stated that the lights had been used up until the second week of September. He stated that his wife had to call to remind the club they were going beyond the 9 P.M. closing time. The club had not been using the lights for the last several weeks. Chairman Smith stated that the club had ceased to use the lights so they were now in compliance. Mr. Hyland stated that the lights were not in compliance if the club planned to use them again.

Mr. Mitchell stated that the club's present application involved two issues. One issue was the lights going beyond the property lines. Mr. Mitchell stated that he was against the club's request for extended hours. Since he had moved into his home in June, he had to make continued phone calls to the club to turn off the lights. The application had been pending since June and the club had not brought the lights into compliance. Mr. Mitchell could not understand why his family should be inconvenienced.

Mr. DiGiulian moved that the Board recess the hearing on the Great Falls Swim & Tennis Club until the end of the agenda to allow the applicant a chance to present his case. Mr. Hyland seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

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Page 214 October 21, 1982, Scheduled case of

10:40 TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB, appl. under Sect. 3-103 of the Ord. to amend S-134-78 for community swimming & tennis club to eliminate parking lot on 1 acre parcel and to permit operation of all existing facilities with existing 138 parking spaces, located 9117 Westerholme Way, R-1, Centreville Dist., 28-4((1))47 & 45A, 6.696 acres, S-82-C-025. (DEFERRED FROM MAY 18, 1982 FOR ADDITIONAL INFORMATION, FROM JUNE 29, 1982: JULY 15, 1982 & JULY 20, 1982 FOR FULL BOARD AND FROM SEPTEMBER 14, 1982 FOR LACK OF A QUORUM).

The Board was in receipt of a request from the applicant for a further deferral of the application. It was the consensus of the Board to defer the special permit until November 30 1982 at 10:00 A.M.

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Page 214 October 21, 1982, Scheduled case of

11:00 TOWLSTON ROAD PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow sub-division into 2 lots and an outlet with proposed lot 2 having width of 20 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 839 Towlston Rd., R-E, Dranesville Dist., 20-1((1))48A, 5.6521 acres, V-82-D-096. (DEFERRED FROM JULY 29, 1982 FOR FULL BOARD AND FROM SEPTEMBER 14, 1982 FOR LACK OF A QUORUM).

Mr. Charles Runyon, an engineer with offices located in Falls Church, represented the applicant. He stated that the outlet would be kept to a minimum to protect the view. The applicant wished to subdivide the property but it was not a simple matter. This method had been chosen in order to provide and protect the existing egress and ingress. There was an existing floodplain and the property was very steep down to the streambed. In order to subdivide the property and keep the topography, the applicant was providing technical frontage on Towlston Road with the pipestem on lot 2 and with lot 1 having the required frontage. Mr. Runyon stated that the dwelling would have to be built on the northeast section of the floodplain. The reason for the outlet was to protect the view. The owners of the property wanted to keep the outlet. The outlet consisted of rock. The basis for the requested variance was the floodplain and the topographic conditions. The applicant needed to provide some kind of egress and ingress.

In response to questions from the Board, Mr. Runyon stated that there would be one house on each lot. The outlet was created to protect the view. Basically, the surrounding area was five to six acre lots. Chairman Smith stated that the property could be developed into two lots without a variance. Mr. Runyon stated that the property was very steep and dropped about 75 to 90 ft. just above the floodplain. In order to orient the views of the two houses and the trees on the property, the pipestem was necessary off of Towlston Road with one common driveway to serve both lots. If the property was developed in any fashion, one house would be up on a hill and the other lot would be all floodplain. That would make both lots virtually unusable. Chairman Smith inquired as to why the outlet could not be included in lot #2. Mr. Runyon stated that the applicant did not want another subdivision of the lot. They wanted the two houses and they wanted to take the outlet and divide it up. In addition, they wanted to orient both houses to have the best views. Mr. Runyon stated that the applicants were willing to restrict the outlet and he would make a notation on the plat in connection with the utilization of the outlet. Mr. Runyon stated that the pipestem was requested because the property was so steep and the applicants wanted to keep the trees along the 30 ft. steep.

There was no one else to speak in support 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-82-D-096 by TOWLSTON ROAD PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots and an outlot with proposed lot 2 having width of 20 ft. (200 ft. min. lot width req. by Sect. 3-E06) on property located at 839 Towlston Road, tax map reference 20-1(1)48A, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 21, 1982; 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-E.
3. The area of the lot is 5.6521 acres.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems and slopes steeply to the rear to the stream at the rear of the property.
5. This outlot, created by the variance, does not satisfy the minimum lot size or minimum lot width requirements as specified for the R-E District. In addition, as part of the subdivision of Lot 48-A, its development with a dwelling would exceed the maximum density provisions set forth in Sect. 3-E08 of the Zoning Ordinance. No application for a building permit for a dwelling shall be approved for this outlot.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion *FAILED by a vote of 3 to 2 (Messrs. Smith and Hammack) (Mr. Ribble being absent).

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11:20 PAUL THOMAS HADDOCK, appl. under Sect. 18-401 of the Ord. to allow construction of a deck with spa addition to a townhouse 7.5 from rear lot line (14 ft. min. rear yard req. by Sects. 3-507 & 2-412), located 2282 Covent Gardens Ct., Pinecrest Townhouse Subd., PRC, Centreville Dist., 26-1((11))(4B)42, 1,667 sq. ft., V-82-C-092. (DEFERRED FROM JULY 22, 1982 FOR NOTICES AND FROM SEPTEMBER 14, 1982 FOR LACK OF A QUORUM).

The Board was in receipt of a request from the applicant seeking withdrawal of the application. Mrs. Day moved that the Board allow the withdrawal. Mr. Hammack seconded the motion and it passed by a vote of 5 to 0.

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11:30 WILLIAM B. & JEAN M. BECKER, appl. under Sect. 18-401 of the Ord. to allow subdivision into 5 lots with proposed lot 33 having a width of 10 ft. and proposed corner lot 36 having a width of 80 ft. (80 ft. min. interior lot width & 105 ft. min. corner lto width req. by Sect. 3-306), located 9086 Wexford Dr., Wexford South Subd., R-3, Centreville Dist., 28-4((27))A, 2.2210 acres, V-82-C-069. (DEFERRED FROM JULY 13, 1982 FOR ADDITIONAL INFORMATION, FROM JULY 29, 1982 FOR FULL BOARD, AND FROM SEPTEMBER 14, 1982 FOR LACK OF A QUORUM).

Mr. Charles Runyon, an engineer with an office located at 7649 Leesburg Pike in Falls Church, represented the applicants. He explained to the Board that the existing house was there. It had been sold to the Beckers subject to the variance. The variance had been filed last June and had been deferred for several reasons. Mr. Runyon stated that some discussion had already taken place regarding the development.

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Chairman Smith inquired if the applicants' property was contiguous to the Wexford South subdivision and whether it was part of a proffer. Mr. Runyon responded that there was a proffered development plan that showed the same development plan. Access had been provided in order to create some circulation for Tysons Briar so not all the traffic would go down one street. Mr. Runyon stated that curbs and gutters had been provided. Homes had been built on all of the lots. The roadway was provided for Tysons Briar if they needed it.

There was no one else to speak in support of the application. Mr. Lee Ruck, an attorney with from Fairfax, spoke in opposition to the request. He stated that he represented the Wexford Community Association which had been trying to put together a multi-party settlement. Mr. Ruck informed the Board that he and Mr. Donnelly were authorized to take care of the stub road situation. However, there was another proffer of concern which was the agreement by the Wexford Subdivision and Mr. and Mrs. Becker for plans indicating open space for the Wexford Subdivision. Mr. Becker had sold off part of the 14 acres that was developed by Wexford Association as Wexford South. Mr. Becker had saved the residue for five lots. Mr. Ruck stated that there was a question as to how much Wexford South had to bear. He stated that compliance had not been met with regard to the proffers. There had been some agreement as to how the monies would be forwarded to Wexford. Mr. Ruck suggested that the BZA close the public hearing and only allow written information to be submitted. He asked the Board to defer decision until November 30th. He stated that Wexford would like to have cash in hand or some kind of an agreement that they would be compensated for the easements already granted. He stated that Wexford was supportive of the present application but not while the matter was still being resolved.

Mr. Hyland inquired if Mr. Ruck was asking the BZA to enforce the proffers. Mr. Ruck stated he was not but he felt it might be inappropriate for the BZA to resolve the case with the proffers still a problem. He did not know whether the BZA had the jurisdiction to act on the proffers but they could defer the application. Mr. Ruck stated that his clients would feel more comfortable if the matter could be deferred until they had something in writing or cash in hand. Mr. Hyland inquired as to the amount of money and was informed it would be \$14,000 if there was a variance and, if not, \$12,000.

Mr. Runyon informed the BZA that Mr. Ruck's position was interesting but he was tired of waiting. He stated that Mr. Ruck's clients were not owed any money until the lots were platted and of record. If the money was not paid by the Wexford Association, then Mr. Becker would be responsible. Mr. Runyon stated that it would take him six months to get the plat recorded. He stated that the Beckers had already moved from the house. There was a person renting the house with the option to buy. Mr. Runyon stated that this was a civil matter between Wexford, the Beckers, etc. Mr. Runyon stated that there was no question about Mr. Becker owing the money in accordance with the Board of Supervisors' motion for the rezoning and the per lot proffer.

Mr. Hammack inquired as to why the lots were not subdivided originally. Mr. Runyon replied that Mr. Becker had only recently sold the house and was now ready to subdivide. Mr. Hammack stated that the Board of Supervisors had only approved 31 lots. Mr. Runyon stated that the development plan had been approved. Mr. Runyon stated that Mr. Becker had been living on the large parcel of land and was building in stages. Mr. Runyon stated that 37 lots had been proposed but they lost a lot because of a large swale. They had to move up the lots but there was a right to 37 lots from the Board of Supervisors. Mr. Hammack inquired as to why Mr. Runyon needed BZA approval if the Board of Supervisors had approved the development plan. Mr. Runyon stated that the BZA had to approve the pipestem for the one lot. It needed a pipestem for technical reasons. Mr. Runyon stated that they had proffered to have no more than 37 lots. He had encouraged Mr. Becker not to develop the 37th lot as it opened up the cul-de-sac. Mr. Hammack stated that Mr. Runyon had to satisfy the BZA that the variance met the hardship requirements. Mr. Runyon explained that if the existing house was not there, they could get two lots but the existing house was right in the middle of the property. They were asking for the pipestem configuration.

Mr. Runyon stated that no other variance was being sought. Design Review had indicated that a variance was also necessary for proposed lot 36 for the width. Mr. DiGiulian examined the plat and stated that it was drawn the standard way. He had no problem with lot 36 at all. Chairman Smith stated that the matter could be cleared up with new plats. He suggested that the Board defer the matter until November 30th. Mr. Hyland stated that the comments in the Design Review report were erroneous and should not be a detriment to the applicant. Chairman Smith stated that the staff had changed the application to include a variance for lot 36. Mr. Hyland questioned the authority of staff to change the application. Mr. Runyon stated that Mr. Becker had pointed out the change in the application but he had been advised by staff not to worry.

Mr. Hyland questioned Mr. Ruck regarding his reaction to the assessment assuming that the variance was granted. Mr. Ruck stated that there may have been dispute. He had been told that there was not a dispute. Mr. Ruck discussed the dispute and indicated that his clients did not care where the money came from as long as they were not left holding the bag. Chairman Smith advised the Board members that they did not have the right to set a condition on the variance based on a civil suit. Chairman Smith objected to the variance being tied to the money agreement. Mr. Ruck stated that the matter could be resolved with a deferral of the application.

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R E S O L U T I O N

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In Application No. V-82-C-069 by WILLIAM B. & JEAN M. BECKER under Section 18-401 of the Zoning Ordinance to allow subdivision into 5 lots with proposed lot 33 having a width of 10 ft. (80 ft. min. lot width required by Sect. 3-306), on property located at 9086 Wexford Drive, tax map reference 28-4((27))A, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 13, 1982 and October 21, 1982; 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 2.2210 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 indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. The applicant will comply with the proffers made to the Board of Supervisors in connection with a rezoning of the property to include the payment of a per lot assessment required of the subdivision of one lot into 5 lots and/or such additional assessments as may be determined to be the responsibility of the applicant by reason of the addition of 5 lots to the existing 31 lots on the property.

Mr. DiGiulian seconded the motion.

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

Page 218 October 21, 1982, Recess

The Board recessed for lunch at 12:45 and reconvened the meeting at 2:00 P.M. to continue with the scheduled agenda.

11:40 A.M. ROBERT A. MASUMURA, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport into attached garage 9.6 ft. from side lot line such that total side yards would be 19.6 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 7003 Gillings Rd., Rolling Valley Subd., R-3(C), Springfield Dist., 89-3((5))428, 10,435 sq. ft., V-82-S-120. (DEFERRED FROM AUGUST 5, 1982 FOR HEARING BY FULL BOARD AND FROM 9/14/82 FOR LACK OF A QUORUM).

Mr. Masumura informed the Board that he wished to enclose his carport into a garage. He was 4.8 in. under the requirements. He stated that he wanted to be able to work on his cars during the winter months. In addition, he needed more space and wanted to be able to hide all of the junk stored on the carport. Chairman Smith inquired as to the hardship as it related to the Ordinance. Mr. Masumura stated that he would have to work on his cars in the dead of winter. Mr. Masumura stated that he owned two vehicles, one of which was built during the last decade. He stated that he needed a workshop to hang his tools. Mr. Masumura stated that only one corner of the garage would extend into the setback. He stated that his lot lines converged. The enclosure would not encroach any closer than the present carport.

There was no one else to speak in support and no one to speak in opposition.

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RESOLUTION

In Application No. V-82-S-120 by ROBERT A. MASUMURA under Section 18-401 of the Zoning Ordinance to allow enclosure of carport into attached garage 9.6 ft. from side lot line such that total side yards would be 19.6 ft. (8 ft. minimum, 20 ft. total minimum side yard req. by Sect. 3-307), on property located at 7003 Gillings Road, tax map reference 89-3(5)428, County of Fairfax, Virginia, Mr. Ribble 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 October 21, 1982; 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(C).
3. The area of the lot is 10,435 sq. ft.
4. That the applicant's property has converging lot lines which cause the need for a variance of 4/10th of a foot.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

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

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11:50 A.M. D. B. JOHNSON, appl. under Sect. 18-401 of the Ord. to allow addition to dwelling to 1.6 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 6647 Hawthorne St., Bryn Mawr Subd., R-4, Dranesville Dist., 30-4(4)(B)27A, 12,387 sq. ft., V-82-D-121. (DEFERRED FROM AUGUST 5, 1982 FOR HEARING BY FULL BOARD AND FROM SEPTEMBER 14, 1982 FOR LACK OF A QUORUM).

The Board was in receipt of a letter from Mr. Johnson stating that the variance was no longer necessary and he was not interested in pursuing it. Mr. Hyland moved that the Board allow the withdrawal of the application. Mr. Hammack seconded the motion. The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

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12:00 NOON LAWRENCE S. BAHL, appl. under Sect. 18-401 of the Ord. to allow construction of porch addition to dwelling to 19.3 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 5017 Mignonette Ct., Longbranch Subd., R-3(C), Annandale Dist., 69-4(12)135, 10,069 sq. ft., V-82-A-122. (DEFERRED FROM AUGUST 5, 1982 FOR HEARING BY FULL BOARD AND FROM SEPTEMBER 14, 1982 FOR LACK OF A QUORUM).

Mr. Lawrence S. Bahl of 5017 Mignonette Ct. in Annandale informed the Board that he was requesting a variance to put a screened porch addition onto his home. He stated that he needed a variance because of the 25 ft. restriction. He informed the Board that after he purchased his home, the original plat showed the house to have the garage on the other end of it. He purchased his home new before the trees were taken down. After purchasing the home,

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LAWRENCE S. BAHL
(continued)

he discovered the house was turned around. He stated that he had already purchased the house but had turned one other one down because of the need for a variance. He had been under the impression that the rear lot line was 10 ft. Mr. Bahl stated that he had an unusual situation as he had a pie-shaped lot and the house had an unusual situation of being placed further back on the lot than it needed to be.

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In response to questions from the Board, Mr. Bahl stated that there was not any sliding glass door where he was proposing the porch. He stated that he had purchased his home September 1977. Chairman Smith stated that this was a new subdivision and that most of the homes had the same condition. Mr. Bahl stated that most of the homes had larger rear yards. He stated that four homes in his cul-de-sac had porches. Mr. Hammack inquired as to the distance of the house on lot 34 from the applicant's proposed addition and what direction the house faced. Mr. Bahl replied that the neighbor on lot 34 had a garage that butted up against the rear lot line. It was at an angle and was about 40 to 50 ft. from the proposed addition. Mr. Bahl stated that his neighbor did not object to the porch addition. The house on lot 135 was located forward of Mr. Bahl's house and faced the other side. Mr. Bahl stated that the original plat for the subdivision showed his house to be at the rear of the house on lot 135. He did not know why his house was constructed further back on the property and the salesman could not answer about it either.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-A-122 by LAWRENCE S. BAHL under Section 18-401 of the Zoning Ordinance to allow construction of porch addition to dwelling to 19.3 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 5017 Mignonette Ct., tax map reference 69-4((12))135, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 21, 1982; 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(C).
3. The area of the lot is 10,069 sq. ft.
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 in that the house is set further back from the front property line than required and the house is sited at an angle on the 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

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

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12:20 P.M. A CHILD'S PLACE T/A HOLLIN HALL SCHOOL AGE CENTER, appl. under Sect. 3-303 of the Ord. for a child care center, located 1500 Shenandoah Rd., R-3, Mt. Vernon Dist., 102-2((1))2A, 10.98 acres, S-82-V-062. (DEFERRED FROM AUGUST 5, 1982 FOR NOTICES AND FROM SEPTEMBER 14, 1982 FOR LACK OF A QUORUM).

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Mrs. Mildred Frazer of Annandale informed the Board that she held a lease with the School Board for the use of certain rooms in the Hollin Hall School on Shenandoah Road. It was one of the Fairfax County schools which had been closed for several years and was now being leased for several activities. She wanted to operate a child care center for school age children and would add pre-school age also. In response to questions from the Board, Mrs. Frazer stated that her lease was for two years with eight one-year options for a total of ten years. Ten parking spaces were to be provided although they were not designated as yet. Chairman Smith stated that the Board had a right to condition that the parking spaces be designated as he saw no reason why the school board would not want to do it. In that manner, all of the uses would have designated spaces and no other activity could use them. Mr. Hyland commented that there were a lot of parking spaces at the school. He stated that if the school board did not wish to mark the spaces, the applicant had no control over the situation. Therefore, Mr. Hyland was reluctant to condition the special permit with respect to designated parking. Mrs. Frazer assured the Board that the school board would see to it that she had ten parking spaces. Mr. Hyland informed the Board that paragraph 7 of the lease referred to parking and he withdraw his objection to the designated parking spaces.

There was no one else to speak in support and no one to speak in opposition.

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Board of Zoning Appeals

A CHILD'S PLACE T/A HOLLIN HALL SCHOOL AGE CENTER

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-V-062 by A CHILD'S PLACE T/A HOLLIN HALL SCHOOL AGE CENTER under Section 3-303 of the Fairfax County Zoning Ordinance to permit child care center located at 1500 Shenandoah Road, tax map reference 102-2((1))2A, 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 21, 1982; 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-3.
3. That the area of the lot is 10.98 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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.

RESOLUTION

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7. The maximum number of students shall be 160 with 11 employees.
 8. The hours of operation shall be from 6:45 A.M. to 6:15 P.M., five days a week, year round including a summer day camp.
 9. The parking area of 4,004 sq. ft. shall be allocated so that the applicant has the exclusive use of 10 parking spaces on the lot in accordance with the parking provisions as specified in paragraph 7 of the lease.
 10. The special permit is granted for a period of two (2) years with the Zoning Administrator empowered to grant eight (8) one-year renewals provided the applicant requests the renewals in writing at least 30 days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. DiGiulian being absent).

Page 222 October 21, 1982, Scheduled case of

12:40 P.M. ASLAN CORPORATION AND THEODORE BODNAR, JR., THEODORE BODNAR, SR., & BARBARA BODNAR, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that appellant's Non-Residential Use Permit and two sign permits are null and void because of a determination that the use is a quick-service food store, for which Special Exception approval is required in the I-5 district, located 8213 Lee Hwy., I-5, Providence Dist., 49-4(1)6, 20,000 sq. ft., A-82-P-016. (DEFERRED FROM AUGUST 3, 1982 AT THE REQUEST OF THE APPELLANT AND FROM SEPTEMBER 14, 1982 FOR LACK OF A QUORUM).

The Board was in receipt of letter from the appellant's attorney requesting a withdrawal of the appeal application. Mrs. Day moved that the Board allow the withdrawal without prejudice. Mr. Hammack seconded the motion and it passed by a vote of 5 to 0 (Mr. DiGiulian being absent).

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Page 222 October 21, 1982, Recessed case of

GREAT FALLS SWIM & TENNIS CLUB, INC., S-82-D-030: Chairman Smith stated that the Board had heard testimony in opposition to the application. The Board had recessed the hearing to allow a representative from the swim club to make an appearance before the BZA and make their position known. Mr. Curt Bradley of 708 Walker Road in Great Falls represented the club. Chairman Smith advised Mr. Bradley that the opposition concerned the request to extend the hours. There was a report from Zoning Enforcement indicating a violation in regard to the lighting. Mr. Bradley informed the Board that he had submitted a letter seeking a deferral of the application. Chairman Smith advised Mr. Bradley that the request was denied. Mr. Bradley stated that he had been advised that the letter would be sufficient to have the application withdrawn or deferred and that his presence would not be necessary. He stated that the club wanted to get the lights corrected. At the July hearing, the club had found out that the lights were not in compliance and had agreed to turn the lights off. Mr. Hyland stated that the Board had received testimony that the lights were not turned off until September. Mr. Bradley explained that the club was having trouble finding a contractor who could meet the County standards. The club did not want to put in lights that did not meet the standards. Mr. Bradley stated that the club was in the process of having a new light system installed.

Mr. Hammack inquired if the club could complete the construction and the authorization for funding by December 14th. Mr. Bradley stated that the club had an annual meeting in December. Their by-laws indicated that any expense over \$5,000 had to have the approval of the entire membership. Mr. Hyland inquired if the club wanted a withdrawal of the application. Mr. Bradley stated that if the BZA made a negative decision on the application, the club would have to wait a year.

Mr. Hyland stated that he was not prepared to support the application because of the uncertainty of the lights. Mr. Hyland stated that he was the one who moved that the BZA not grant the request for deferral. However, he understood why the applicant was not present. Mr. Hyland advised Mr. Bradley that he could not vote for the extension of club hours. Mr. Bradley asked the Board to allow a withdrawal of the application without prejudice. To do otherwise would deny the use of the lights for the next season. Mr. Hyland moved that the Board allow the withdrawal without prejudice. Mr. Hammack seconded the motion and it passed by a vote of 5 to 0 (Mr. DiGiulian being absent).

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The Board discussed problems involved with deferrals, rescheduling and notices not being in order. It was the consensus of the Board that any applicant requesting deferral, rescheduling or whose notices were not in order for the public hearing appear before the Board to explain the reason why.

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// There being no further business, the Board adjourned at 3:25 P.M.

By *Sandra L. Hicks* *Daniel Smith*
 Sandra L. Hicks, Clerk to the Daniel Smith, Chairman
 Board of Zoning Appeals

Submitted to the Board on *Sept 4, 1984* APPROVED: *Sept 11, 1984*
 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 Evening, October 26, 1982. The following Board Members were present: Daniel Smith, Chairman; Ann Day, John Ribble, and Paul Hammack. Gerald Hyland and John DiGiulian were absent.

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The Chairman opened the meeting at 8:00 P.M. and Mrs. Day led the prayer.

//Mr. Ribble made a motion that the Board go into Executive session to discuss legal matters.

//The Board returned at 8:15 P.M. to take up the scheduled agenda.

8:00 P.M. FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY, appl. under Sect. 3-503 of the Ord. for a child care center, located 4400 St. Edwards Pl., Robinson Square Subd., PDH-5, Annandale Dist., 57-3((1))11A, 6.289 acres, S-82-A-077.

William Arnold, 12501 Judicial Drive, Fairfax, represented the applicant. He stated that the day care center would accommodate a maximum of 60 children, infant through seven years of age. The school would be open Monday through Friday, 6:30 A.M. to 6:30 P.M. The applicant was planning to employ 17 teachers and attendants, not 14 as the staff report indicated. Mr. Arnold stated that the general area to be served would be the Robinson Square Development, the Fairfax County Governmental Complex and the George Mason University. Mr. Arnold indicated that the play area would be 3,000 square feet total.

Mr. Arnold stated that the Fairfax County Redevelopment and Housing Authority is the owner of the property. This parcel of land has 46 units on it which are presently rented. The only problem that has been brought up by staff is the parking problem. Mr. Arnold stated that there would be two shifts of employees, the maximum at any time of nine. This would require six parking spaces. In addition, it is estimated that four spaces would be needed for people coming and going. The site plan as it exists now has 46 units and 92 parking spaces, which is two per unit. Mr. Arnold stated that during the daytime most of the people were at work, so there was not a demand for the parking spaces during that time. Mr. Arnold requested that this be approved subject to the provisions of Sect. 11-102.4 which says the Director of DEM can approve cooperative parking. He suggested that another alternative would be the reduction of the total parking spaces required for the housing unit. That would have to go to the Board of Supervisors.

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

Page 224, October 26, 1982 Board of Zoning Appeals
FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY
R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-A-077 by FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY under Section 3-503 of the Fairfax County Zoning Ordinance for a child care center, located at 4400 St. Edwards Place, tax map reference 57-3((1))11A, 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 on October 26, 1982; 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 PDH-5.
3. That the area of the lot is 6.289 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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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 maximum number of children shall be 60, from infants to 7 years of age.
8. The hours of operation shall be 6:30 A.M. to 6:30 P.M., Monday thru Friday.
9. The applicant will employ no more than 17 teachers and attendants.
10. The applicant has to obtain the approval from the Director of DEM for cooperative parking or a waiver from the Board of Supervisors.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. DiGiulian and Hyland absent)

Page 225, October 26, 1982, Scheduled case of:

8:20 P.M. BARRY T. MATES, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 15.2 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 6800 Rock Creek Ct., Stonebrooke Subd., R-3(C), Lee Dist., 92-1((10))8037, 10,263 sq. ft., V-82-L-166.

Barry Mates presented his application. He stated that due to the irregular shape of the lot and the way his house was situated, he required a variance. Most of the neighboring properties did not have the same problem. Mr. Mates said he had owned the property since January of 1978, and wanted to extend his master bedroom which was presently 11 feet by 12 feet. Mrs. Day questioned Mr. Mates about the deck on the back of his house. The staff report had indicated that no building permit could be located for it. Mr. Mates replied that he didn't know he needed a permit for a deck. He thought building permits were only required for something you would live in.

Mr. Mates stated that the addition would actually be two stories in height. It would be built on tiers, with an open storage area underneath.

Grady Tomlin, 4339 Streambed Way; Stanley Gray, 4337 Streambed Way; and Robert Strook, 4341 Streambed Way, spoke in opposition to the application. They were concerned that their privacy would be disturbed by the addition overlooking their yards. Their homes were lower than the proposed addition, and there was not adequate screening to protect the privacy of their homes and yards.

During rebuttal, Mr. Mates stated that presently he could look into all the backyards from his window if he desired. He stated he was not a peeping tom and did not plan to be one. If the neighbors wanted him to place the windows on the side of the addition instead of the back he was willing to do so. Mr. Mates indicated that he had put up a fence for screening and his neighbors were benefitting from it.

Page 225, October 26, 1982
BARRY T. MATES

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-L-166 by BARRY T. MATES under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.2 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 6800 Rock Creek Court, tax map reference 92-1((10))8037, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 26, 1982; 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(C).
3. The area of the lot is 10,263 sq. ft.
4. That the applicants property overlooks the neighbors property. The applicant is in violation with his existing deck. The Board has been informed that there is no record of a building permit, and the deck extends beyond the permitted amount. The lot has an unusual configuration, but the house sits on a higher level of ground than the neighbors.

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. Ribble seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. DiGiulian and Hyland being absent)

Page 226, October 26, 1982, Scheduled case of:

8:30 P.M. WILLIAM R. HAYES, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 3 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-105), located 2215 Sandburg St., Dunn Loring Subd., R-1, Providence Dist., 39-4((1))96, 28,714 sq. ft., V-82-P-167.

William Hayes presented his application to the Board. He stated that he wanted to build a 22 foot by 30 foot garage in his back yard three feet from the side lot line. Since the lot was substandard in area and width, to comply with the setbacks would place the garage directly behind the house. Mr. Hayes stated that he was asking for a garage with 660 square feet of area, which exceeded the Zoning Administrator's ruling of a maximum of 600 square feet for an accessory garage. He planned to park two vehicles in the garage and build a woodworking shop for his personal use at the rear of the garage. Some of the extra space would be used for storage. Mr. Mates indicated that he was willing to reduce the area of the garage to 600 square feet.

In response to questions from the Board members, Mr. Hayes replied that his workshop would be used for hobby purposes. The garage would have no doors or windows on the side facing his neighbor, so there would be no problem with noise from the saws or drill press. Mr. Hayes indicated that the closest neighbor was at least 120 feet away from the proposed addition. Also, the area between the two homes was all wooded.

There was no one to speak in support or opposition.

Page 226, October 26, 1982
WILLIAM R. HAYES

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-P-167 by WILLIAM R. HAYES under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 3 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-105), on property located at 2215 Sandburg Street, tax map reference 39-4((1))96, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 26, 1982; 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-1.
3. The area of the lot is 28,714 sq. ft.
4. That the applicants property is a substandard lot in area and width and is very 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion *FAILED by a vote of 3 - 1. (Mr. Smith) (Messrs. DiGiulian and Hyland being absent)

Page 227, October 26, 1982, Scheduled case of:

8:40 P.M. ERNEST J. & MARGARET S. WELLS, appl. under Sect. 3-103 of the Ord. for a nursery school, located 3013 West Ox Rd., R-1, Centreville Dist., 35-2(1)29, 4.042 acres, S-82-C-078.

Frank Grace, 4160 Chain Bridge Road, Fairfax, represented the applicant. He requested that the Board defer this matter to a later date. The applicant wanted to amend the application and apply in the name of a family corporation.

It was the consensus of the Board to defer the application to December 14, 1982 at 10:00 A.M.

Page 227, October 26, 1982, Scheduled case of:

9:00 P.M. ST. LAWRENCE CATHOLIC CHURCH/MOST REVEREND THOMAS J. WELSH, BISHOP, appl. under Sect. 3-103 of the Ord. to allow the construction of a 20 ft. by 28 ft. storage bldg. to an existing church and related facilities, located 6222 Franconia Rd., R-1, Franconia Hills Subd., Lee Dist., 81-3(1)59A, 11.12456 acres, S-82-L-081.

Bill Enderle, Property Manager of the Catholic Diocese of Arlington, represented the applicant. He stated that this was strictly an addition to the building for additional storage of lawn and garden equipment.

There was no one to speak in support or opposition.

Page 227, October 26, 1982 Board of Zoning Appeals
ST. LAWRENCE CATHOLIC CHURCH/MOST REVEREND THOMAS J. WELSH, BISHOP

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-L-081 by ST. LAWRENCE CATHOLIC CHURCH/MOST REVEREND THOMAS J. WELSH, BISHOP under Section 3-103 of the Fairfax County Zoning Ordinance to allow the construction of a 20 ft. by 28 ft. storage building to an existing church and related facilities, located at 6222 Franconia Road, tax map reference 81-3(1)59A, 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 on October 26, 1982; 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 11.12456 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 seating capacity shall be 750.
8. There shall be 187 parking spaces required.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. DiGiulian and Hyland absent)

Page 228, October 26, 1982, AFTER AGENDA ITEMS:

ROAD AGGREGATES, INC./V-70-79: The Board was in receipt of an extension request for the above captioned variance. The Division of Design Review was not able to approve the subdivision plan until after the County's completion of downstream drainage facilities. It was the consensus of the Board to grant a six month extension.

Page 228, October 26, 1982, AFTER AGENDA ITEMS:

LAWRENCE L. ZIEMIANSKI, D.D.S./S-80-D-035: The Board was in receipt of an extension request for the referenced special permit. It was the consensus of the Board to grant a six month extension.

// There being no further business, the Board adjourned at 9:20 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

DANIEL SMITH, CHAIRMAN

Submitted to the Board on _____

APPROVED: _____

The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, October 28, 1982. The following Board members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack and John Ribble. (Mr. John DiGiulian was absent) (Mr. Clark L. Massie was not sworn in yet).

Chairman Smith opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 RICHARD & JUDITH A. WELLS, appl. under Sect. 18-401 of the Ord. to allow sub-
A.M. division into three (3) lots, two of which having width of 6 ft. and one having
width of 12 ft. (150 ft. min. lot width req. by Sect. 3-106), located 2740
Hunter Mill Rd., Bonnet Subd., R-1, Providence Dist., 37-4(1)pt. of 17,
3.38 acres, V-82-P-116. (DEFERRED FROM AUGUST 5, 1982 & SEPTEMBER 16, 1982
FOR HEARING BY FULL BOARD.)

Mr. Thomas Lawson, an attorney in Fairfax, represented the applicants. He informed the Board that the property owners could subdivide the property as a matter of right and were not asking for a change in property. Mr. Lawson stated that the reason for the pipestem request was because the area was rural. It would not be in keeping with the area if a normal subdivision was placed there. Mr. Lawson stated that he took issue with the staff report comment about the pipestem lot not being in character with the open area. Three pipestem lots were in keeping with the area according to Mr. Lawson. The development involved 3.7 acres of land and the remainder of the property would remain Mr. and Mrs. Wells' home. The property was planted in a tree farm which would take a number of years to mature. Mr. Wells was not a land speculator. He was a teacher and ran a scuba diving service. Mr. Lawson stated that Mr. Oscar Hendrickson was present to answer questions and represented the County staff.

Mr. Hendrickson informed the Board that he was the Chief of the Site Review Branch of Design Review Division of the Department of Environmental Management. He stated that his office reviewed all subdivision plats that came into the County. He informed the Board that he did not have a problem with this application.

There was no one else to speak in support and no one to speak in opposition.

Page 229, October 28, 1982
RICHARD & JUDITH A. WELLS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-P-116 by RICHARD & JUDITH A. WELLS under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, two of which having width of 6 ft. and one having width of 12 ft. (150 ft. minimum lot width required by Sect. 3-106), on property located at 2740 Hunter Mill Road, tax map reference 37-4(1)pt. of 17, County of Fairfax, Virginia; Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1982; 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-1.
3. The area of the lot is 3.38 acres.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems also recognizing that the residue of the property has an existing house on it as well being farmed as a tree farm at the present time.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

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Mr. Hyland seconded the motion.

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

Page 230, October 28, 1982, Scheduled case of

10:10 A.M. JOHN F. ROOT, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, with proposed corner lot 1 having width of 149 ft., and with an existing dwelling on proposed lot 2 being 16 ft. from edge of pavement of existing street (225 ft. min. corner lot width req. by Sect. 3-E06; 50 ft. min. front yard req. by Sect. 3-E07), located 730 Leigh Mill Rd., R-E, Dranesville Dist., 13-1((1))70, 4.0012 acres, V-82-D-117. (DEFERRED FROM AUGUST 5, 1982 AT THE REQUEST OF THE APPLICANT & FROM SEPTEMBER 16, 1982 TO AMEND VARIANCE & ALLOW READVERTISEMENT).

Ms. Sara Reifsnnyder, an attorney with Blankenship & Keith, 4020 University Drive, Fairfax, represented the applicant. She stated that the subject property contained four acres on Georgetown Pike & Leigh Mill Road. Two houses existed on the property and Mr. Root wanted to subdivide the property into two lots of two acres each with a house on each lot. This would mean having the property line run between the two buildings. Two variances were necessary because of the location of the structures. The corner lot would have a width of 149 ft. The second variance was for lot 2 to be 16 ft. from the nearest edge of Leigh Mill Road. Ms. Reifsnnyder stated that the property had existed since 1902. It was a hardship for Mr. Root not to be able to subdivide because of the buildings that did not meet the setbacks. She stated that the proposed subdivision would not change the status quo and she urged the Board to grant the variances.

There was no one else to speak in support and no one to speak in opposition.

Page 230, October 28, 1982
JOHN F. ROOT

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-D-117 by JOHN F. ROOT under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, with proposed corner lot 1 having width of 149 ft., and with an existing dwelling on proposed lot 2 being 16 ft. from edge of pavement of existing street (225 ft. min. corner lot width req. by Sect. 3-E06; 50 ft. min. front yard req. by Sect. 3-E07) on property located at 730 Leigh Mill Road, tax map reference 13-1((1))70, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1982; 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-E.
3. The area of the lot is 4.0012 acres.
4. That there would be a hardship to the applicant in developing the property without the requested variance.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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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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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed unanimously by a vote of 5 to 0 (Mr. DiGiulian being absent).

Page 231, October 28, 1982, Scheduled case of

10:20 A.M. SANG YONG & BOGNIM CHOI, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport 7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6806 Jerome St., Loisdale Estates Subd., R-3, Lee Dist., 90-4((16))136, 10,504 sq. ft., V-82-L-118. (DEFERRED FROM AUGUST 5, 1982 FOR NOTICES & FROM SEPTEMBER 16, 1982 FOR NOTICES & LACK OF REPRESENTATION).

As the required notices were not in order and there was no one present to represent the applicant, Mr. Hyland moved that the Board pass over the variance until the end of the agenda to ascertain the intentions of the applicant. Mrs. Day seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith) (Mr. DiGiulian being absent).

//

Page 231, October 28, 1982, Scheduled case of

10:30 A.M. ROBERT F. & JUDITH A. ROSENBAUM, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 27 ft. from a street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307), located 1601 Mary Ellen Ct., McLean West Subd., R-3, Dranesville Dist., 30-3((23))22, 13,862 sq. ft., V-82-D-119. (DEFERRED FROM AUGUST 5, 1982 & FROM SEPTEMBER 16, 1982 FOR HEARING BY FULL BOARD).

Mr. & Mrs. Robert Rosenbaum of 1601 Merry Ellen Court in McLean informed the Board that when they had built their three bedroom home in 1971, they had two children. They now had three children. The oldest child needed his own bedroom. Mr. & Mrs. Rosenbaum preferred to put an addition onto the home rather than move. The property behind them was owned by Fairfax County. The lane next to them, Nathaniel Lane, deadended next to their home. They stated that their home was not centered on their lot. The proposed addition would center the house on the property. Mr. Rosenbaum presented a floorplan of the existing house as well as the proposed addition. In addition, he presented a statement from neighbors indicating that they did not have any problem with the addition.

There was no one else to speak in support and no one to speak in opposition.

Page 231, October 28, 1982

Board of Zoning Appeals

ROBERT F. & JUDITH A. ROSENBAUM

R E S O L U T I O N

In Application No. V-82-D-119 by ROBERT F. & JUDITH A. ROSENBAUM under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 27 ft. from a street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307), on property located at 1601 Mary Ellen Court, tax map reference 30-3((23))22, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1982; 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 13,862 sq. ft.
4. That the applicant's property is a corner lot with double front yard requirements and that the proposed addition to the property which borders on Nathaniel Lane would be placed in a location that would be next to a deadend street. In addition, the Board has received evidence from abutting property owners indicating no objection to the addition and the Board has received evidence that an addition at any other portion of the property would be impractical because of the existing patio and the floorplan of the house. The requested variance is minimal in nature.

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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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

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

Page 232, October 28, 1982, Scheduled case of

10:40 EDWIN T. OLIVER, JR., appl. under Sect. 18-401 of the Ord. to allow enclosure
A.M. of existing attached carport into a garage 21 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-307), located 5730 Clarence Ave., Hammer Park Subd., R-3, Mason Dist., 61-4((20))5, 10,609 sq. ft., V-82-M-126. (DEFERRED FROM SEPTEMBER 16, 1982 FOR HEARING BY FULL BOARD).

Mr. Edwin Oliver, Jr. of 5730 Clarence Avenue informed the Board that he was concerned with home safety. He did not have any storage area other than his basement and was concerned about storage of gasoline, insecticides, etc. Mr. Oliver stated that his home had two floors but he had to store this material in the basement. There was not any outside storage available other than the open carport. Mr. Oliver stated that he did not store this material on the carport because kids could get into it. Mr. Oliver stated that he had security problems due to the irregular shape of the lot and the slope of the terrain. For security reasons and for storage, Mr. Oliver wished to enclose his existing carport. Mr. Oliver stated that the garage would not be any larger than the existing carport.

In response to questions from the Board, Mr. Oliver stated that he built the carport in 1976. The reason he built a carport at that time rather than a garage was because of finances. Mr. Oliver stated that it had been designed at that time to handle future enclosures as the inspector had him use a wider brick foundation. Mr. Oliver informed the Board that he had been granted a variance in 1976 in order to build the carport 21 ft. from the front property line. Mr. Oliver stated that he lived on a corner lot and the area had opened up. He stated that he got a great deal of traffic. If he left a hose out or a sprinkler, it disappeared.

There was no one else to speak in support or in opposition.

Page 232, October 28, 1982
EDWIN T. OLIVER, JR.

R E S O L U T I O N

In Application No. V-82-M-126 by EDWIN F. OLIVER, JR. under Section 18-401 of the Zoning Ordinance to allow enclosure of existing attached carport into a garage 21 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-307), on property located at 5730 Clarence Avenue, tax map reference 61-4((20))5, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1982; 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 10,609 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems and has an unusual condition in the location of a storm sewer easement and a double front yard requirement which limits the applicant's buildable area.

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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.

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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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

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

Page 233, October 28, 1982, Scheduled case of

10:50 RICHARD W. MISSELL, appl. under Sect. 18-401 of the Ord. to allow extension and enclosure of existing carport into a 2-car garage and an enclosed porch 9.167 ft. A.M. from side lot line such that side yards total 19.77 ft. (8 ft. min., 24 ft. total min. side yards req. by Sect. 3-207), located 8517 Frost Way, Winterset Subd., R-2(C), Mason Dist., 59-3((15))116, 10,504 sq. ft., V-82-M-127. (DEFERRED FROM SEPTEMBER 16, 1982 FOR HEARING BY FULL BOARD).

Mr. Missell informed the Board that he had a strong need for an enclosed garage. He stated that the proposed location was the only practical one and it would not have an adverse impact on the neighbors. Mr. Missell stated that he had four teenagers living in his home, three of which attended college. There were five cars in the family. He stated that his family did as much auto maintenance themselves as they could. They needed a garage in order to do that maintenance. Mr. Missell stated that cars up on jacks in the driveway did not add to the appearance of the neighborhood. He stated that he proposed to use the existing carport and extend it. The carport had a finished gable roof. It was impractical to remove part of the carport and rebuild it in a different location as it would triple the construction costs. Mr. Missell stated that the garage would have more than the minimum side yard required but it did not meet the total side yard requirement as it fell short by 4 ft. Mr. Missell stated that his next door neighbor's house faced on a cross street. There would be 40 ft. between them. Mr. Missell informed the Board that he intended to build a screened porch behind the garage. If it was built 4 ft. from the garage, it would be allowed by right. However, he asked that it be included in the variance.

In conclusion, Mr. Missell stated that he needed a garage to maintain his vehicles and conceal the eyesore on the carport, etc. from the neighbors. There would be more than 40 ft. between structures which would preserve the spaciousness in the area. Mr. Ribble inquired about the topographic problems cited in the staff report. Mr. Missell stated that there was a steep drop from one corner of his property to the other. During construction, he would have to move the swale from the garage. The area was not flat but he stated that he could control the drainage. The front of the house was at ground level and the back of the house was a walk-out level. The property dropped about 8 ft..

There was no one else to speak in support and no one to speak in opposition.

Page 233, October 28, 1982
RICHARD W. MISSELL

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-M-127 by RICHARD W. MISSELL under Section 18-401 of the Zoning Ordinance to allow extension and enclosure of existing carport into a 2-car garage and an enclosed porch 9.167 ft. from side lot line such that side yards total 19.77 ft. (8 ft. min., 24 ft. total min. side yards req. by Sect. 3-207), on property located at 8517 Frost Way, tax map reference 59-3((15))116, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

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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 October 28, 1982; 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(C).
3. The area of the lot is 10,504 sq. ft.
4. That the applicant's property has exceptional topographic conditions 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 suer 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

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

Page 234, October 28, 1982, Scheduled case of

11:00 ALLEN H. & ELIZABETH W. NORDGREN, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of carport addition to dwelling to 4.3 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), located 1901 Anderson Rd., Pinmit Hills Subd., R-4, Dranesville Dist., 40-1((16))173, 11,200 sq. ft., V-82-D-128. (DEFERRED FROM SEPTEMBER 16, 1982 FOR HEARING BY FULL BOARD).

Mr. Robert S. Huff of 6929 Williamsburg Blvd. in Arlington represented the applicants. He stated that Mr. & Mrs. Nordgren were requesting a variance for shelter of their four vehicles. The carport addition would preserve the area at the rear of the home for a small garden and for recreation. Construction of the carport at the rear of the home would eliminate the back yard. Mr. Huff informed the Board of the topographic problems with the property sloping down from adjoining property about 5 ft. at the rear. Construction of a carport at the rear would be a problem for topographic reasons. The requested variance was for 7/10 ths of a foot. The addition would improve the appearance of the home and the niehgobrhood. By not granting the variance, it would create a hardship for the applicant.

In response to questions from the Board, Mr. Huff stated that 12 neighbors were notified of the variance and not one had commented adversely. The house next door on lot 172 was designed basically the same as the Nordgrens. There was a bedroom with a window facing the proposed carport. However, there were bamboo trees which were 8 to 10 ft. tall along with other bushes to screen the property. Mr. Huff stated that you could not see the house next door at all. The Board questioned the depth of the proposed carport and inquired if any part of it was for storage. Mr. Huff stated that there would be two storage sheds with a walkway at the back. The carport would house three trucks and one station wagon. Two sons of the Nordgrens had a landscaping business from the home. Two of the trucks were used in the business.

Chairman Smith was concerned about the commercial vehicles on the property. Mr. Huff stated that because they did not have employees, the Nordgrens found it necessary to go their separate ways to accomplish their work. There was not any marking on the vehicles. Mr. Huff stated that the variance was only for 7/10ths of a foot to allow the parking of all vehicles and to allow freedom in getting in and out of them without damage to the property. Mr. Hyland stated that the carport could be constructed without a variance by reducing it one foot. Mr. Huff replied that would make it difficult to park the cars without damaging the doors. Mr. Hyland stated that the existing concere slab was located at the same distance as he had proposed the carport to be reduced. Mr. Huff replied that the extra foot was necessary for the footings. Mr. Hyland stated that the home occupation letter did restrict the business to one commercial vehicle.

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There was no one else to speak in support 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-82-D-128 by ALLEN H. & ELIZABETH W. NORDGREN under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 4.3 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), on property located at 1901 Anderson Road, tax map reference 40-1((16))173, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1982; 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 11,200 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and that the Zoning Administrator granted a home occupation permit which required no signs, no storage of equipment of any kind nor the parking of more than one commercial vehicle visible out-of-doors.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. The applicant shall adhere to the requirements granted by the Zoning Administrator in relation to the home occupation license. There are two commercial vehicles currently on the property and the applicant shall make arrangements to park one on another site wherever it is legal.

Mr. Ribble seconded the motion.

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

Page 235, October 28, 1982, scheduled case of

11:10 CHRISTIAN FELLOWSHIP CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-196-77
A.M. for church and related facilities to permit addition of land area and construction of additional parking lot with 171 spaces, located 10237 Leesburg Pike, Dranesville Dist., R-1, 18-2((7))A, B & C, 7.5472 acres, S-82-D-066. (DEFERRED FROM SEPTEMBER 16, 1982 FOR HEARING BY FULL BOARD).

The Board was in receipt of a request for a deferral of the special permit application. Mr. Bill Hicks, an attorney with an office located at 6205 Old Keene Mill Court in Springfield, represented the church. Mr. Hicks informed the Board that some of the neighbors had voiced objections to the request because the church had not fully complied with all of the requirements of the site plan when building the church. Mr. Hicks stated that the church had not been aware of that fact until the County inspectors brought it to their attention. Therefore the church wanted a deferral in order to address the concerns. Mr. Hicks suggested a six month deferral would enable the church to approach the problems and work out the landscaping problems.

It was the consensus of the Board to allow the deferral. The matter was scheduled for May 3, 1983 at 10:00 A.M. without further notice.

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Page 236, October 28, 1982, Scheduled case of

11:20 MICHAEL J. KUHLMANN, appl. under Sect. 18-401 of the Ord. to allow enclosure
A.M. of existing carport into an attached garage and second-story living space
addition over a portion of the garage, all to be located 7 ft. from side lot
line (12 ft. min. side yard req. by Sect. 3-307), located 7111 Catlett St.,
North Spfd. Subd., R-3, Annandale Dist., 80-1((2))5)23, 11,200 sq. ft.,
V-82-A-129, (DEFERRED FROM SEPTEMBER 16, 1982 FOR HEARING BY FULL BOARD).

The Board was in receipt of a letter from the applicant seeking a deferral until November 9, 1982. It was the consensus of the Board to allow the deferral until November 9, 1982 at 12:30 P.M.

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Page 236, October 28, 1982, Scheduled case of

11:30 BOARDMAN SHAW MOWRY, appl. under Sect. 18-401 of the Ord. to allow extension and
A.M. enclosure of carport to 9.4 ft. from the side lot line (12 ft. min. side yard req.
by Sect. 3-307), located 7933 Bayberry Dr., Sherwood Hall Subd., R-3, Mt. Vernon
Dist., 102-1((29))9, 15,490 sq. ft., V-82-V-130. (DEFERRED FROM SEPTEMBER 16,
1982 FOR HEARING BY BULL BOARD).

Mr. Roger B. Mowry acted as agent for his father, Mr. Boardman Shaw Mowry. Mr. Mowry resided at 7933 Bayberry Drive in Alexandria. He stated that he felt it was vital and necessary to modify the carport into a garage for protection of the vehicles and supplies and equipment. In addition, it would provide a parking space for a motorcycle and one car. Mr. Mowry submitted photographs to the Board showing that the present carport barely had enough room to park a narrow car like his Corvette. Additional space was necessary for a normal car and there had to be room to open the car doors. Mr. Mowry also owned a truck which would need extra space. It was not possible to build a garage in the back yard as it was heavily wooded and had drainage problems. Any other area in the yard would require extensive landscaping. Mr. Mowry stated that the house was situated on a pie-shaped lot at an angle. There was only 12 ft. provided between the carport and the side lot line. Mr. Mowry stated that he was seeking a variance of 2.6 ft. which was only necessary at one end of the structure. Mr. Mowry stated that two of his immediate neighbors supported the variance.

In response to questions from the Board, Mr. Mowry stated that he owned the truck and the Corvette in addition to his motorcycle. His father owned one vehicle. There was no one else to speak in support and no one to speak in opposition.

Page 236, October 28, 1982
BOARDMAN SHAW MOWRY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V 82-V-130 by BOARDMAN SHAW MOWRY under Section 18-401 of the Zoning Ordinance to allow extension and enclosure of carport to 9.4 ft. from the side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 7933 Bayberry Drive, tax map reference 102-1((29))9, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1982; 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 15,490 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has converging lot lines. The variance sought is a minimal variance because it is only required for one corner of the proposed expansion.

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.

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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 expize eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

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

Page 237, October 28, 1982, Scheduled case of

11:40 ROBERT & LAURIE HICKERSON, appl. under Sect. 18-401 of the Ord. to allow enlargement and enclosure of carport into two-car attached garage 2.0 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 4991 DeQuincy Dr., Briarwood Subd., R-3, Annandale Dist., 69-1((9))29, 9,331 sq. ft., V-82-A-131. (DEFERRED FROM SEPTEMBER 16, 1982 FOR HEARING BY FULL BOARD).

Mr. Robert Hickerson of 4991 DeQuincy Drive informed the Board that his property was exceptionally narrow. There was 10 ft. between the carport and the lot line. In 1977, the minimum side yard had been 8 ft. and was changed to 12 ft. in 1979. Mr. Hickerson stated that a precedent had been set in 1981 when his neighbor, Richard D. Crosby, was granted a variance. Mr. Crosby's house was situated on a exceptionally narrow lot and there had been 13 ft. to the lot line. Mr. Hickerson stated that he only had 10 ft. to the lot line on his property so that his property was extremely exceptionally narrow. Mr. Crosby's variance was granted and he was now the proud owner of a two car garage. Mr. Crosby lived next door to Mr. Hickerson and was enjoying the full use of his land.

Mr. Hickerson stated that his construction would be a pleasing style and in harmony with the buildings. The granting of the variance would add to the off-street parking required by Article 11 in the Zoning Ordinance. In addition, balance of the structure would be maintained.

The Board members questioned Mr. Hickerson regarding the requested variance. Some of the members were concerned that the garage would be as close as 2 ft. to the line. Mr. Hickerson stated that the two car garage would be 20 ft. wide. Mrs. Day was concerned that the applicant had added a deck onto the back of his house without concern to the carport. Mr. Hickerson responded that the back yard sloped and would not be feasible for a garage. The Board inquired if the applicant could construct an 18 ft. garage. Mr. Hickerson was not certain he would be able to open the car doors.

Mr. Hammack informed the applicant that he was concerned with the request as he felt the Board could only grant a minimal variance. He stated that he lived on a similar size lot and had an "over-sized" one-car garage. Mr. Hammack stated that he could not support the request to 2 ft. from the side lot line and suggested 4 ft. instead. Mrs. Day suggested the applicant enclose the present carport rather than extend it.

There was no one else to speak in support. Mr. Peter O'Brien, a real estate broker and property manager for the house directly to the left of Mr. Hickerson's property, spoke in opposition. He held power of attorney for Colonel and Mrs. Davies. Mr. O'Brien stated that the Davies felt that a variance for the construction of Mr. Hickerson's garage would detract from the aesthetic value and interest value of their property. If a fence was constructed along the line, no one could get to the rear of the property. In response to questions from the Board, Mr. O'Brien stated that the Davies' house was a different model than the Hickersons. The Davies' garage would face the Hickersons but it was located underneath a portion of the living space. There was a bedroom over the garage. The Davies' house was located 16.6 ft. from the line.

R E S O L U T I O N

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In Application No. V-82-A-131 by ROBERT & LAURIE HICKERSON under Section 18-401 of the Zoning Ordinance to allow enlargement and enclosure of carport into two-car attached garage 2.0 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 4991 DeQuincy Drive, tax map reference 69-1((9))29, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1982; 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 9,331 sq. ft.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 enlargement and enclosure of carport into an over-sized garage 7 ft. from the 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

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

Page 238, October 28, 1982, Recessed case of

SANG YONG & BOGNIM CHOI, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport 7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6806 Jerome St., Loisdale Estates Subd., R-3, Lee Dist., 90-4((16))136, 10,504 sq. ft., V-82-L-118. (DEFERRED FROM AUGUST 5, 1982 FOR NOTICES & FROM SEPTEMBER 16, 1982 FOR NOTICES & LACK OF REPRESENTATION).

Mr. Hammack moved to withdraw the application without prejudice for lack of notices and for lack of representation at the hearing. Mr. Hyland questioned whether the Board normally took such action. Chairman Smith advised that the applicant had been put on notice that the hearing would be dismissed for lack of interest unless they complied with the notification requirements. Mr. Hammack withdrew his motion.

Mr. Hyland moved that the Board direct a letter be sent to the applicant or his agent which would indicate that the application would be deferred for a period of one week and that the applicant would be given the opportunity of withdrawing the application without prejudice to some future date and that if the Board did not receive a communication from the applicant or agent within the two week period that the application be dismissed with prejudice. Mr. Hammack seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

// There being no further business, the Board adjourned at 1 o'clock.

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

Daniel Smith
Daniel Smith, Chairman

Approved: Sept. 11, 1984
Date

Submitted to the Board on Sept. 4, 1984

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 9, 1982. The Following Board Members were present: Daniel Smith, Chairman; Ann Day, John Ribble, Paul Hammack, John DiGiulian, and Clark Massie. Gerald Hyland was absent.

The Chairman opened the meeting at 10:00 A.M. and Mrs. Day led the prayer.

10:00 A.M. PAUL R. ROTHWELL, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 1.7 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 7410 Allan Ave., Poplar Heights Subd., R-4, Providence Dist., 40-3((19))66, 10,950 sq. ft., V-82-P-168.

Paul Rothwell presented his application. He stated that he had drainage problems, and the County had put in a storm drain. Any building in the backyard would block the storm drain. Also, many trees would have to be removed. Mr. Rothwell stated that there was an easement thru the back of his property that had a swale. If he constructed on the right side of the house he would interfere with the basement entryway. He had owned the property since 1971. Mr. Rothwell stated that he was an auto mechanic, and had probably repaired most of the neighbors cars at one time or another when they broke down, whether it was late at night or early in the day. He also had a hobby of restoring old cars.

Mr. Dealer, 7414 Allan Avenue, spoke in opposition. He had a concern that this garage might become a commercial establishment and cause the neighborhood to become unsightly. He stated that he lived two houses down from the applicant on the same side of the street. In response to a question from Mr. Hammack, Mr. Dealer stated that all the houses on that side of the street have a drainage problem.

There was no one else to speak in support or opposition.

Page 239, November 9, 1982
PAUL R. ROTHWELL

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-P-168 by PAUL R. ROTHWELL under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 1.7 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), on property located at 7410 Allan Avenue, tax map reference 40-3((19))66, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 9, 1982; 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 10,950 sq. ft.

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

That the applicant has not demonstrated to the satisfaction of the Board that he has the irregular lot shape or the topographical problems shared by the other residents of the neighborhood.

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.

Mrs. Day seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hyland being absent)

10:10 A.M. MALVEN E. SCHNEIDER, appl. under Sect. 18-401 of the Ord. to allow construction of room addition to dwelling to 17.53 ft. from rear lot line and deck addition to proposed room to 11.54 ft. from rear lot line (25 ft. min. rear yard for room addition and 19 ft. min. rear yard for deck addition req. by Sects. 3-407 & 2-412), located 3269 Rose Glen Ct., Carol Square Subd., R-4, Mason Dist., 60-2((42))10, 8,550 sq. ft., V-82-M-151.

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Malven Schneider presented his application. He stated that he wanted to build a Florida room on the back of his home. His lot was on a cul-de-sac and was pie-shaped. The house was set further back on the lot than the code required, and any construction in the rear would require a variance. The house faces due south and has no windows on either end, which restricts air flow. His request for a Florida room would allow access to ventilation and sunlight. He also wanted to request a deck. Mr. Schneider stated that he was the original owner and had owned the property for seven years. Mr. Hammack asked if there was another place the deck could be placed that would not require as much of a variance. Mr. Schneider stated that there was a place to the left of the Florida room, in the corner between the house and the Florida room. Mr. Schneider stated that he was most interested in building the addition, and the deck would probably be eliminated from his plans.

There was no one to speak in support or opposition.

Page 240, November 9, 1982
MALVEN E. SCHNEIDER

Board of Zoning Appeals

R E S O L U T I O N

In Application NO. V-82-M-151 by MALVEN E. SCHNEIDER under Section 18-401 of the Zoning Ordinance to allow construction of room addition to dwelling to 17.53 ft. from rear lot line and deck addition to proposed room to 11.54 ft. from rear lot line (25 ft. min. rear yard for room addition and 19 ft. min. rear yard for deck addition, req. by Sects. 3-407 & 2-412), on property located at 3269 Rose Glen Court, tax map reference 60-2((42))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 November 9, 1982; 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 8,550 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 IN PART 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until extension is acted upon by the BZA.
3. *This application is granted for the room addition only and not the deck.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hyland being absent)

Page 241, November 9, 1982, Scheduled case of:

10:20 A.M. GEORGE BRADSHAW, appl. under Sect. 18-401 of the Ord. to allow construction of garage to dwelling to 10 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4310 Hillier St., Rutherford Subd., R-2, Annandale Dist., 69-2(6)212, 15,000 sq. ft., V-82-A-169.

The Board was in receipt of a letter from the applicant requesting withdrawal. By unanimous vote, it was the consensus of the Board to withdraw the application without prejudice.

Page 241, November 9, 1982, Scheduled case of:

10:30 A.M. EUGENE J. CULLINANE, PRES. OF EUGENE J. CULLINANE, INC., appl. under Sect. 18-406 of the Ord. to allow a 5 ft. 10 in. high brick wall to remain partially in a front yard, and to allow a brick storage structure with average height of 9 ft. to remain in a front yard and on a side lot line (4 ft. max. height for a wall in any front yard req. by Sect. 10-105; accessory structure req. not to be located in any front yard and to have a 10 ft. min. side yard by Sects. 3-407 & 10-105), located 6000 Fort Hunt Rd., Belle Haven Subd., R-4, Mt. Vernon Dist., 83-4(3)112, 5,844 sq. ft., V-82-V-170.

Eugene Cullinane, 4752 Neptune Drive, Alexandria, presented the application. He stated that this was a party wall between two houses, and he had done the construction. He had purchased the property in 1981. This house was on a corner lot, and it did not have any wall or existing privacy fence. A building permit had been obtained for the wall, but he did not realize he would need a variance for the sheds, which were seven feet long and nine feet high. Mr. Cullinane stated that the lot was small with topographical problems. There was a four foot drop and the property sloped down toward the lot in the rear. The fence had been built for privacy and to cut down on noise from the traffic. The sheds were used to keep the trash from blowing onto the street, and for storage of lawn equipment.

There was no one to speak in support or opposition.

Page 241, November 9, 1982
EUGENE J. CULLINANE V-82-V-170

Board of Zoning Appeals

RESOLUTION

In Application No. V-82-V-170 by EUGENE J. CULLINANE, PRES. OF EUGENE J. CULLINANE, INC. Under Section 18-406 of the Zoning Ordinance to allow a 5 ft. 10 in. high brick wall to remain partially in a front yard, and to allow a brick storage structure with average height of 9 ft. to remain in a front yard and on a side lot line (4 ft. max. height for a wall in any front yard req. by Sect. 10-105; accessory structure req. not to be located in any front yard and to have a 10 ft. min. side yard by Sects. 3-407 & 10-105), on property located at 6000 Fort Hunt Road, tax map reference 83-4(3)112, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 9, 1982; and

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.
2. That non-compliance was no fault of the applicant.
3. That the applicant has a substandard lot and the topography which makes it so that it is the only place he can possibly put the shed and wall in connection with the adjoining property.

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

1. 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.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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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.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hyland being absent)

Page 242, November 9, 1982, Scheduled case of:

10:40 A.M. EUGENE J. CULLINANE, PRES. OF EUGENE J. CULLINANE, INC., appl. under Sect. 18-406 of the Ord. to allow a 6 ft. 10 in. high brick wall to remain partially in a front yard, and to allow a brick storage structure with average height of 9 ft. to remain in a front yard and on a side lot line (4 ft. max. height for a wall in any front yard req. by Sect. 10-105; accessory structure req. not to be located in any front yard and to have a 10 ft. min. side yard by Sects. 3-407 & 10-105), located 6009 Woodmont Rd., Belle Haven Subd., R-4, Mt. Vernon Dist., 83-4((3))(1)), 7,032 sq. ft., V-82-V-171.

Mr. Cullinane stated that this was the same fence and shed that was involved in the previous application. He stated that he was not aware he needed a variance for the sheds, until after they had been constructed. He submitted several letters in support from neighbors.

There was no one to speak in support or opposition.

Page 242, November 9, 1982
EUGENE J. CULLINANE V-82-V-171

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-V-171 by EUGENE J. CULLINANE, PRES. OF EUGENE J. CULLINANE, INC. under Section 18-406 of the Zoning Ordinance to allow a 6 ft. 10 in. high brick wall to remain partially in a front yard, and to allow a brick storage structure with average height of 9 ft. to remain in a front yard and on a side lot line (4 ft. max. height for a wall in any front yard req. by Sect. 10-105; accessory structure req. not to be located in any front yard, and to have a 10 ft. max. side yard by Sect. 3-407 & 10-105), on property located at 6009 Woodmont Road, tax map reference 83-4((3))(1)), County of Fairfax, Virginia. Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 9, 1982; and

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.
2. That non-compliance was no fault of the applicant.
3. The applicant has a substandard lot. The applicant built a brick fence and storage shed on the common lot line, being architecturally in keeping with the Williamsburg Colonial atmosphere of the community. The applicant was under the belief that he had a building permit. The building permit #8223180500 was applied for on August 19, 1982 but was not issued.

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

1. 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.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirement would cause unreasonable hardship upon the owner.

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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.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hyland being absent)

Page 243, November 9, 1982, Scheduled case of:

10:50 A.M. JUNE C. STATHAM, appl. under Sect. 18-401 of the Ord. to allow construction of a brick masonry storage structure 11 ft. 8 in. high on the rear lot line (11 ft. 8 in. min. rear yard req. by Sect. 10-105), located 2100 Forest Hill Rd., Belle Haven Subd., R-4, Mt. Vernon Dist., 83-3(14)(19)18, 8,952 sq. ft., V-82-V-172.

Eugene Cullinane, 4752 Neptune Drive, Alexandria, represented the applicant. He stated that Ms. Statham had seen the fence and shed combination he had built on Ft. Hunt Road, and asked him to build one for them. A building permit was obtained, which showed the brick wall. This had not yet been constructed, because he had found out he needed a variance. Mr. Cullinane stated that this structure would straddle two lots, and he owned the back lot. The party wall separated the two sheds. The lot is small with a shallow backyard, and the house has no outside entrance where equipment could be brought in to be stored.

There was no one to speak in support or opposition.

Page 243, November 9, 1982
JUNE C. STATHAM

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-V-172 by JUNE C. STATHAM under Section 18-401 of the Zoning Ordinance to allow construction of a brick masonry storage structure 11 ft. 8 in. high on the rear lot line (11 ft. 8 in. min. rear yard req. by Sect. 10-105), on property located at 2100 Forest Hill Road, tax map reference 83-3(14)(19)18, County of Fairfax, Virginia. Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 9, 1982; 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 8,952 sq. ft.
4. The applicants' property is exceptionally small and the position of the house does not lend itself to a shed of this size being easily constructed within the set back lines. It is not detrimental to the adjacent property owner that backs up to it. The proposed shed is 18 sq. ft. in size, and under the Ordinance, sheds are allowed up to 200 sq. ft. This is a very minimal size shed being constructed and it is part of a fence.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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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JUNE C. STATHAM
(continued)

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2. This variance shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1. (Mr. Smith) (Mr. Hyland being absent)

Page 244, November 9, 1982, Scheduled case of:

11:00 A.M. EUGENE J. CULLINANE, PRES. OF EUGENE J. CULLINANE, INC., appl. under Sect. 18-401 of the Ord. to allow construction of a brick masonry storage structure 11 ft. 8 in. high on the rear lot line (11 ft. 8 in. min. rear yard req. by Sect. 10-105), located 2099 Woodmont Rd., Belle Haven Subd., R-4, Mt. Vernon Dist., 83-3(14)(19)1, 8,000 sq. ft., V-82-V-173.

Mr. Cullinane stated that this was the same privacy fence involved in the previous application.

Page 244, November 9, 1982
EUGENE J. CULLINANE V-82-V-173

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-V-173 by EUGENE J. CULLINANE, PRES. OF EUGENE J. CULLINANE, INC. under Section 18-401 of the Zoning Ordinance to allow construction of a brick masonry storage structure 11 ft. 8 in. high on the rear lot line (11 ft. 8 in. min. rear yard req. by Sect. 10-105), on property located at 2099 Woodmont Road, tax map reference 83-3(14)(19)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 9, 1982; 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 8,000 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow, and has 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 1. (Mr. Smith) (Mr. Hyland being absent)

//The Board went into Executive session at 11:45 A.M. with Robin Weiss, Assistant County Attorney, to discuss legal matters on a court case involving Clifford Taylor and Willow Springs Nursery. The Board returned at 12:00 Noon to take up the scheduled agenda.

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Page 245, November 9, 1982, Scheduled case of:

11:10 A.M. MAYWOOD BUILDING CORPORATION & CAMM LIMITED PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow subdivision of industrial park into 10 lots with existing buildings on some of the proposed lots located at the following distances from their respective front lot lines; parcel 2; 26.2 ft.; parcel 4: 25.9 ft.; parcel 7: 25.3 ft. & 35.5 ft.; parcel 8: 26.0 ft.; parcel 9: 26.0 ft. and parcel 10: 28.7 ft. (40.0 ft. min. front yard req. by Sect. 5-407), on property located at 7329-7347, 7350A-7350G, 7351A, 7351M, 7351N-R, 7361A, 7361L, 7361M-Q, 7370A-E, 7371I, 7371K-M, 8920-8938 Lockport Place, No. Va. Industrial Park, I-4, Mt. Vernon Dist., 108-1((1))1B, 1C & 1D, 26.881 acres. V-82-V-174.

Bill Donnelly with the law firm McCandlish, Lillard, Rust and Church, 4069 Chain Bridge Road, Fairfax, represented the applicant. He stated that these variances were necessary to subdivide and re-finance an existing warehouse complex. The property was built under common ownership over the years, and at the time the warehouses were built they met the current setback requirements. Mr. Donnelly stated that there was no new construction proposed, and the subdivision would not aggravate the existing setbacks. He stated that this was the only realistic approach in order to have each building standing on its own lot.

There was no one to speak in support or opposition.

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Board of Zoning Appeals

MAYWOOD BUILDING CORPORATION & CAMM LIMITED PARTNERSHIP
R E S O L U T I O N

In Application No. V-82-V-174 by MAYWOOD BUILDING CORPORATION & CAMM LIMITED PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow subdivision of industrial park into 10 lots with existing buildings on some of the proposed lots located at the following distances from their respective front lot lines; parcel 2: 26.2 ft.; parcel 4: 25.9 ft.; parcel 7: 25.3 ft. & 35.5 ft.; parcel 8: 26.0 ft.; parcel 9: 26.0 ft. and parcel 10: 28.7 ft. (40.0 ft. min. front yard req. by Sect. 5-407), on property located at 7329-7347, 7350A-7350G, 7351A, 7351M, 7351N-R, 7361A, 7361L, 7361M-Q, 7370A-E, 7371I, 7371K-M, 8920-8938 Lockport Place, tax map reference 108-1((1))1B, 1C, 1D, County of Fairfax, Virginia, Mrs. Day moved that the Board of Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 9, 1982; 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 I-4.
3. The area of the lot is 26.881 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. The subdivision is necessary for financing and to legally convey individual buildings to separate purchasers. The said warehouse complex was constructed over a period of years in conformance with the current Zoning Ordinances and the applicant met these requirements. Each parcel now exceeds 25 ft. from the street line. The subdivision will be subject to the requirements of the Subdivision Ordinance. The variance is on lots having existing buildings in conformity with the submitted plat dated July 1, 1981, revised November 3, 1982 by Fred T. Wilburn, Jr., Certified Land Surveyor.

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

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

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2. This variance shall expire eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hyland being absent)

//The Board recessed at 12:15 P. M. for lunch and a meeting with Philip Yates and George Symanski regarding the Occoquan study. The Board returned at 1:45 P.M. to take up the scheduled agenda.

Page 246, November 9, 1982, Scheduled case of:

11:20 A.M. WAYNE H. STILLWAGON, appl. under Sect. 18-406 of the Ord. to allow detached shed to remain 1.3 ft. from side lot line (10 ft. min. side yard req. by Sects. 3-407 & 10-105), located 6609 Palomino St., Springfield Estates Subd., R-4, Lee Dist., 80-4((5))(15)20, 8,445 sq. ft., V-82-L-175.

Susan Pessner, 82148 Old Court House Road, Vienna, represented the applicant. She stated that Mr. Stillwagon had built this shed to accommodate equipment for the Boy Scouts of America. It was located on that side of the lot because of drainage problems, and for accessibility. Mr. Stillwagon had called the County about a building permit and the location of the shed was never discussed. He was told a building permit was not required.

Mrs. Day stated that her son's house was two doors down from this lot, and she had gone and taken a look at the property. She stated that it was a very lovely, well maintained house, however, the shed was of unpainted wood. There was a hedge between Mr. Stillwagon's property and the adjoining property, and this shed was right up against the hedge. There was no way he could walk around the shed for maintenance.

Ms. Pessner stated that she had advised the applicant not to paint the shed, or spend any further funds on the shed until such time he was granted a variance. The shed would be painted the same color as the house if the application is granted. Ms. Pessner submitted pictures to the Board of other sheds located within a block of the property. The deck that was located to the rear of the property was built without a building permit first being obtained. She stated that the setbacks had been met, and Mr. Stillwagon would get a building permit immediately.

There was no one to speak in support or opposition.

Page 246, November 9, 1982
WAYNE H. STILLWAGON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-V-175 by WAYNE H. STILLWAGON Under Section 18-406 of the Zoning Ordinance to allow detached shed to remain 1.3 ft. from side lot line (10 ft. min. side yard req. by Sects. 3-407 & 10-105), on property located at 6609 Palomino Street, tax map reference 80-4((5))(15)20, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 9, 1982; and

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.
2. That non-compliance was no fault of the applicant.
3. There are drainage problems that would prevent the shed from being located in another portion of the lot. It would be very expensive for the applicant to have to move the shed.

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

1. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to use and enjoyment of other property in the immediate vicinity.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hyland being absent)

Page 247, November 9, 1982, Scheduled case of:

11:30 A.M. MARY & HENK WISKER, appl. under Sect. 18-406 of the Ord. to allow a 7 ft. high opaque board fence to remain along one street line and around the corner to the other street line of a corner lot (4 ft. max. fence height in front yard req. by Sect. 10-105; 3 1/2 ft. max. height for structures obstructing lateral vision within 30 ft. from the corner of a corner lot req. by Sect. 2-505), located 8416 Revatom Ct., Providence Dist., R-3, 49-2(1)11, 16,245 sq. ft., V-82-P-176.

Mary Wisker, presented the application. She stated that along the side of her property on Gallows Road there used to be a natural shrub area. When Gallows Road was widened to four lanes, a portion of her property was taken, and the shrub area was taken out. This took away from the privacy of the property. Ms. Wisker stated that she had a pool, and because the property sat below street level, the three and a half foot fence that is allowed would not be a good barrier for noise and privacy. Ms. Wisker had letters from neighbors stating that the existing fence did not obstruct their view of the road or hinder their sight distance. Creative Carpentry had installed the fence. In response to a question from Mr. Ribble, Mary Wisker stated that 650 feet were taken from the property when Gallows Road was widened. They had been paid by the State Highway Department for the land that had been taken.

David Nash, from Creative Carpentry, spoke regarding the application. He stated he had called the inspections office for more information and talked to a gentleman regarding the construction of the fence. He had been told the fence could be as high as he wanted to build it, as long as it was within the property line. During construction of the fence at the point where Revatom Court and Gallows Road intersect, Mr. Nash had angled it, thinking in terms of traffic and sight distance.

Leigh Anglin, a neighbor of the Wiskers, spoke in support. She stated that she lived on Revatom Court, and the fence did not obstruct her vision when she was pulling in or out of the court.

There was no one else to speak.

Page 247, November 9, 1982
MARY & HENK WISKER

Board of Zoning Appeals

RESOLUTION

WHEREAS, Application No. V-82-P-176 by MARY & HENK WISKER under Sect. 18-406 of the Fairfax County Zoning Ordinance to allow a 7 ft. high opaque board fence to remain along one street line and around the corner to the other street line of a corner lot (4 ft. max. fence height in front yard req. by Sect. 10-105; 3 1/2 ft. max. height for structures obstructing lateral vision within 30 ft. from the corner of a corner lot req. by Sect. 2-505), on property located at 8416 Revatom Court tax map reference 49-2(1)11, County of Fairfax, Virginia, has been property filed in accordance with all applicable requirements, and,

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 9, 1982; and

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

- 1 That non-compliance was the result of an error and was no fault of the applicant. It occurred because of the information obtained by the builder from the County with respect to having a building permit.

2. To remove the fence would cause a hardship on the owner. We have had testimony that the height and location of the fence do not obstruct vision. The fence does sit below the street grade level so that it is not as high as its actual height from the ground.

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

1. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to use and enjoyment of other property in the immediate vicinity.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hyland being absent)

Page 248, November 9, 1982, Scheduled case of:

11:40 A.M. ROBERT T. MACONIE, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 2.5 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), located 7310 Venice St., Falls Hill Subd., R-3, Providence Dist., 40-3(3)53, 11,069 sq. ft., V-82-P-177.

Robert Maconie presented his application. He stated that there were topography and drainage problems on his lot. The lot gradually sloped uphill, and was so steep that at one point in the backyard, a balcony coming out of the second story bedroom would be even with the back. The only flat place on the lot is the area where the house was constructed. Mr. Maconie stated that the lot was also narrow and pie-shaped. Behind the lot was a wooded area with several hundred yards of run-off. There are serious erosion problems on this lot, and a lot of dense ground cover had to be planted. The carport would be open so as to have a minimal effect on the drainage.

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

Page 248, November 9, 1982 Board of Zoning Appeals
ROBERT T. MACONIE

R E S O L U T I O N

In Application No. V-82-P-177 by ROBERT T. MACONIE Under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 2.5 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), on property located at 7310 Venice Street, tax map reference 40-3(3)53, 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 9, 1982; 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 11,069 sq. ft.
4. That the applicant has exceptional topographic and drainage problems across the rear and down the west side of the property.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 1. (Mr. Smith) (Mr. Hyland being absent)

Page 249, November 9, 1982, Scheduled case of:

11:50 A.M. WILLIAM L. BERRY & COMPANY, INC., appl. under Sect. 3-C03 of the Ord. for modification of minimum yard requirements for R-C lot, located 11407 Havenner Rd., R-C, Springfield Dist., Fairfax Station Subd., 76-2((7))643, 25,002 sq. ft., S-82-S-079.

Frank McDermott, an attorney with Hazel, Beckhorn and Hanes, represented the applicant. He stated that as of the date of the down-zoning to R-C by the Board of Supervisors of this entire subdivision, the developers of the subdivision had recorded over a period of five years 466 lots and had built and occupied in excess of 300 lots. This subdivision is located in the northeastern corner of the Occoquan water shed, and had in place the facility that was called for as being ideal for the protection of the water. Mr. McDermott presented an aerial photograph to the Board showing the topography of the land, the common open space provided, and the preservation of trees. Mr. McDermott stated that Fairfax Station was presently being built in R-1 Cluster. The provisions before them pursuant to the provisions adopted by the Board of Supervisors on an emergency basis, is a request to grant a special permit to modify the side and front yard setbacks in the R-C District.

There was no one to speak in support or opposition.

Page 249, November 9, 1982

Board of Zoning Appeals

WILLIAM L. BERRY & COMPANY, INC.

RESOLUTION

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-S-079 by WILLIAM L. BERRY & COMPANY, INC. under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for R-C lot, located at 11407 Havenner Road, tax map reference 76-2((7))643, 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 on November 9, 1982; 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-C.
3. The area of the lot is 25,002 sq. ft.
4. This application refers to the new Sect. 8-913 of the Ord. which pertains to modification of the minimum yard requirements in the R-C district.
5. The subject property was the subject of final plat approval prior to July 26, 1982.
6. This modification will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R-C Districts as contained in Section 8-913 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED for the modification of the minimum front yard requirement by 9.5 feet.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hyland being absent)

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Page 250, November 9, 1982, Scheduled case of:

12:10 P.M. KINDER CARE LEARNING CENTERS, INC., appl. under Sect. 3-303 of the Ord. for a child care center, located N. side of Burke Lake Rd., W. of intersection of Lee Chapel Rd., R-3, Springfield Dist., 78-3((1))pt. of 31, 49,060 sq. ft., S-82-S-080. **250** **** (Zoning Ordinance was amended which now requires applicant to file for special exception.**

It was the consensus of the Board to withdraw the above referenced application due to the fact that the Zoning Ordinance had been amended which now required the applicant to file for a special exception.

Page 250, November 9, 1982, Scheduled case of:

12:20 P.M. APPLETREE, INC., appl. under Sect. 3-203 of the Ord. to amend S-71-79 for a day care center to permit change of name of permittee, located 9655 Blake Ln., Willow Point Subd., R-2, Providence Dist., 48-3((19))2, 24,329 sq. ft., S-82-P-089.

Peter Klaasen presented the application. He stated that he and his wife were the owners of the day care center, and his wife supervised the day to day operation. He stated that the accountant for the business had advised him it would be advantageous to set up a corporation. He had filed the papers with the State Corporation Commission, and a certificate had been issued. This application would not change the operation procedures of the day care center.

There was no one to speak in support or opposition.

Page 250, November 9, 1982
APPLETREE, INC.

Board of Zoning Appeals

R E S O L U T I O N

Mr. Ribble made the following motion:

WHEREAS, Application No. S-82-P-089 by APPLETREE, INC under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-71-79 for a day care center to permit change of name of permittee, located at 9655 Blake Lane, tax map reference 48-3((19))2, 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 on November 9, 1982; and

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

1. That the owner of the property is Peter & Wilhelmina A. Klaasen.
2. The present zoning is R-2.
3. The area of the lot is 24,329 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

WHEREAS, the Board of Zoning Appeals 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. All previous conditions of permit #S-71-79 not altered by this application shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. Hyland being absent)

Page 251, November 9, 1982, Scheduled case of:

12:30 P.M. MICHAEL J. KUHLMANN, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport into an attached garage and second-story living space addition over a portion of the garage, all to be located 7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7111 Catlett St., North Spfd. Subd., R-3, Annandale Dist., 80-1((2))(5)23, 11,200 sq. ft., V-82-A-129. (DEFERRED FROM OCTOBER 28, 1982 AT REQUEST OF THE APPLICANT.)

Michael Kuhlmann presented the application. He stated that he wanted to enclose an existing carport, and would not build any closer to the lot line than he already was. Chairman Smith inquired as to whether the carport slab would support a second-story addition. Mr. Kuhlman replied that the previous owner had put down a new concrete slab and he intended to strengthen the trusses. Also, a building inspector would be responsible for inspecting all phases of the construction. This was a brick colonial home about 23 years old.

There was no one to speak in support or opposition.

Page 251, November 9, 1982
MICHAEL J. KUHLMANN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-A-129 by MICHAEL J. KUHLMANN under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport into an attached garage and second-story living space addition over a portion of the garage, all to be located 7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 7111 Catlett Street, tax map reference 80-1((2))(5)23, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 9, 1982; 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 11,200 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing carport and that the second-story addition to the living space would not be easily added to any other portion of the structure. The applicant will maintain the ingress and egress and the garage will be enclosed.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law: THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1. (Mr. Smith) (Mr. Hyland being absent)

Page 252, November 9, 1982, Scheduled case of:

12:40 P.M. SANG YONG & BOGNIM CHOI, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport 7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6806 Jerome St., Loisdale Estates Subd., R-3, Lee dist., 90-4(16)136, 10,504 sq. ft., V-82-L-118. (DEFERRED FROM OCTOBER 28, 1982 FOR LACK OF NOTICES & REPRESENTATION AND TO ALLOW APPLICANT TIME TO WITHDRAW PRIOR TO BOARD'S DISMISSAL.)

It was the consensus of the Board to deny the request without prejudice for the failure of the applicant to appear and show a hardship.

Page 252, November 9, 1982, AFTER AGENDA ITEMS:

CLEO Y. ADKERSON & HOWARD F. YOUNG/V-81-M-043: The Board was in receipt of a letter from Mr. Young requesting a six month extension for the above referenced permit. He had filed a subdivision plan with the Department of Environmental Management and was awaiting their approval. It was the consensus of the Board to grant the request for six months.

Page 252, November 9, 1982, AFTER AGENDA ITEMS:

The Board approved the BZA minutes as presented for March 10, 1981.

//The Board was in receipt of a copy of a Court order from Barnard F. Jennings appointing Clark L. Massie as a member of the Board of Zoning Appeals effective October 26, 1982 to fill the unexpired term of John Yaremchuk, expiring February 18, 1983.

// There being no further business, the Board adjourned at 3:15 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Sept. 6, 1984

APPROVED: Sept. 11, 1984

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 16, 1982. All Board Members were present; Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack and Clark L. Massie.

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled case of:

9:55 A.M. PARADISE CHILD'S HAVEN, INC., appl. under Sect. 3-403 of the Ord. to amend S-80-A-065 for child care center to permit addition of modular nursery building to existing facilities, increase maximum number of children to 87, and change name of permittee, located 4616 Ravensworth Rd., R-4, Annandale Dist., 71-1(1)63, 41,282 sq. ft., S-82-A-021. (DEFERRED FROM MAY 11, 1982 FOR NOTICES; AND FROM JUNE 29, 1982; JULY 27, 1982 AND SEPTEMBER 21, 1982 FOR FULL BOARD).

Mr. Larry Becker, an attorney with offices located at 1427 Dolley Madison Blvd. in McLean, represented the applicant. He explained that the facility was a day care center which had been in existence for two years. They were asking for an increase in children to 87. In order to accommodate the number of children, the applicant proposed to build a modular unit to the residence. The facility was presently housed in a converted personal residence which was 34 years old. It was located across the street from a school and a church. There was a large vacant lot to the rear of the property and the only residential properties were to the east. Mr. Becker stated that the yard requirement would still be met even with the construction of the modular unit.

The staff had recommended that if the request were granted, the applicant provide screening and transitional barriers to be erected on the east side of the property. The staff was also concerned with the traffic flow and felt that the increase in children would make the traffic situation worse. Mr. Becker informed the Board that the traffic flow had decreased in the last several years. In addition, 50 to 75% of the clientele for the day care center lived in the immediate area so that the parents would be using the roads anyway. Another 13% of the children walked to the facility. Accordingly, any traffic increase would be minimal and would not create additional traffic congestion. All of the vehicles would not arrive at the same time. Mr. Becker stated that they had taken a survey over a period of one month and the maximum average of cars arriving at the site in a 15 minute period were four vehicles.

With respect to the number of employees, Mr. Becker stated that no new employees were anticipated. He informed the Board that a lot of part-time employees had become fulltime help. There was one adult for every ten children. Mr. Becker stated that the only increase would be in the number of hours for the present employees. There would not be any additional traffic trips generated by the employees. At present, there were only eight employees on site at any one time. With the increase in children, the number of employees on site would increase to about 9 or ten.

Regarding the technical requirements for improving the traffic flow pattern as outlined in the staff report, Mr. Becker stated that the present entrance was wide enough and had sufficient room. He stated that the owners were more than happy to construct an additional 6 ft. fence all around the residential area. In addition, they would add additional evergreens to deaden the sound. Behind the property were 1 1/2 acres of heavily wooded land which was vacant.

Mr. Becker stated that the child care center served a good community use and there was a great need for child care in the area. He stated that there was an average of six persons a day who visited the center trying to enroll their children. The center was having to refuse the parents. Mr. Becker informed the Board that this center was more than just a baby-sitting service. The center provided the children with stimulated activities and field trips. They visited the local parks and museums. The majority of the children at the center were between 3 and 7 years of age.

Mr. Becker stated that the center had always passed all of its inspections. The owners were requesting the increase because of a financial need. He stated that the owners were entitled to make a profit. The owners were more than willing to accommodate the neighbors by putting up additional barriers. Mr. Becker stated that when the center was first before the BZA, there were 40 to 50 in support and only 2 to 3 in opposition. The center was now requesting an additional 30 children and Mr. Becker understood that there was some opposition to the increase. He stated that if the BZA could not approve 30 children, the owners would be able to accept an increase of 22 in order to put the center on a profitable basis. In response to questions from the Board, Mr. Becker stated that the modular building proposed for the site would house 45 children with an additional bathroom. In its present design, it would house 30 children.

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There was no one else to speak in support. The following persons spoke in opposition. Mr. James F. Morris, Jr. of 4622 Ravensworth Road stated that he lived two doors from the child care center. He doubted that the traffic figures were accurate. Traffic on Backlick Road had quadrupled since 1981. There was a tremendous amount of traffic going from Braddock Road to Little River Turnpike to Columbia Pike to Washington, D.C. Mr. Morris stated that the number of cars had not reduced and he suggested that the Board get a current count of traffic on Ravensworth Road. Mr. Morris doubted that 50 to 75% of the parents of the child care center lived in the Ravensworth area. Mr. Morris stated that there was a lot of traffic on Ravensworth which presented a safety problem. Mr. Morris stated that there were four homes to the rear of the wooded area of the child care center. The homes received a lot of noise from the center. Mr. Morris stated that the property was not vacant as indicated by Mr. Becker. There were 12 day care centers within a 1 to 2 mile radius of the Paradise Child's Haven. Most of the other day care centers were located in churches. Mr. Morris informed the Board that it had to stop commercial business in residential areas. Mr. Morris stated that the business was treated as a tax shelter and he had little concern about the dentist living in Maryland. Mr. Morris asked for consideration of the neighbors in the area.

The next speaker was M-s. Thu-Trang T. Brunk of 4620 Ravensworth Road. She resided 30 ft. from Paradise Child's Haven and was an adjacent property owner. She presented the Board with a petition in opposition of the increase which was signed by 33 homeowners. Mrs. Brunk questioned the number of patrons of Paradise who lived nearby. She stated that the child care center was a commercial business and did not close for holidays and was open all year round. She stated that the neighborhood children went to school in the immediate vicinity. There were other day care centers in the area to take care of community need. Mrs. Brunk complained about the three two-day weekend community yard sales held on the center lot. In addition, she stated that the center held picnic parties that were noisy and blocked cars. Mrs. Brunk stated that Paradise Haven was doing a disservice to the community.

Mrs. Ollie L. May of 7500 Davian Drive also spoke in opposition. She stated that her property angled to the property of Paradise Child's Haven. Mrs. May stated that she represented a number of people of Davian Pines. She stated that the traffic issue had already been covered. However, she informed the Board that she had two cars hit within the last 7 months. Two fences had been knocked down by traffic and another neighbor had a fence knocked down. Mrs. May stated that she owned german shepherds and had a fear that they were capable of jumping the fence. She stated that her dogs played ball with her children and wanted to be part of the ballgame. Mrs. May stated that the adults at the child care center do not correct the children. The children would kick a ball into the dogs. Three weeks ago, a child had climbed the fence to get the ball and could not get back over the fence on his own. Mrs. May referred to the yard sales held at Paradise Child's Haven. In addition, there were sales of tropical plants. Mrs. May was afraid that if the BZA allowed the increase and the modular home, there would be another increase shortly. Mrs. May stated that the number of children had increased over the years and so had the traffic.

In response to questions from the Board, Mr. Becker stated that the owners of the property had indicated that they held a parents appreciation day which had been referred to as a picnic. Mr. Becker stated that he had suggested that in the future these type of activities should be held elsewhere. He stated that there had been a one day yard sale to buy playground equipment for the children. The owners were not aware of a plant sale. Possibly, it was an unauthorized use of the property. Mr. Becker stated that the people in opposition had been aware of the child care center when they bought their property. The property was owned by Pelhowski and Lawrence. Paradise Child's Haven became incorporated in 1980. The agent for the corporation was Mrs. Sandra Lawrence of 5310 Nutting Drive in Springfield.

In rebuttal to the testimony, Mr. Becker stated that the adults did not allow the children to leave the fenced area. If a ball strays, the aides go after it. Mr. Becker stated that the erection of a 6 ft. fence would correct that situation.

Mr. DiGiulian moved that the application be granted in part with the standard six limitations and (7) that the number of children be limited to 79 which was increase of 22; (8) that the hours of operation be from 7 A.M. to 6 P.M., Monday through Friday only; (9) that the number of parking shall be 15; (10) that the number of employees shall be 15; (11) that the entrance to Ravensworth Road be constructed to meet VDH&T standards; and (12) that the applicant provide screening around the southern and western boundary lines to the satisfaction of the Director of Environmental Management and to enclose the children's play area with a 6 ft. fence. Mr. Ribble seconded the motion for discussion purposes only. Mr. Hammack stated that he had abstained because he had a business relationship with Mr. Becker. Mrs. Day stated that she could support the change in name but not to allow the addition to the building or the increase in children because of the testimony about traffic, noise and security of the children. Chairman Smith stated that it appeared that the increased enrollment was questionable and that the construction of a modular building in a residential area was not in keeping with the residential character of the area. He stated that he could not support the building or increase in children but had no problem with the name.

The vote on the motion to grant in part failed by a vote of 1 to 5 with 1 abstention (Mr. Hammack).

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R E S O L U T I O N

Mr. Hyland made the following motion:

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WHEREAS, Application, Application No. S-82-A-021 by PARADISE CHILD'S HAVEN, INC., under Section 3-403 of the Fairfax County Zoning Ordinance to amend S-80-A-065 for child care center to permit addition of modular nursery building to existing facilities, increase maximum number of children to 87, and change name of permittee, located at 4616 Ravensworth Road, tax map reference 71-1((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 November 16, 1982; 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. That the area of the lot is 41,282 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 IN PART (to allow the change of name of permittee only) with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. All other provisions of S-80-A-065 not altered by this resolution shall remain in effect.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. DiGiulian) with 1 abstention (Mr. Hammack).

Page 255, November 16, 1982, Scheduled case of

10:00 LARRY N. & LAURA LEE WILEY, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of deck addition to dwelling to 17.0 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 4119 Nomis Drive., The Knolls Subd., R-3, 58-4((34))6, Annandale Dist., 11,020 sq. ft., v-82-A-142. (DEFERRED FROM OCTOBER 5, 1982 FOR NOTICES).

Mr. David Counts of Vienna, Va. represented the applicants. The lot was narrow and the Wileys desired a deck which would come to 17 ft. from the rear lot line. The rear yard requirement was 25 ft. but the Ordinance allowed a 6 ft. extension into that setback. Mr. Counts stated that the Wiley were really encroaching only 2 ft. of the rear setback. Chairman Smith stated that it was an 8 ft. variance. Mr. Counts stated that there was an easement along the rear property line that would provide a buffer for the deck. The lots to the rear were the Starlit Estates subdivision.

Chairman Smith asked for the hardship and Mr. Counts stated that he did not know whether one existed. Chairman Smith stated that the applicants could build a 10 ft. deck without any limitations on the length of it. Mr. Counts stated that a 10 ft. deck would not provide

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the same amount of room. The request was not in violation of the spirit of the Ordinance which was to prevent decks from being too close to the property line. Mr. Counts stated that the 12 ft. easement would never be developed. Since the applicants were only asking for a 2 ft. difference, the spirit of the Ordinance was not in jeopardy.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-A-142 by LARRY N. & LAURA LEE WILEY, under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 17.0 ft. from rear lot line (19 ft. minimum rear yard req. by Sects. 3-307 & 2-412), on property located at 4119 Nomis Drive, tax map reference 58-4((34))6, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing hearing was held by the Board on November 16, 1982; 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 11,020 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. Hyland seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 256, November 16, 1982, Scheduled case of

10:10 FOX HUNT SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-219-79
A.M. for community tennis & swim club to permit addition of deck, extension of bath-house porch & addition of brick storage area to existing facilities, located 7024 Spaniel Rd., Orange Hunt Estates Subd., R-2, 88-4((2))D & 7A, Springfield Dist., 5.83655 ac., S-82-S-073. (DEFERRED FROM OCTOBER 5, 1982 FOR NOTICES).

As there was still a problem regarding notice, the Board deferred the special permit application until December 7, 1982 at 11:20 A.M.

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Page 256, November 16, 1982, Scheduled case of

10:20 VICTOR SMITH, JR., & MARLENE H. SMITH, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of a carport addition to dwelling to 2.5 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), and of a 13 ft. high detached garage 5.0 ft. from a side lot line and from the rear lot line (10 ft. min. side yard and 13 ft. min. rear yard req. by Sects. 3-407 & 2-412), located 6313 Virginia Hills Ave., Virginia Hills Subd., R-4, Lee Dist., 82-4((14))10)23, 11,077 sq. ft., V-82-L-101. (DEFERRED FROM JULY 29, 1982; SEPTEMBER 21, 1982 AND OCTOBER 21, 1982 FOR FULL BOARD).

Mrs. Marlene Smith of 6313 Virginia Hills Avenue presented the Board with some additional photographs. She informed the Board that the property was pie-shaped with an irregular lot line slanted to one side. The house was situated at an angle on the property. A hill ran the entire left length of the property for about 13 ft. wide. Mrs. Smith stated that construction of a garage/carport would be in keeping with the area. It would be constructed in accordance with the original carport and would follow the style of the house. In response to questions from the Board, Mrs. Smith stated that the large garage was necessary in order to store cars that were not driven everyday. The photographs showed a shed about 5 ft. off of the property line. Mrs. Smith stated that because of the slope of the property, there was

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no where else to build the garage except where it was proposed. Mrs. Smith explained that she and her husband owned five cars. They proposed to have a carport and a detached garage. They did not have an existing carport. The carport was 37 ft. long and because of the pie-shaped lot would be 2.5 ft. from the side lot line. The carport would be used to house two automobiles which were driven daily. The garage in the back would not be used for the daily vehicles but for the automobiles which they restored. She showed the Board pictures of a truck they had restored.

When asked about the adjoining property to the right, Mrs. Smith stated that it was property very similar to hers. They did not have a garage or a carport. Their bedrooms would face the proposed carport. When questioned as to whether there was any property in the area that had both a carport and a garage, Mrs. Smith stated that there was one on the parkway but it did not have the configuration her lot did. It had a carport on one side of the house with a garage on the other. There were about 10 to 12 properties in the community that had garages built to 2 ft. from the property line.

Mr. Smith informed the Board that he rebuilt corvairs, years 60 through 64. On occasion, he has pulled and rebuilt engines. Mr. Smith stated that he presented his cars in antique car shoes. There was not a driveway proposed to the back garage. However, Mr. Smith did plan to build two concrete sidewalks in for tread paths. The proposed carport would be the height of the house to conform with the existing roofline.

There was no one else to speak in support. Mr. David Nash represented his father, Mr. Harry Nash, of Virginia Hills Avenue. He was in opposition to the proposed variance. Mr. Nash presented the Board with photographs of the Smith property. His parents were the original owners since 1952. Their major concern was that they bought their property because of the view of Alexandria. They were concerned that the granting of the variance would cause their property value to go down. Mr. Nash stated that the length of the carport would extend 10 ft. beyond the house. The proposed garage was too large for the lot. Mr. Nash stated that there was nothing to indicate that the Smiths would continue to live on the property. He was concerned about commercial repair of vehicles. There was debris collected from the cars. Mr. Nash stated that the garage was too large and the carport was too close to his parents' property. They were worried about fire and afraid of the noise factor.

In response to questions from the Board, Mr. Nash stated that his parents owned lot 22 at 6401 Virginia Hills Avenue. Mr. Nash stated that the peak of the proposed garage would interfere with his parents' view. He stated that if it was built as close to the rear as possible, it would not interfere with the view.

During rebuttal, Mrs. Smith stated that with regard to the screening in of the proposed carport, it would require another variance. In addition, if the carport was screened in, they would never be able to reach the garage in the back yard. Mrs. Smith stated that they restored vehicles and did not have them as eyesores as they had to look at them also. In response to whether they could live with a smaller size structure, Mrs. Smith stated that it would make it difficult because of the shed. She stated that they needed the storage.

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Board of Zoning Appeals

VICTOR SMITH, JR., & MARLENE H. SMITH

R E S O L U T I O N

In Application No. V-82-L-101 by VICTOR SMITH, JR. & MARLENE H. SMITH under Section 18-401 of the Zoning Ordinance to allow construction of a carport addition to dwelling to 2.5 ft. from side lot line (5 ft. minimum side yard required by Sects. 3-407 & 2-412) and of a 13 ft. high detached garage 5.0 ft. from a side lot line and from the rear lot line (10 ft. minimum side and 13 ft. minimum rear yard required by Sects. 3-407 & 2-412), on property located at 6313 Virginia Hills Avenue, tax map reference 82-4((14))(10)23, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 16, 1982; 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 11,077 sq. ft.
4. That the applicant could build an 18'x24' garage in the back yard without a variance. The applicant's property is irregular in shape being triangular, narrow and pie-shaped and there is no footage on either side of the residence. The applicant has topographic problems in the rear yard.

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R E S O L U T I O N

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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 the construction of a 12 ft. wide carport extending back the length of the house for 26 ft. which would allow a side yard of 3.8 ft.) 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. DiGiulian).

Page 258, November 16, 1982, Scheduled case of

10:30 A.M. MR. & MRS. RANDOLPH DOERMAN, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 17.4 ft. from side lot line such that side yards total 30.1 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), located 3609 Twilight Ct., Waples Mill Estates, R-1(C), Centreville Dist., 46-1(13)7, 21,657 sq. ft., V-82-C-178.

There was a question on notices as the applicants had not notified one of the owners of property for Waples Mills Estates. However, under date of November 12, 1982, the agent had acquired the signature of the President of Waples Mills Estates. The Board agreed to accept the waiver and the hearing proceeded.

Mr. James Martin of 1429 Northgate Square in Reston represented the applicant. He stated that this was the only house in the neighborhood that did not have a garage. The proposed garage would enhance the appearance of the neighborhood. In addition, the garage would protect the personal property from theft, etc. In response to questions from the Board, Mr. Martin stated that it was not possible to build the garage in the rear yard because of topographic problems and a deck on the rear of the house. There was also a walkout basement at the rear. To build a detached garage would be out of step with the rest of the house. There would be a door at the back of the garage to the basement. In response to why the garage could not be built in a different location, Mr. Martin was not certain whether it would still require a variance.

Mr. Martin stated that all of the homes had garages except for one or two. Chairman Smith stated that this was a cluster subdivision and was fairly new. The lots were too small for a garage. There was a 40 ft. minimum total side yard requirement. There were two cars owned by the applicants which were presently parked in the driveway.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-C-178 by MR. & MRS. RANDOLPH DOERMAN under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 17.4 ft. from side lot line such that side yards total 30.1 fr. (12 ft. minimum and 40 ft. total minimum side yard required by Sect. 3-107) on property located at 3609 Twilight Court, tax map reference 46-1(13)7, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 16, 1982; 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 the applicant.
2. The present zoning is R-1(C).
3. The area of the lot is 21,657 sq. ft.
4. That the applicant's property has no hardship other than a problem of convenience to the applicant.

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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. Hammack seconded the motion.

The motion passed by a vote of 4 to 3 (Messrs. DiGiulian, Ribble & Mrs. Day).

Page 259, November 16, 1982, Scheduled case of

10:40 VOLNEY FRANK WARNER, appl. under Sect. 18-401 of the Ord. to allow construction
A.M. of swimming pool in a front yard and a 6 ft. high fence in front yard (accessory structures or uses not permitted in front yard, and 4 ft. max. height for fence in front yard req. by Sect. 10-105), located 6724 Danforth St., McLean Manor Subd., R-3, Dranesville Dist., 30-4((17))152, 18,362 sq. ft., V-82-D-180.

Mrs. Velva Warner of 6724 Danforth Street in McLean informed the Board that she had applied for two variances. The first was to permit construction of a pool 10 ft. from the property line from Danforth Street. The second request was for the fence. Mrs. Warner stated that her house on Danforth Street was situated on a corner lot and had three front yards. There was not any back yard. There was a 10 ft. sewer easement which precluded building anything in the back yard. A great deal of the yard was in the front of the house. The fence was desired for safety reasons.

In response to questions from the Board, Mrs. Warner stated that they bought the property in June of 1965. They had lived there for five years and then left in 1970. Last July, Mr. Warner had retired after 32 years and they had moved back in. Since that time, Mr. Warner had had some health problems which was the reason they were asking for the pool. Mrs. Warner stated that they had belonged to the local pool association and had asked permission for Mr. Warner to swim there. They would not allow it and he had to go to the Pentagon to swim.

When asked if they were aware of the limitations when they purchased the property, Mrs. Warner stated that they had looked at the house at 11:30 at night and moved in right away. The pool would be 3 ft. from lot 151. That was the side yard of the Henry's property. Mrs. Warner stated that Mr. Henry supported the application. In addition, she had letters of support from six of her neighbors.

In response to questions from the Board, Mrs. Warner stated that there was an 18 ft. addition being constructed onto the back of the kitchen. The deck would be added also. Both had been approved for a building permit. The size of the proposed pool was 18'x38' or 40'.

Mr. Max Henry of 6720 Danforth Avenue spoke in support of the application. He stated that he lived on lot 151. Mr. Henry stated that the other lots on Weaver were also long on the street side and narrow in depth and had no back yards which gave the owners a lot of grief. The extra addition would permit a good deal of space. The pool would not bother anyone. Mr. Henry stated that there was a hedge between the pool and his property which was a good buffer area. He was very much in favor of the variance. When questioned about his position on the 6 ft. fence, Mr. Henry stated that it was needed to protect the children. Mr. Henry stated that the side yard was only good for raising crabgrass, raking leaves and playing ball. The pool would improve the situation. Mr. Henry stated that the area was difficult to landscape. The fence would be an improvement and would be attractive. Mr. Henry stated that the 6 ft. fence would not interfere with his driveway on Danforth as he was about 40 to 50 ft. from the pool.

There was no one else to speak in support and no one to speak in opposition.

Page 259, November 16, 1982
VOLNEY FRANK WARNER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-D-180 by VOLNEY FRANK WARNER under Section 18-401 of the Zoning Ordinance to allow construction of swimming pool in a front yard and a 6 ft. high fence partly in a front yard (accessory structures or uses not permitted in front yard and 4 ft.

R E S O L U T I O N

maximum height for fence in front yard req. by Sect. 10-105), on property located at 6724 Danforth Street, tax map reference 30-4((17))152, County of Fairfax, Virginia, Mr. Ribble 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 November 16, 1982; 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 18,362 sq. ft.
4. That the applicant's property is irregular in shape and has a shallow yard and has unusual conditions in the location of the existing building on the property. The property is a peninsula being a lot consisting almost entirely of front yards. In addition, there are storm sewer easements across the property which prevent the applicants from building in any other 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 260, November 16, 1982, Recess

at 12:40 P.M., the Board recessed for lunch and did not reconvene until 1:45 P.M. to continue with the scheduled agenda.

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Page 260, November 16, 1982, Scheduled case of

10:50 A.M. DAN K. & LAQUETE J. THOMASSON, appl. under Sect. 18-401 & 18-406 of the Ord. to allow construction of an addition to dwelling to 13.5 ft. from rear lot line and to allow screened porch to remain 14.7 ft. from the rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located 8300 Nightingale Ct., Wakefield Chapel Estates, R-2, Annandale Dist., 70-1((7))237, 11,667 sq. ft., V-82-D-181.

Mr. Royce Spence, an attorney at law with an office in Falls Church, represented the applicants. He informed the Board that his clients were his neighbors and good friends. Mr. Spence stated that the plat was self-explanatory. The lot was pointed. There were any number of additions that could be built on a normal rear yard. On one side of the property was a steep hill which was not feasible for building. The other side of the property had an easement and that area was also steep. Along the rear property line was a stand of trees which would screen the addition. The addition would have the same siding as the existing house. The screened porch had been enclosed because the builder had indicated that it was not a problem to do so. In response to questions from the Board, Mr. Spence stated that a building permit had not been issued for the enclosure of the porch. The porch had been constructed subsequent to the house.

There was no one else to speak in support 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-82-D-181 by DAN K. & LAQUETE J. THOMASSON under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 13.5 ft. from rear lot line and to allow screened porch to remain 14.7 ft. from the rear lot line (25 ft. min. rear yard req. by Sect. 3-207), on property located at 8300 Nightingale Court, tax map reference 70-1(7)237, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 16, 1982; 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 11,667 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and the center of the rear property line converges into a "V" at the rear of the dwelling. In addition, the photographs show that the property has exceptional topographic conditions.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith) (Mrs. Day being absent from the room).

Page 261, November 16, 1982, Scheduled case of

11:00 PETER & JOSEPHINE PIRANEO, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of garage addition to dwelling to 4 ft. from side lot line (10 ft.
min. side yard req. by Sect. 3-407), located 4417 Medford Dr., Annandale Terrace,
R-4, Annandale Dist., 71-1((15))178, 10,187 sq. ft., V-82-A-182.

Ms. Jo Piraneo of 4417 Medford Drive in Annandale informed the Board that she and her husband were requesting a 6 ft. variance for the purposes of building an adjoining enclosed garage next to their home. They planned to enclose the existing carport since their home did not have storage space for equipment like screens, etc. Ms. Piraneo stated that they would be able to utilize rooms if they could store the miscellaneous possessions in the garage. They had a 17 year old daughter and needed a second bathroom and a third bedroom for overnight guests. Ms. Piraneo stated that their street led to Annandale High School and they lived on a curve. In the past, there had been several accidents from cars being parked on the street. They wanted to eliminate the hazard by removing their cars from the street and placing them in the garage. Ms. Piraneo stated that the garage would be 20 ft. from the house next door. Ms. Piraneo stated that a lot of her neighbors supported the variance. One of the neighbors had wanted to come to the hearing but she had told him it would not be necessary. Ms. Piraneo stated that she would rather see garages than carports. An enclosed garage was more attractive and less of an eyesore.

In response to questions from the Board, Ms. Piraneo stated that the neighbors' two bedrooms would overlook the garage. Ms. Piraneo stated that the garage was for one car and that was all there was room for. It would be 14 ft. wide and the length of the house.

There was no one else to speak in support 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-82-A-182 by PETER & JOSEPHINE PIRANEO under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4 ft. from side lot line (10 ft. minimum side yard req. by Sect. 3-407), on property located at 4417 Medford Drive, tax map reference 71-1(15)178, 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 November 16, 1982; 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 10,187 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Page 262, November 16, 1982, Scheduled case of

11:10 JAMES DONALD & BETHIA COSSEY, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 4 ft. from rear and side lot lines (12 ft. min. side yard & 12 ft. min. rear yard req. by Sects. 3-307 & 10-105), located 8605 Buckboard Dr., Riverside Gardens Subd., R-3, Mt. Vernon Dist., 102-4(12)(T)32, 10,758 sq. ft., V-82-V-183.

Mr. James Cossey of 8605 Buckboard Drive in Alexandria informed the Board that many of the homes in Riverside Gardens were cited to take advantage of the many trees which meant that many homes did not have garages. There was insufficient clearance for a garage. Mr. Cossey stated that at the rear of his property was a 50 ft. wide abandoned railroad. The right-of-way was a measure of privacy. Mr. Cossey stated that the weather in the area was hard on vehicles. He also needed a place to work on his automobiles. Mr. Cossey provided the Board with a sketch of his proposed garage.

Mr. Cossey stated that it was necessary to seek a variance as he wanted to situate the garage 4 ft. from the side and 4 ft. from the rear lot lines. There was a significant slope to the back yard. The garage would be 20 ft. from the rear of the house & behind it. If the garage were built in conformance with the requirements, it would create a drainage problem. Mr. Cossey stated that the right-of-way grew wild and provided a nice barrier. There was only one house behind Mr. Cossey's property. Mr. Cossey stated that he wanted the garage convenient to use and did not want to create a drainage problem and did not want the garage 5 ft. from his deck. His application was based on the physical constraints of the property which would make it difficult to make reasonable use of the land.

In response to questions from the Board, Mr. Cossey stated that the house on the right had a driveway the same distance from the property line as his. Their kitchen door opened out onto the driveway and there was only one window from their living room. The next door neighbor did not have a garage. Their house sat back from the front lot line even with Mr. Cossey's house. At the back of his house was large hedge which separated his yard from the right-of-way. The only other screening was a flower bed.

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In response to whether he could move his proposed garage more to the left, Mr. Cossey replied that it would take some maneuvering but if it was the judgement of the BZA he would do so. Mr. Cossey stated that his plans were drawn and the question of distance did not affect them. However, any movement to the left for the second car would require maneuvering around the corner of the house. Mr. Coffey stated that other garages had been granted for as little as 3 ft. in the past.

Mr. Cossey stated that people had volunteered to speak on his behalf but he did not ask them to attend the meeting. No one had expressed any objection. There was no one else to speak in support. There was a letter of opposition from Mr. and Mrs. Herman Bluestone which the Chairman read for the record. Mr. Cossey stated that they lived across the right-of-way and had built a large playhouse for their children. Mr. Bluestone had cleared the right-of-way to build the treehouse in the right-of-way. Mr. Bluestone wanted him to paint the garage an earth tone and plant hemlocks which he did not agree to do. Mr. Cossey stated that Mr. Bluestone had placed a fence across the right-of-way and used it for his back yard. The right-of-way was abandoned but not vacated. It was wild. Some people had built sheds there. Some people used it for backyards.

In response to questions from the Board, Mr. Cossey stated that the garage would be built on his property and he was within the property lines. The existing screening in the right-of-way was sufficient. Mr. Cossey stated that he was not against planting but he wanted to construct the garage first. There was at least 200 ft. between Mr. Cossey's house and Mr. Bluestone's house. There was no one else to speak in opposition.

R E S O L U T I O N

In Application No. V-82-V-183 by JAMES DONALD & BETHIA COSSEY under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 4 ft. from rear and side lot lines (12 ft. minimum side yard & 12 ft. minimum rear yard required by Sects. 3-307 & 10-105) on property located at 8605 Buckboard Drive, tax map reference 102-4((12))(T)32, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 16, 1982; 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 10,758 sq. ft.
4. That the applicant's property has exceptional topographic problems in the rear yard which slopes to the rear making it difficult for the applicant to build a garage in the center of the back yard. There is approximately 200 ft. of space between the applicant's house and the house on lot 13 across from the right-of-way which is approximately 50 ft. wide. The applicant has stated that the distance between his proposed garage & the house on lot 13 across from the abandoned right-of-way line will be approximately 75 ft.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

11:20 A.M. FRANCES CARPENTER, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 7.6 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 9904 Vale Rd., Madison Park Subd., R-2, Centreville Dist., 38-3((20))55, 20,000 sq. ft., V-82-C-184.

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Mr. Louis R. Carpenter of 9904 Vale Road informed the Board that he wanted to build a two car garage on his house. The land was level and would not require any additional grading. The land to the rear sloped away from the house and would require excavation and fill to bring it up to the present level. The existing carport would be incorporated into the garage. The driveway was already located there. Mr. Carpenter stated that the neighbor on the east side had no objections to the garage. Any other location would require extensive and expensive grading. Building at the rear would require a very long driveway and would not allow the existing carport to be utilized in the construction of the garage. The garage was needed for protection and security as the Carpenters had experienced thefts and broken windows. Mr. Carpenter stated that he wanted to park a lawnmower in the garage. He stated that his home was a split level and did not have a full basement. The garage would enhance the property.

Mr. Carpenter stated that the garage was being requested for safety reasons. Vale Road was a busy road. There was not adequate room to back into a turnaround to get out of the road. Mr. Carpenter stated that he owned three vehicles. There were 44 homes in the area of which 25 had garages. The majority of the garages were two car garages. In response to questions from the Board, Mr. Carpenter stated that his garage would be 22'x25' in order to store a riding lawnmower and bicycles. He stated that he had standard sized cars. Also, there was a door that would swing 3 ft. into the area. The existing carport was 12 ft. Mr. Carpenter stated that he wanted to create the same "bay" effect. He could not build a 20 ft. garage and retain the header. The depth of the garage was 29.3 ft. At the rear of the garage was a screened porch with a slab patio. At the rear of the existing carport was 6 or 7 ft. of screened porch which would be continued over for a larger screened porch. The actual depth of the garage would be 21 ft. The screened porch would be under the same roof as the garage.

Chairman Smith stated that the porch was not part of the advertised variance and could not be included with the application. He stated that the Code could only grant that which had been advertised. Mr. Knowlton informed the Board that the Code stated that an enclosed carport could extend to within 7 ft. of the lot line. Chairman Smith stated that the porch should have been advertised. However, he felt that a variance was not necessary for the garage because a 28 ft. garage was not in keeping with the Ordinance. Mr. Carpenter stated that he needed the dimensions specified because of the header and the door that swung out taking 3 ft. off of the dimensions. He stated that he had looked at other garages and none were built at 20 ft. Mr. Carpenter stated that he had measured the area to know exactly how much room he needed. He indicated that it was cheaper to build a garage than to move to another house.

There was no one else to speak in support and no one to speak in opposition.

Page 264, November 16, 1982
FRANCES CARPENTER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-C-184 by FRANCES CARPENTER under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7.6 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 9904 Vale Road, tax map reference 38-3((20))55, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 16, 1982; 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 20,0000 sq. ft.
4. That the applicant's property has topographic problems in that the land to the rear slopes so that to construct a garage on that portion of the property would require considerable grading and fill of the property. The proposed location of the garage seems to be a logical location for the garage. The Board has received testimony and a review of the plat indicated that the applicant has an existing 12 ft. carport and that to construct a garage any less than 24 ft. wide would create engineering problems in matching the doors and providing swing for an interior door.

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 IN PART (to allow construction of garage addition to dwelling to 11.6 ft. of the 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Page 265, November 16, 1982, Scheduled case of

11:30 DOROTHY D. BRAY, appl. under Sect. 18-401 of the Ord. to allow enclosure of exist-
A.M. ing carport for use as additional living space 8.24 ft. from side lot line (12 ft.
min. side yard req. by Sect. 3-307), located 3902 Fairfax Pkwy., Barcroft Terrace,
R03, Mason Dist., 61-3(9)18, 12,466 sq. ft., V-82-M-185.

The variance was deferred until November 23, 1982 at 9:00 P.M. at the request of the appli-
cant.

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Page 265, November 16, 1982, Scheduled case of

11:45 OX HILL BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-55-79 for
A.M. church and related facilities to allow the construction of additional paved parking
and related site improvements, located 4101 Elmwood St., Rockland Subd., R-1,
Springfield Dist., 34-4(1)54, 2.5677 acres, S-82-S-082.

Mr. Wallace Hale of White Oak Court was Pastor of the Ox Hill Baptist Church. He informed the Board that the church had come before the BZA in 1979 or '80. The improvements to the parking lot would be a safety factor for all who used the parking lot at the present time. In response to questions from the Board, Pastor Hale stated that there were not any requests for building on this special permit. There had been in the '79 permit but the church did not have the money to build. However, the church wanted to do the site work like the drainage curb and gutter and sidewalks. The improvements were to be done so that the church would not have to tear up the paving at a later date.

There was no one else to speak in support and no one to speak in opposition.

Page 265, November 16, 1982
OX HILL BAPTIST CHURCH

R E S O L U T I O N

Mr. Ribble made the following motion:

WHEREAS, Application No. S-82-S-082 by OX HILL BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-55-79 for church and related facilities to allow the construction of additional paved parking and related site improvements, located at 4101 Elmwood Street, tax map reference 34-4(1)54, 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 16, 1982; 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 2.5677 acres.
4. That compliance with the Site Plan Ordinance is required.

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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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 350.
8. The total parking shall be 129.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 266, November 16, 1982, Scheduled case of

12:00 McLEAN CHILDREN'S ACADEMY, INC., appl. under Sect. 3-303 of the Ord. to amend
NOON S-81-D-065 for nursery school and child care center to permit change of name of
permittee, located 6900 Elm St., R-3, Godwin's Addition to Beverly Manor Subd.,
Dranesville Dist., 30-2((5))3, 10,390 sq. ft., S-82-D-083.

Ms. Barbara Shumway of 1343 MacBeth Street in McLean informed the Board that she had been before the BZA one year ago for a special permit for a nursery school and a child care center. It had been in operation for one year. She was President of the corporation and wanted to change the name under an incorporation. She was prepared to operate as a corporation because of the tax implementations and the liability to her and the teachers. Ms. Shumway assured the Board that the use would remain the same. She presented the Board with letters of support from her neighbors.

There was no one else to speak in support and no one to speak in opposition.

Page 266, November 16, 1982 Board of Zoning Appeals
McLEAN CHILDREN'S ACADEMY, INC.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-D-083 by McLEAN CHILDREN'S ACADEMY, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-81-D-065 for nursery school and child care center to permit change of name of permittee, located at 6900 Elm Street, tax map reference 30-2((5))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 November 16, 1982; 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-3.
3. That the area of the lot is 10,390 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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R E S O L U T I O N

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. All other conditions of S-81-D-065 shall remain in effect.

Mr. Ribble seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 267, November 16, 1982, scheduled case of

12:15 MAYWOOD BUILDING CORPORATION, appl. under Sect. 2-511 of the Ord. for industrial
P.M. access across R-1 and R-3 Districts, Mt. Vernon Dist., I-5, 108-1((1))1B and 30,
and 108-1((2))B1, 72.745 acres, S-82-V-086.

At the request of the applicant, the special permit was deferred until Feb. 15, 1983 at 8:00 P.M.

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Page 267, November 16, 1982, scheduled case of

12:30 BOARD OF AMERICAN MISSIONS OF THE LUTHERAN CHURCH & RESTON INVESTMENT PROPERTIES
P.M. ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow off-site parking spaces
for a church to 1,065 ft. walking distance from building entrance (500 ft. maximum
walking distance req. by Sect. 11-102), located 26-1((7))3A & 3E, PRC, Centreville
Dist., 15.5491 ac., V-82-C-193.

Ms. Elizabeth Linter of 11800 Sunrise Valley Drive informed the Board that the church had been granted an easement for parking in July of 1976. The Reston Community Church could not have been built with the property that the church had purchased. The church traded sites with the community center which started problems. In December 1976, the property was subdivided and the access over the shopping center property line was given to the church. In the rush to get the community center through, Gulf sold the shopping center. The RHOA was unaware of any commitments. About two years ago, the church decided it was time to start construction on their site. About one year ago, it was discovered that the land was land-locked because there was not any parking. After extensive negotiations, an easement had been signed off on for use for Sunday mornings. Fellowship Square had granted them five permanent parking spaces. They thought everything was fine and then they discovered the 500 ft. maximum requirement. The only parking available was the Reston Woods Center. Ms. Linter stated that from the time the property had been subdivided, the property had been designated as a church. If they were not granted the variance, the property was useless to them and for anyone else. The situation was not the making of the church but was just an unfortunate thing. It was an unique situation.

With regard to the staff report, Ms. Linter stated that it indicated the distance from some of the parking spaces to the front of the church as much as 1,000 ft. She stated that if the mall was open, then the distance was shorter. It was not a closed mall.

Ms. Kelsey stated that the reason the staff had used the 1,065 ft. around the center was the concern that if the mall should ever be closed, the church would still have the latitude to use the parking spaces. In addition to that, the shopping center owners had permission to move the parking spaces to any place within the center. This would ensure that the church had permission from the farthest point.

Ms. Linter stated that the church had the right of ingress and egress and had the absolute right for the parishoners to walk in and out and drive in and out. What they did not have was the right to park. Ms. Linter stated that the church was assigned 67 spaces for sunday morning. The center had reserved the right to designate and change the design of the spaces. A variance was necessary to permit the church to have the use of the 67 spaces anyway on the property. At present, there were 67 spaces assigned within 500 ft. of the front of the church. The hours of use would be from 8 A.M. to 1 P.M.

There was no one else to speak in support and no one to speak in opposition.

In Application No. V-82-C-193 by BOARD OF AMERICAN MISSIONS OF THE LUTHERAN CHURCH & RESTON INVESTMENT PROPERTIES ASSOCIATES, under Section 18-401 of the Zoning Ordinance to allow off-site parking spaces for a church to 1,065 ft. walking distance from building entrance (500 ft. maximum walking distance required by Sect. 11-102), on property located at tax map reference 26-1((7))3A & 3E, 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 16, 1982; 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 PRC.
3. The area of the lot is 15.5491 acres.
4. That the applicant's property is landlocked and has an unusual configuration.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Approval of Minutes: The Board was in receipt of Minutes for March 17, 1981 and March 24, 1981. Mrs. Day moved that the Minutes be approved. Mr. Hyland seconded the motion and it passed by a vote of 7 to 0.

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Douglas W. Olms, V-81-S-089: The Board was in receipt of a request for an extension of the variance granted to Douglas W. Olms to subdivide his property into two lots. It was the consensus of the Board to grant the extension for a period of six months and the new expiration date of the variance was June 23, 1983.

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Page 269, November 16, 1982, Matters

Mr. Hyland stated that it was his understanding that a response had been prepared to the County Executive regarding the delay in scheduling BZA applications which resulted in a contract problem for an applicant. He was informed that the response had already been forwarded. The Clerk stated that she would mail a copy of the response to Mr. Hyland.

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Page 269, November 16, 1982, Matters

The Clerk was directed to schedule a special meeting with the County Attorney and the Zoning Administrator for the first or second Thursday in December.

// 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: Sept 14, 1984
Date

Submitted to the Board on Sept 6, 1984

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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 Evening, November 23, 1982. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day, John Ribble and Paul Hammack. Gerald Hyland arrived at 8:30 P.M.

The Chairman opened the meeting at 8:20 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8:15 P.M. case of:

8:15 P.M. WESTGATE CHILD CENTER CORPORATION, appl. under Sect. 3-303 of the Ord. for a child care center, located 1609 Great Falls St., R-3, Dranesville Dist., 30-3(1)42, 9.002 acres, S-82-D-085.

Patricia Samaha, 7484 Jayhawk Street, Annandale, presented the application. She was the director and board member of Westgate Child Center Corporation, a private non-profit organization. The child care center was currently operating at 6723 Whittier Avenue in McLean, and they wished to move it to the proposed location. She stated that Great Falls Street was heavily traveled, and there would be no noticeable traffic disturbance.

In response to a question from Mr. Hammack regarding the staff, Ms. Samaha stated that the School Board would take care of the screening and deceleration lane required. She stated that the Westgate Child Center had a two year lease with a two year renewal for up to eight years.

Lloyd Snyder, 1903 Woodgate Lane, McLean, the President of the Great Falls Manor Citizen Association spoke in support. He stated that he spoke for the neighborhood served by the Lewinsville school. The Westgate application was discussed at a meeting and by unanimous vote, the officers and membership of that association asked him to come to the BZA meeting and express their enthusiastic support for the school. Other people speaking in support included: Lee Forest, 4312 Cub Run Road; Doris Roofey; Barbara Sodaquist, 1055 Rector Lane; Mary Malony, 9859 Sweet Mint Drive; and Jeff Fiesler, 1806 Youngblood Street.

There was no one to speak in opposition.

Page 270, November 23, 1982 Board of Zoning Appeals
WESTGATE CHILD CARE CENTER, INC.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-D-085 by WESTGATE CHILD CARE CORPORATION under Section 3-303 of the Fairfax County Zoning Ordinance for a child care center located at 1609 Great Falls Street, tax map reference 30-3(1)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 November 23, 1982; 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-3.
3. That the area of the lot is 9.002 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. Modification of Transitional Screening 1 and Barrier D, E, or F shall be permitted on the condition that supplemental screening is provided to augment existing vegetation. Particular attention should be given to the eastern property line abutting Evers Drive. This condition is subject to the Board of Supervisors final determination.*
9. The maximum number of children shall be ninety (90).
10. A minimum of eighteen (18) parking spaces, including one loading space and one handicapped space shall be provided.
11. The play area shall be relocated out of the required minimum front yard in accordance with Sect. 8-305.
12. This special permit shall be approved to run concurrently with the lease between the applicant and the Fairfax County School Board.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. Hyland being absent)

Page 271, November 23, 1982, Scheduled cases of:

- 8:30 P.M. PHILIP A. WELLS, appl. under Sect. 3-303 of the Ord. for a home professional office (law), located 8707 Stockton Pkwy. Stratford Landing Subd., R-3, Mt. Vernon Dist., 111-1((6))(17)3, 10,780 sq. ft., S-82-V-088.
- 8:30 P.M. PHILIP A. WELLS, appl. under Sect. 18-401 of the Ord. to allow home professional office in dwelling 10.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8707 Stockton Pkwy. Stratford Landing Subd., R-3, Mt. Vernon Dist., 111-1((6))(17)3, 10,780 sq. ft., V-82-V-187.

Philip Wells presented the application. He stated that he was an attorney practicing in Virginia, and until June he was a member of a law firm. He had undergone radiation for cancer, and some of the side effects made it difficult for him to continue the office hours he had been working. He withdrew from the firm and began preparing an application so he could practice from his home. Mr. Wells stated that he did not expect to have more than one client at a time, by appointment only. There would be no employees. There was adequate off-street parking for a business car and any client having an appointment. The family car would be parked in the garage. Mr. Wells asked the Board to allow him to put up a small free-standing sign at the curb saying "Philip A. Wells, Attorney at Law." Chairman Smith replied that if he wanted a sign he would have to have it added on the plat that had been submitted.

Mr. Wells stated that he had owned the property for over fifteen years. The house had been built in the late 1950's. This was an existing structure, and he did not propose any additions to it. A valid building permit was obtained allowing a previous owner to construct an addition to the dwelling within ten feet of the side property line.

Mr. Wells stated that he had no adverse comments from any of the neighbors. People speaking in support included: Thomas Stewart, 8709 Stockton Parkway; Robert Evans, 8615 Stockton Parkway; William Veilam, 8613 Stockton Parkway; and Mr. Fletcher, 8608 Waterford Road. They said they all supported Mr. Wells in his endeavor.

There was no one to speak in support or opposition.

Page 271, November 23, 1982
PHILIP A. WELLS S-82-V-088

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-82-V-088 by PHILIP A. WELLS under Section 3-303 of the Fairfax County Zoning Ordinance for a home professional (law) office located at 8707 Stockton Parkway, tax map reference 111-1((6))(17)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 November 23, 1982; and

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* (The following was inadvertently omitted: 8. A right turn deceleration lane shall be provided for the southerly curb cut and shall be subject to the Board of Supervisors' final determination.)

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. That the area of the lot is 10,780 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 clients shall be twelve (12) per week.
8. The hours of operation shall be 9 A.M. to 5 P.M., Monday thru Saturday.
9. The number of parking spaces shall be two (2).
10. There shall be no exterior alterations.
11. This permit is granted for a period of two (2) years.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 1. (Mr. Smith)

R E S O L U T I O N

In Application No. V-82-V-187 by PHILIP A. WELLS under Section 18-401 of the Zoning Ordinance to allow home professional office in dwelling 10.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 8707 Stockton Parkway, tax map reference 111-1((6))1713, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 23, 1982; 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 10,780 sq. ft.
4. It was stated that a valid building permit was obtained allowing a previous owner to construct an addition to the dwelling within 10.5 ft. of the side property line. The Transportation Department has no objection to the granting of this application. This motion is to grant this variance of 1.5 ft. due to the small number of clients per day and there being only one at a time.

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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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith)

Page 273, November 23, 1982, Scheduled case of:

8:45 P.M. BELLE HAVEN COUNTRY CLUB, INC., appl. under Sect. 3-303 of the Ord. to amend existing Special Permit for country club (S-18-79) to allow the removal of tennis court cover over two tennis courts and to cover three adjoining tennis courts, located 6023 Fort Hunt Rd., R-3, Mt. Vernon Dist., 83-4(1)5, 156.7000 ac., S-82-V-093.

James Maloney, from the firm of Boothe, Prichard and Dudley, 4103 Chain Bridge Road, Fairfax, represented the applicant. He thanked the Board for granting an out-of-turn hearing in this matter. Mr. Maloney stated that at the present time Belle Haven had a tennis bubble covering two of their courts. It includes temporary lighting facilities beneath the bubble which are used during the summertime. The club proposes to remove the existing bubble and replace it with a three court tennis bubble which will be located at a lower level than the existing structure. This would reduce the visual effect of the bubble. The bubble would be white, which would be more harmonious with the surrounding area than the olive green bubble that is presently there. An improved lighting system will also be installed. Mr. Maloney stated that the overall effect of the new tennis court bubble was an improvement from the existing structure. This proposal was explained to most of the property owners along Fort Hunt Road, and Mr. Maloney submitted fifteen letters in support from abutting property owners.

Katherine McQuie, 6030 Fort Hunt Road, spoke in support of the application. She indicated that she thought the new tennis bubble would be more unobtrusive than the current one.

There was no one to speak in opposition.

Page 273, November 23, 1982
BELLE HAVEN COUNTRY CLUB, INC.

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-V-093 by BELLE HAVEN COUNTRY CLUB, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to amend existing special permit for country club (S-18-79) to allow the removal of tennis court cover over two tennis courts and to cover three adjoining tennis courts, located at 6023 Fort Hunt Road, tax map reference 83-4(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 November 23, 1982; 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. That the area of the lot is 156.700 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 is subject to those conditions contained in S-18-79.
8. The hours of operation shall be 8 A.M. to 11 P.M. daily.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 0 (Mr. Ribble abstained)

Page 274, November 23, 1982, Scheduled case of:

9:00 P.M. DOROTHY D. BRAY, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport for use as additional living space 8.24 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 3902 Fairfax Parkway, Barcroft Terrace, R-3, Mason Dist., 61-3(9)18, 12,466 sq. ft., V-82-M-185. (DEFERRED FROM 11/16/82 AT THE REQUEST OF THE APPLICANT)

The staff report noted that a variance was granted at the time the house was constructed to allow the carport to go 8.5 feet from the side lot line.

Dorothy Bray presented her application. She stated that she had owned the property since October of 1958. Ms. Bray stated that she wanted to enclose the existing carport because she needed the additional living space. She was getting married and would be combining two households. She stated that she lived on a corner lot and had double front yard requirements.

There was no one to speak in support or opposition.

Page 274, November 23, 1982
DOROTHY D. BRAY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-M-185 by DOROTHY D. BRAY under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for use as additional living space 8.24 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 3902 Fairfax Parkway, tax map reference 61-3(9)18, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 23, 1982; and

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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 30, 1982. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble and Mary Thonen.

The Chairman opened the meeting at 10:10 A.M. led with a prayer by Mrs. Day. Chairman Smith welcomed the newest BZA member, Mrs. Mary R. Thonen.

Chairman Smith called the scheduled 10 o'clock case of:

10:00 TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB, appl. under Sect. 3-103 of the Ord. to amend S-134-78 for community swimming & tennis club to eliminate parking lot on 1 acre parcel and to permit operation of all existing facilities with existing 138 parking spaces, located 9117 Westerholme Way, R-1, Centreville Dist., 28-4(1)47 & 45A, 6.696 acres, S-82-C-025. (DEFERRED FROM OCTOBER 21, 1982 AT REQUEST OF APPLICANT).

Mr. William E. Donnelly, III of 4069 Chain Bridge Road in Fairfax represented the applicant. He requested another 30 day deferral. Mr. Lee Ruck of Clifton represented the citizens of Wexford. As there was no objection to the deferral request, the Board deferred the special permit until January 11, 1982 at 10:30 A.M.

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Page 277, November 30, 1982, Scheduled case of

10:10 GUY D. REYNOLDS, appl. under Sect. 18-401 of the Ord. to allow construction of A.M. carport addition to dwelling to 2.5 ft. from side lot line (10 ft. min. side yard req. by Sects. 3-207 & 2-412), located 4220 Adrienne Dr., Sulgrave Manor Subd., R-2, Mt. Vernon Dist., 110-1(11)41, 21,800 sq. ft., V-82-V-186.

Mr. Guy Reynolds of 4228 Adrienne Drive in Alexandria informed the Board that he wanted to build a carport at one end of his house. Without the variance, there was not enough room. In response to questions from the Board, Mr. Reynolds stated that he needed the 18 ft. for the carport because of the air conditioning unit which he was also installing in the carport in addition to the concrete steps up to the kitchen door. The steps would take up about 5 ft. which would only leave 13 ft. for the carport. He stated that he did not want the carport too narrow. He indicated that the size proposed was also more symmetrical than a narrower carport.

The Board members questioned whether the carport could be built on the other side of the house where there was 38.9 ft. of yard area. Mr. Reynolds stated that his problem at that end was that he had a basement bedroom with a long window which would be completely covered. In addition, the entrance he wanted was on the other end of the house. If he built on this side of the house, he would have to cut a new curb for the driveway and build a new driveway for about 50 ft. It was impossible to build at the rear of the lot because of an easement for stormwater drainage. Mr. Reynolds informed the Board that his neighbors had been notified by letter about the variance and no one had objected. In response to questions from the Board as to whether the carport could be reduced in width by 4 ft., Mr. Reynolds stated that the carport could be 14 ft. in width but he preferred the 18 ft. He stated that the front view of the carport and the house would not look right if it was narrower. Mr. Reynolds stated that the rooflines would not match at it would be lower.

There was no one else to speak in support and no one to speak in opposition.

Page 277, November 30, 1982
GUY D. REYNOLDS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-V-186 by GUY D. REYNOLDS under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 2.5 ft. from side lot line (10 ft. minimum side yard required by Sects. 3-207 & 2-412), on property located at 4220 Adrienne Drive, tax map reference 110-1(11)41, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 30, 1982; and

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

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R E S O L U T I O N

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 21,800 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing building in that its located close to the right property line on the side of the property where the proposed addition is to be constructed and that it has a 25 ft. sanitary sewer easement which runs through the center of the back yard which would preclude construction of a carport in that area of the yard. Further, that the ingress and egress into the house which would take place if the carport is on the right property line which would effectively deny the owner of a reasonable use of the property if he's required to locate it on the left side of the house and destroy a bedroom window and to require a good deal of additional construction on the left side. Nevertheless, the applicant has not shown that he meets the hardship requirements for a 7 1/2 ft. variance.

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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 the construction of carport addition 14' in width to dwelling to 6.5 ft. from the side lot line) with the following limitations:

1. This approval is granted for the location 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 278, November 30, 1982, Scheduled case of

10:20 OTHO MITCHELL EAKIN, Jr., appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 5 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), located 8956 Miller Ln., R-3, Wexford East Subd., Centreville Dist., 28-4{(21)}2, 12,508 sq. ft., V-82-C-189.

Mr. Otho Eakin of 8956 Miller Lane in Centreville informed the Board that he wanted to build a carport 12 ft. wide. He was requesting a variance of 2 ft. The carport was requested in order to protect his vehicle and family from inclement weather. He stated that it was difficult to take snow off of a car. His was one of two houses in the subdivision that did not have a carport or a garage. There were about 27 homes in the Wexford East Subdivision. Mr. Eakin stated that he lived on a dead-end street. If the property line were 2 ft. wider and the building restriction line brought in, he would not have needed a variance. In response to questions from the Board, Mr. Eakin stated that he had owned the property for 11 years. Only a small portion of the carport required a variance.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-C-189 by OTHO MITCHELL EAKIN, JR. under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 5 ft. from side lot line (7 ft. minimum side yard required by Sects. 3-307 & 2-412), on property located at 8956 Miller Lane, tax map reference 28-4{(21)}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 November 30, 1982; 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 the applicant.
2. The present zoning is R-3.
3. The area of the lot is 12,508 sq. ft.
4. That the applicant's property is exceptionally irregular in shape with converging lot lines and that the house is not situated parallel to the property line but at an angle and that the requested variance is only for a triangular piece of the carport of 2 ft. by 10 ft.

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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 plans 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 279, November 30, 1982, Scheduled case of

10:30 JOHN WARD SMITH, appl. under Sect. 18-406 of the Ord. to allow enclosed porch to
A.M. remain 17.3 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307),
located 5215 Ashcroft Ct., Kings Park West Subd., R-3, Annandale Dist., 68-4((9))
1209, 10,757 sq. ft., V-82-A-190.

Mr. John Smith informed the Board that in 1978 he had contacted a contractor to build a screened porch off of his house onto the patio. He stated that he had wanted to increase the living area and the porch was constructed. The patio had to be enlarged to 12'x20'. Mr. Smith had assumed that all of the permits were obtained at the time of construction. Mr. Smith stated that he had been paying \$100 a year more in taxes for the screened porch. He stated that the porch did not butt up against of the neighbors. In response to questions from the Board, Mr. Smith stated that Mr. Ray Hubbard had been the contractor. He found out that Mr. Hubbard had obtained a permit to extend the patio because he had been refused permission to build the porch.

Mrs. Dottie Smith of 5215 Ashcroft Court gave the building permit number to the BZA as there was discussion about what the County could do to the contractor at this point. There was a request for staff to contact Ray L. Hubbard to determine if he still had a home improvement license. The BZA wanted to subpoena Mr. Hubbard to provide information regarding the construction of the porch.

There was no one else to speak in support and no one to speak in opposition.

Page 279, November 30, 1982
JOHN WARD SMITH

Board of Zoning Appeals

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. V-82-A-190 by JOHN WARD SMITH under Section 18-406 of the Fairfax County Zoning Ordinance to allow enclosed porch to remain 17.3 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-307), on property located at 5215 Ashcroft Court, tax map reference 68-4((9))1209, 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 on Zoning Appeals on November 30, 1982; and

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

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R E S O L U T I O N

THAT non-compliance was no fault of the applicant.

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

1. 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. The applicant's property borders common property with trees which would not be used for development.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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 ther land or to other structures on the same land.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 with 1 abstention (Mr. Smith).

Page 280, November 30, 1982, Scheduled case of

10:40 DANIEL F. & MARGARET D. MULCAHY, JR., appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of addition to dwelling to 10.7 ft. from side lot line (12 ft.
min. side yard req. by Sect. 3-307), located 5937 Craft Rd., Sunny Ridge Estates,
R-3, Lee Dist., 82-3((17))(B)19, 10,927 sq. ft., V-82-L-191.

Mr. Mulcahy of 5937 Craft Road informed the Board that he was the original owner and had lived there for 22 years. He stated he had three children with two still at home. He wished to erect an additional room to be used as a family room in order to maintain the lifestyle his family had become accustomed to. He stated that his nieghbors had lived in the area for the same amount of time as he and they did not object to the addition. The family room addition would be 14'x21' and would be adjacent to the living room and dining room with access from the dining room. It would be family oriented for recreational purposes. Mr. Mulcahy stated that he was impacted by the 12 ft. requirement. Only a small percentage of a variance was necessary.

There was no one else to speak in support and no one to speak in opposition.

Page 280, November 30, 1982

Board of Zoning Appeals

DANIEL F. & MARGARET D. MULCAHY, JR.

R E S O L U T I O N

In Application No. V-82-L-191 by DAVID F. & MARGARET D. MULCAHY, JR. under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.7 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 5937 Craft Road, tax map reference 82-3((17))(B)19, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 30, 1982; 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 10,927 sq. ft.
4. That the applicant's property has converging lot lines and that the variance is minimal in amount, to wit, that the average requested variance along the side of the proposed structure is approximately 6 inches and the Board has not received any objectionable testimony from any of the abutting property owners.

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

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

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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 281, November 30, 1982, Scheduled case of

10:50 A.M. DAVID W. FINLAYSON, appl. under Sect. 18-401 of the Ord. to allow construction of 12 ft. high detached garage 3 ft. from side and rear lot lines (12 ft. min. side yard and 12 ft. min. rear yard req. by Sects. 3-307 & 10-105), located 1507 Baltimore Rd., R-3, Hollin Hall Village, Mt. Vernon Dist., 102-2((2))(5)26, 10,087 sq. ft., V-82-V-192.

Mr. David Finlayson of 1507 Baltimore Road in Alexandria informed the Board that he proposed to build a 24'x24' garage 3 ft. from the side and rear lot lines. It would be a double garage. The variance was for 9 ft. as the Code required the garage to be 12 ft. from the side and the height of the building from the rear. Mr. Finlayson stated that the requirements created a hardship on a day to day basis as it would be difficult to negotiate a car into the garage. Mr. Finlayson stated that his lot was substandard as far as width which was why he was requesting the variance. In response to questions from the Board, Mr. Finlayson stated that lot 30 behind him was owned by the Park Authority. The other lot was the Safeway with additional parking. Mr. Finlayson stated that he had contacted the property owners. The owners of lot 27 had a garage within 2 ft. of the property lines which would be adjacent to his. No one objected to the variance. There was a 15 ft. drainage on the other side of Mr. Finlayson's property. The lot was substandard in area and width.

The Board questioned the justification for the variance and inquired why Mr. Finlayson could not build a one car garage which would not require a variance. Mr. Finlayson stated that he did not want to jeopardize that much yard as he had two dogs. The Board questioned the possibility of moving the garage over 9 ft. Mr. Finlayson stated that he felt he would not be able to negotiate a large car into the garage. The Board suggested that the entrance to the garage be on the side rather than the front and that it be moved over 12 ft. The Board even suggested that the size of the garage be reduced. Mr. Finlayson stated that he did not want to sacrifice the size of the garage. He had two cars and he needed room for storage. There was a small 6'x6' shed on the property which would be eliminated. All tools would be stored in the garage. The Board suggested that the garage be 22'x24' in size and be built 8 ft. from the side and 3 ft. from the back.

There was no one else to speak in support and no one to speak in opposition.

Page 281, November 30, 1982
DAVID W. FINLAYSON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-V-192 by DAVID W. FINLAYSON under Section 18-401 of the Zoning Ordinance to allow construction of 12 ft. high detached garage 3 ft. from side and rear lot lines (12 ft. minimum side yard and 12 ft. minimum rear yard required by Sects. 3-307 & 10-105), on property located at 1507 Baltimore Rd., tax map reference 102-2((2))(5)26, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 30, 1982; 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 10,087 sq. ft.
4. That the applicant's property is substandard in area and in width and that the property has a 15 ft. drainage and sewer easement along the westerly property line.

R E S O L U T I O N

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

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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 IN PART (to allow construction of a 22 ft. wide by 24 ft. length garage at 5 ft. from the side 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 2 (Messrs. Smith & Hammack) with 1 abstention (Mrs. Thone).

Page 282, November 30, 1982, Recess

The Board recessed for five minutes to allow the Clerk to check the notices for the next case.

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Page 282, November 30, 1982, Scheduled case of

11:00 ST. FRANCIS EPISCOPAL CHURCH, appl. under Sect. 18-401 of the Ord. to allow gravel
A.M. parking areas and dwellings for church and related facilities (dustless surface
req. by Sect. 11-102), located 9222 Georgetown Pike, R-E, Dranesville Dist.,
13-2(1)8, 6.9941 acres, V-82-D-188.

&

11:00 ST. FRANCIS EPISCOPAL CHURCH, appl. under Sect. 3-E03 of the Ord. for construction
A.M. and operation of a church and related facilities, located 9222 Georgetown Pike,
R-E, Dranesville Dist., 13-2(1)8, 6.9941 acres, S-82-D-087.

Mr. Charles Runyon of 7649 Leesburg Pike represented the applicant. He was their surveyor and a member of the church. The church had been in existence for several years. It was a Mission Church of St. John but the name of the church was now St. Francis. There was an old established structure on the property. There was a frame house and a few trailers on the property. The church now planned to build the main sanctuary. The membership they were aiming for was 250. Mr. Runyon stated that the church had the final revised plan which was the latest rendition of how the building would be situated. Mr. Runyon stated that there were not many changes from the original plat. The dimensions of the church structure would be 70'x90'. Mr. Runyon stated that the dimensions might vary a few feet as the church was still in the preliminary drawing stages.

The second part of the application was a request for a variance to the dustless surface requirement. Mr. Runyon stated that in this area most of the private parking areas and streets would remain unpaved. It was not unreasonable to have a bluestone surface. Mr. Runyon stated that a lot of benefits could be derived from the runoff going into the soil.

In response to questions from the Board, Mr. Runyon stated that as far as he knew the church did not have any plans to operate a day care center within the next two to three years. Mr. Runyon stated that 193 parking spaces would be provided. With respect to trails, Mr. Runyon stated that if they were required, the church did not have a problem with them.

Mr. Clarence Ashley of 9809 Beech Mill Road in Great Falls informed the Board that for the record, the church did not have any plans for a day care center at this time. However, he stated the church might be coming back for one in the future. Mr. Ashley stated that the church wanted the gravel surface because of the rural nature of the area. They would pave the handicapped parking and the deceleration lane. With regard to the trails, the church would share with the community but they preferred to make dedication at such time as the trails became an actual thing. There were no trails at the present time. Mr. Ashley preferred that the church not be required to pave the driveways at the present time. There was concern from the Board about having a dustfree for parking lots because of the buses, etc. coming into the property. There was a lot of activity associated with churches.

In further response to questions, Mr. Ashley stated that the church planned to break ground for construction by spring and use the new worship area by next Christmas. There were 120 regular members and the membership was growing. They planned to accommodate 250 people. The church would have normal activities and community uses. The surrounding abutting land was mostly meadowland. There was only one contiguous property owner.

The next speaker in support was Mrs. Evelyn DiBona who owned about 50 acres adjacent to the church. There was no one else to speak in support 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-82-D-087 by ST. FRANCIS EPISCOPAL CHURCH under Section 3-E03 of the Fairfax County Zoning Ordinance to permit construction and operation of a church and related facilities, located at 9222 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 November 30, 1982; 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-E.
3. That the area of the lot is 6.9941 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 seating capacity shall be 250.
8. The hours of operation shall be the normal hours of church activities.
9. The number of parking spaces shall be 63.
10. The applicant shall dedicate to 45 ft. from the centerline for the full frontage of Georgetown Pike.
11. The applicant shall grant a 10 ft. easement for a trail at such time as the easement is requested by the appropriate County Authorities.
12. Plantings to shield lights and soften the visual effect of the structure shall be provided to the satisfaction of the Director of Environmental Management.
13. The permit is subject to receipt of revised plats showing dimensions of the proposed building and setbacks from the property lines.

Mr. Ribble seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

R E S O L U T I O N

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In Application No. V-82-D-188 by ST. FRANCIS EPISCOPAL CHURCH under Section 18-401 of the Zoning Ordinance to allow gravel parking areas and dwellings for church and related facilities (dustless surface req. by Sect. 11-102), on property located at 9222 Georgetown Pike, tax map reference 13-2((1))8, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 30, 1982; 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-E.
3. The area of the lot is 6.9941 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 IN PART (to allow the variance for a dustless surface for the driveway and parking lot but not for 100 ft. from the entrance from Georgetown Pike) 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. The variance is granted for a period of five years provided that the waiver would have to be reconsidered if any other use is added.
4. In addition, the applicant would have to comply with the dustless surface requirement for a distance of 100 ft. from the entrance back into the driveway.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Page 284, November 30, 1982, Scheduled case of

11:15 KOREAN UNITED METHODIST CHURCH, appl. under Sect. 3-203 of the Ord. to amend
A.M. S-98-76 for a church and related facilities to permit change of permittee, construction of additions to church building and garage, additional parking lots, increase in seating capacity to 180, and increase in parking spaces to 50, located 1219 Swinks Mill Rd., R-2, Dranesville Dist., 29-2((1))15, 4.773551 acres, S-82-D-090.

Mr. Russell Rosenberg of 9401 Lee Highway represented the church. The purpose of the application of the application was to amend a previously granted special permit of 1976 to William Watters United Methodist Church. This application would permit the transfer of the church's special permit to the Korean United Methodist Church and to permit the addition of a church building and the addition to the garage to be used as office space and to permit an increase in the seating capacity from 60 to 180 with an increase in parking from 18 to 50. The proposed building would be 24 ft. in height and would be 47'x 64'. The parking was to be located in order to be easily accessible from the exits. The parking was in an area that would not require any extensive clearing. The structure would be architecturally compatible and almost residential in character.

The history of the Korean church was that they had been in existence for 31 years. They had been renting facilities on Calvert Street in Washington, D.C. About 50% of the membership was from Fairfax County. The remaining members were from Washington and Maryland. Since the largest number were from Fairfax County, this was the most logical area to locate. The property had been reduced because of road dedication from the previous application. Mr. Rosenberg informed the Board that the existing barn would not be used for any church activity.

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There was no one else to speak in support and no one to speak in opposition.

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R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-D-090 by KOREAN UNITED METHODIST CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-98-76 for a church and related facilities to permit change of permittee, construction of additions to church building and garage, additional parking lots, increase in seating capacity to 180, and increase in parking spaces to 50, located at 1219 Swinks Mill Road, tax map reference 29-2((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 November 30, 1982; 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.
3. That the area of the lot is 4.773551 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That the septic field meet requirements of the appropriate department of Fairfax County.

AND, WHEREAS, the Board has reached the following findings 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 seating capacity shall be 180.
8. The hours of operation shall be normal hours of church activities.
9. The number of parking spaces shall be 50 with an additional small area near the church for the handicapped.
10. This resolution shall permit the transfer from the William Watters United Methodist Church to the Korean United Methodist Church and to permit addition to the church building and garage, the garage addition to also house a parsonage, and to permit an increase in the seating capacity from 60 to 180 and an increase in the off-street parking from 18 to 50 with the additional small area for handicapped as stated above.

Mr. Ribble seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

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11:30 VULCAN MATERIALS COMPANY, appl. under Sect. 8-101 & 7-305 of the Ord. for
A.M. renewal of S-286-77 for stone quarrying, crushing, sales and accessory uses,
located 9800 Ox Rd., R-1, 106-4(1)pt. of 54, 151.953 acres, S-82-V-091.

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The special permit application of Vulcan Materials Company was deferred until Tuesday, December 14, 1982 at 11:30 A.M.

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11:45 LYNCH LIMITED PARTNERSHIP, appl. under Sect. 3-103 & 4-803 of the Ord. for
A.M. miniature golf course and golf driving range, plus future other commercial and
outdoor recreation uses, located Rt. 1 and Furnace Rd., C-8 & R-1, Mt. Vernon
Dist., 113-3(1)pt. 6, 35.465 acres, S-82-V-092.

Mr. Wayne Lynch of Springfield represented the property owners. They had an application to permit a driving range and miniature golf course at the southend of Fairfax County on the Occuquan. He stated that the placement of the use was shown on the plats. Mr. Lynch informed the Board that the site was ideally located because there was not any residential area to be impacted. There was a growth of trees to shield the activity. To his knowledge, there was not any opposition or any conflict with the use. The site consisted of 35 acres. The driving range would occupy about 25 acres. Once it was established and had satisfied the Health Department for sewer and water, the owners would install a water slide and a baseball batting cage. Mr. Lynch stated that they would not be able to finance the equipment in the first building stage but would by the second building stage. The site was a beautiful water front area that would make a small campground. They would not be able to operate a commercial campground without improving the water and sewer.

Chairman Smith informed Mr. Lynch that the plat presented with the application did not show any of the equipment he was speaking of. Mr. Lynch stated that there was not any public water supply and they were going to try a well. Any extension of the use beyond that would be dictated by the Health Department according to Mr. Lynch. He stated that the owners had not made any specific plans until they could determine what would be tolerated. Perc tests had been run on the property and they were adequate for a driving range and miniature golf without question. Going beyond that though depended on how well the system performed. The land was flat with a cliff over the water. The cliff was 40 to 50 ft. high. The northern 10% of the property would remain in its natural state.

The proposed hours of operation were from 6 A.M. to midnight, seven days a week. The miniature golf would be operated mostly during the summer months. In response to questions from the Board, Mr. Lynch stated that the stand of hardwood trees that were 4" in diameter and up would remain on the property. The hemlocks which were located in the ravine would not be disturbed as the use was not going into that area. There was a graveyard located on the far southern corner of the property. However, the golf course would not interfere with it. The graveyard was marked on the plat by a chain link fence. Across from the property on Rt. 1 was the Lazy Susan Dinner Theater.

Mr. Lynch asked the Board to approve the Phase II of the building plans with this special permit. Chairman Smith stated that septic was not in yet. Mr. Lynch stated that the maximum building to be constructed would be 20'x60' which would be used for an office and storage space. Their intent was to acquire a modular unit and over it onto a pad for office use. It would used from May, June and July from 6 A.M. to midnight everyday. In response to the Board as to what activity would be conducted at 6 A.M., Mr. Lynch stated that the driving range would have a lot of activity from people stopping before going to work. The Board questioned the use during other times of the year. Mr. Lynch responded that in December, January and February the use would have minimal activity. They did not expect any use beyond daylight. The Board questioned whether the lights for the driving range would impact the surrounding properties. Mr. Lynch stated that the large stand of trees and the I-95 right-of-way and the railroad to the north would prevent the lights from impacting residential properties.

Mr. Henry Harper of Lorton spoke in support of the application. He was a member of the Mason Neck Civic Association and they were in agreement with the planned uses of the property for general family use. They were also in agreement with the Master Plan which called for ways for the County to encourage development in the area. They felt that the recreational facility was designed well and was attractive. They were concerned that when the use was discontinued that it be removed rather than remain as an eyesore.

Mr. George Bixby of Harborview Subdivision in Lorton also spoke in support. He supported the statements made by Mr. Bixby. He stated that his concern was that anything done to the property be of high quality and design. He did not want to see any gaudy signs at the entrance. He wanted the area reserved in good taste.

Mr. Joe Rosen of 10709 Old Colchester Road was not in support or opposition. He stated that the plan was a well thoughtout program but he was aware in the past of rock concerts and carnivals. The only objection he had was to the noise during the summertime. He stated that he was concerned about potential noise.

Mr. Robert Bodine of Greely Boulevard in Springfield spoke in opposition. He was concerned about the river and wanted a commitment that the uses that they would not go in on the tract along the river known as wetlands.

During rebuttal, Mr. Hyland stated that Mr. Bodine's point was well taken about the wetlands and future use of the property. He did not want to see the special permit granted carte blanche. He felt that the applicant should be required to come back to the BZA for Phase II for the water slide and the batter cage. Mr. Hyland stated that he was concerned about future parking on the site.

Mr. Lynch stated that he was trying to give the Board as much information as possible to authorize Phase II at this time. The second phase parking would contain 115 parking spaces. There would be four parking spaces per cage and no more than three or four cages. The water-slide was more of an art form. Parents did not stay with their children so 30 to 35 parking spaces should handle the parking situation.

Chairman Smith was concerned that the BZA did not have a definite plan before them for Phase II. However, he stated that if the number were limited, he would not have a problem. Chairman Smith stated that he was concerned about the height of the waterslide and the view from Rt. 1 highway. He had no problem with the other uses but stated that the Board needed to gauge the impact. In response to questions from the Board regarding the height, Mr. Lynch stated that he was not in the business and only set up the business. The property would be leased to a company associated with the Lynch Partnership.

Page 287, November 30, 1982
LYNCH LIMITED PARTNERSHIP

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-V-092 by LYNCH LIMITED PARTNERSHIP under Section 3-103 & 4-803 of the Fairfax County Zoning Ordinance to permit miniature golf course and golf driving range plus other commercial and outdoor recreation uses, located at Rt. 1 and Furnace Road, tax map reference 113-3(1)pt. 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 November 30, 1982; 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 C-8 & R-1.
3. That the area of the lot is 35.465 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 & 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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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R E S O L U T I O N

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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 midnight March 15th through November 1st and daylight hours only from November 1st through March 15th.

8. The number of parking spaces shall be 78 for the first phase and the number of parking spaces for the batting cages and the water slide shall be 116 as shown on the plat.

9. Phase II as suggested by the applicant is similarly approved by this granting which would permit batting cages and water slides to be erected on the site and that the number of batting cages shall be limited to five. There shall be one structure on the site containing two water slides.

10. In the event that the water slide is leased to some other person other than the applicant or that the operator of the water slide is not a corporation or organization controlled more than 50% by the applicant that the lessor shall be required to come back before the Board of Zoning Appeals and obtain a permit to operate the water slide.

11. The cutting of trees in excess of 4 inches in diameter shall be limited to those areas comprising the golf driving range, the miniature golf course and the parking lots supporting the golf driving range, the miniature golf course, the batting cages and the water slides.

Mr. Ribble seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 288, November 30, 1982,

Mr. DiGiulian left the meeting at 1:45 P.M.

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Page 288, November 30, 1982, After Agenda Items

By-Laws: Chairman Smith stated that he wanted to wait to amend the by-laws after the special meeting with the Zoning Administrator and the County Attorney's Office scheduled for Dec. 9th.

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Page 288, November 30, 1982, After Agenda Items

Seoul Presbyterian Church, S-81-S-021: The Board was in receipt of a request from Byung In Lee, M.D., Board of Trustees for the Seoul Presbyterian Church, for an extension of the special permit for construction of a church. Mr. Ribble moved that the Board allow a six month extension. Mr. Hyland seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent). The new expiration date for the special permit was June 2, 1983.

// There being no further business, the Board adjourned at 1:55 P.M.

By

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

Daniel Smith
Daniel Smith, Chairman

Approved: Sept. 11, 1984
Date

Submitted to the Board on Sept. 6, 1984

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 7, 1982. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble (arrived at 10:50 A.M.); and Mary Thonen. John DiGiulian was absent.

The Chairman opened the meeting at 10:25 A.M. and Mrs. Day led the prayer.

10:00 A.M. RICHLYNN DEVELOPMENT, INC./ALVIN & BONNIE ALMOND, appl. under Sect. 18-401 of the Ord. to allow the subdivision of 11 lots with lots 101 and 102 having a width of six ft. each (80 ft. req. by Sect. 3-306), located 7218 Bonniemill Ln., Bonniemill Gardens Subd., R-3, Lee Dist., 90-3(11)31, 32, 33, 35, 37, 38 & D and 90-3(5)8; 3.76 acres, V-82-L-194.

Jim Straus, a planner with the consulting firm of Patton, Harris, Rust & Associates, represented the applicant. He stated that unusual circumstances applied to the property, which had not resulted from an act by the applicant. The applicant had purchased all of the land surrounding the Almond property in July of 1981. He had attempted to purchase the Almond property as well, so that it could be included in the subdivision, but at that time the owner was not willing to sell it. Mr. Straus stated that after Richlynn Development finally contracted to buy the property, it was rezoned from R-3 to R-1. This property consists of 1.5 acres and would allow the creation of four lots according to the R-3 District regulations. The unusual condition affecting this land is that all of the streets in the Bonniemill Acre subdivision have been dedicated and recorded as shown, and the construction of these streets is now taking place. Therefore the Almond property has limited frontage on Bonniemill Lane. In order to utilize the property for typical R-3 lots, the applicant has shown four lots, two of which have direct frontage on Bonniemill Lane, and meet the minimum lot width requirements. The other two lots would require private driveway access to Loughboro Lane. Lot 101 would encompass and preserve the existing residential structure on the Almond parcel.

An environmental site analysis submitted by the Environmental and Policy Division stated that the analysis was performed earlier this year for this site as part of rezoning application RZ 82-L-006. The Board of Supervisors approved the rezoning with the knowledge that the subject variance would be necessary. The pipestem lots, however, are inadequate in terms of lacking protected open space to their rear. This is particularly inadequate for lot 101 which possesses a minimal rear yard facing lot 99. Sufficient screening employing evergreen trees for fencing should be provided around the perimeters of lots 101 and 102 to provide some measure of privacy.

Mr. Straus stated that there was an existing buffer around lots 101 and 102, however, the applicant was willing to coordinate with the County Arborist and supplement the existing trees with evergreen plantings.

There was no one to speak in support or opposition.

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Board of Zoning Appeals

RICHLYNN DEVELOPMENT, INC./ALVIN & BONNIE ALMOND
RESOLUTION

In Application No. V-82-L-194 by RICHLYNN DEVELOPMENT, INC./ALVIN & BONNIE ALMOND, under Section 18-401 of the Ordinance to allow the subdivision of 11 lots with lots 101 and 102 having width of six ft. each (80 ft. req. by Sect. 3-306), on property located at 7218 Bonniemill Lane, tax map reference 90-3(11)31, 32, 33, 35, 36, 37, 38, & D and 90-3(5)8, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 7, 1982; 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 3.76 acres.
4. That the applicant's property is irregular in shape. An evergreen screening shall be provided on lots 101 and 102 which satisfies the requirements of the Director of Environmental Management.

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

That the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. DiGiulian being absent)

Page 290, December 7, 1982, Scheduled case of:

10:10 A.M. EDWIN A. & MARJORIE K. RICE, appl. under Sect. 18-401 of the Ord. to allow the construction of a carport addition to dwelling within 7.35 ft. of the side property line (10 ft. min. side yard req. by Sects. 3-207 & 2-412), located 8915 Bordeaux St., Sulgrave Manor Subd., R-2, Mt. Vernon Dist., 110-2((7))142, 27,462 sq. ft., V-82-V-195.

Edwin Rice presented his application. He stated that his property was a corner lot with double front yard requirements. The location of the house and the topography of the lot limited the area in which the carport could be located. The house was placed at a 45 degree angle on the extreme upper end of the lot facing downhill toward the intersection of Old Mill Road and Bordeaux Street. The existing drive is off of Bordeaux Street and in line with the end of the house. The proposed location of the carport is the most level part of the entire lot.

There was no one to speak in support or opposition.

Page 290, December 7, 1982
EDWIN A. & MARJORIE K. RICE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-V-195 by EDWIN A. & MARJORIE K. RICE, under Section 18-401 of the Zoning Ordinance to allow the construction of a carport addition to dwelling within 7.35 ft. of the side property line (10 ft. min. side yard req. by Sects. 3-207 & 2-412), on property located at 8915 Bordeaux Street, tax map reference 110-2((7))142, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 7, 1982; 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 27,462 sq. ft.
4. That the applicant's property has an exceptional topographic problem to the rear yard which slants down. There is an unusual condition in the location of the existing building on an angle on the subject property. There are only two houses on Bordeaux Street, the applicant's and the neighbors. The carport addition shall have dimensions of 22 feet wide and 22 feet long.

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

That the applicant has satisfied the Board that physical conditions as listed above 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 for a carport addition 22 ft. by 22 ft. 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

Page 291, December 7, 1982, Scheduled case of:

10:20 A.M. HAROLD H. LION, appl. under Sect. 18-406 of the Ord. to allow a carport and storage room addition to remain 2.9 ft. from side property line (min. side yard of 12 ft. req. by Sect. 3-307), located 8012 Gosport Ln., Ravensworth Farms Subd., R-3, Annandale Dist., 79-2((3))(18)25, 11,475 sq. ft., V-82-A-196.

Chairman Smith indicated that the notices were not in order for this case. The variance application was deferred to January 11, 1983 at 11:45 A.M.

Page 291, December 7, 1982, Scheduled case of:

10:30 A.M. GARY C. NIXON, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to dwelling within 24.3 ft. of front property line (40 ft. min. from yard req. by Sect. 3-107), located 9726 Gunston Cove Rd., Lorton Valley Subd., R-1, Lee Dist., 113-2((2))1, 23,102 sq. ft., V-82-L-197.

John Kephart, 1928 Duke Street, Alexandria, represented the applicant. He stated that due to the size of the lot, the location of the existing septic field, and the underground utility lines, placement of a rear garage with easy access to the house would be impossible. A variance was granted and this house was constructed in 1958 because of the size of the lot. There are four other homes on Cranford Street which is a narrow dead end street with no shoulders and not up to standard.

There was no one to speak in support or opposition.

Page 291, December 7, 1982
GARY C. NIXON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-L-197 by GARY C. NIXON under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling within 24.3 ft. of front property line (40 ft. min. front yard req. by Sect. 3-107), on property located at 9726 Gunston Cove Road, tax map reference 113-2((2))1, County of Fairfax, Virginia, Mr. Ribbie moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 7, 1982; 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-1.
3. The area of the lot is 23,102 sq. ft.
4. That the applicant's lot is substandard in lot width and area. There is a septic field in the rear portion of the 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 2. (Messrs. Smith and Hammack) (Mr. DiGiulian being absent)

Page 292, December 7, 1982, Scheduled case of:

10:40 A.M. COL. & MRS. ROBERT L. BUTTERFIELD, appl. under Sect. 18-401 of the Ord. to allow the enclosure of an existing carport 11.8 ft. from side property line (15 ft. min. side yard req. by Sect. 3-207), located 5275 Navaho Dr., Linconia Park Subd., R-2, Mason Dist., 72-3((11))53, 20,290 sq. ft., V-82-M-198.

Michael Hale, 640 Spring Street, Herndon, represented the applicant. He stated the the lot was heavily wooded which reduced expansion. Also, many kinds of wild plants were growing throughout the lot and the applicant did not want to disturb them. Further, the lot was located on a hill which limited building possibilities. The wooded area between the existing retaining wall on which the side garage wall would be constructed, and the neighbors property line provided a buffer between their house and the proposed garage.

There was no one to speak in support or opposition.

Page 292, December 7, 1982 Board of Zoning Appeals
COL. & MRS. ROBERT L. BUTTERFIELD

R E S O L U T I O N

In Application No. V-82-M-198 by COL. & MRS. ROBERT L. BUTTERFIELD, under Section 18-401 of the Zoning Ordinance to allow the enclosure of an existing carport 11.8 ft. from side property line (15 ft. min. side yard req. by Sect. 3-207), on property located at 5275 Navaho Drive, tax map reference 72-3((11))53, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 7, 1982; 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 20,290 sq. ft.
4. That the applicant's property has an exceptional topographic problems which precludes the expansion and addition of the carport in any other place on the 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. DiGiulian being absent)

Page 293, December 7, 1982, Scheduled case of:

10:50 A.M. JOHN T. BOHRER, appl. under Sect. 18-401 of the Ord. to allow the construction of a detached garage within 1.9 ft. of the side lot line (15 ft. min. side yard req. by Sect. 3-307), located 7814 Shreve Rd., Kingwood Park Subd., R-3, Providence Dist., 49-2((13))18, 12,722 sq. ft., V-82-P-199.

After reviewing the plat submitted with the application, the Board members made the determination that the captioned paragraph was incorrectly written and advertised. The paragraph should read "within .5 ft. from each side lot line (12 ft. min. side yard req. by Sect. 3-307)." The Board members also questioned the size of the garage, which was half as big as the home on the lot. The garage was 840 square feet in size, which exceeded the 600 square foot limit in an interpretation of the Ordinance by the Zoning Administrator. Mrs. Thonen was concerned that the applicant would have to go onto his neighbors property for any maintenance, since the garage was so close to the lot line.

Mr. Bohrer stated that he had selected this location for the garage because of the existing driveway, and to move the garage would cause a problem entering it. After much discussion with the Board members concerning the size of the garage and the placement being so close to the lot line, Mr. Bohrer agreed to withdraw the application and submit a new one.

There was no one to speak in support or opposition.

Mr. Hyland made a motion that the applicant be permitted to withdraw his application without prejudice and be given time to submit another application. Mr. Hammack seconded the motion.

Page 293, December 7, 1982, Scheduled case of:

11:00 A.M. DONALD F. & RENE H. BOZARTH, appl. under Sect. 18-401 of the Ord. to allow the enclosure of an existing carport within 11.8 ft. of the side property line (12 ft. min. side yard req. by Sect. 3-307), located 7824 Sycamore Dr., Holmes Run Acres Subd., R-3, Providence Dist., 59-2((8))41, 11,380 sq. ft., V-82-P-200.

Donald Bozarth presented his application. He stated that he wanted to enclose an existing carport to create a sun room with a sitting area, and a dining area. The property was a corner lot with the house set back much further than the Zoning Ordinance required.

There was no one to speak in support or opposition.

Page 293, December 7, 1982
DONALD F. & RENE H. BOZARTH

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-P-200 by DONALD F. & RENE H. BOZARTH, under Section 18-401 of the Zoning Ordinance to allow the enclosure of an existing carport within 11.8 ft. of the side property line (12 ft. min. side yard req. by Sect. 3-307), on property located at 7824 Sycamore Drive, tax map reference 59-2((8))41, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 7, 1982; and

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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. The present zoning is R-3.
3. The area of the lot is 11,380 sq. ft.
4. The applicant's property does have an unusual condition in that the location of the existing dwelling is placed to the side and rear of the lot. We have received testimony indicating that the applicant does have an existing carport on the right side of the property with a driveway. The location of the building being so close to the right property line causes the applicant to need a variance in order to enclose the carport. From looking at the photographs that have been submitted, it would not be reasonable to expect the applicant to place the carport in any other location. It could be placed on the other side along Holmes Run Drive but there is a retaining wall and that is the larger open space on his lot. The pictures indicate several trees that would perhaps be affected.

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

That the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. DiGiulian being absent)

Page 294, December 7, 1982, Scheduled case of:

11:10 A.M. JAMES A. & PATRICIA B. WARNER, appl. under Sect. 18-401 of the Ord. to allow a basketball backstop to remain in the front yard on a 10,231 sq. ft. lot (Sect. 10-401: no accessory structure or use except a statue or flag pole shall be located (a) in any req. min. front yard on any lot or (b) in any front yard on any lot containing 36,000 sq. ft. or less), located 6223 Garretson St., Shannon Station Subd., PDH-3, Springfield Dist., 78-4(19)46, 10,231 sq. ft., V-82-S-202.

James Warner presented his application. He stated that in January of 1982 the basketball backstop was erected on a 4 x 4 inch wooden post adjacent to the driveway at his residence. The installation was made in such a manner similar to dozens of similar basketball backstops throughout the Burke area on property with identical zoning. This backstop was for the use of his two children ages eight and twelve. In April of 1982, a Zoning Inspector informed Mr. Warner that he was in violation of the Zoning Ordinance. Mr. Warner stated that he did not realize he was violating the Ordinance when he erected the basketball backstop. There were no fewer than thirty-five identical installations in the immediate surrounding area, and he submitted a zoning map to the Board members with the properties highlighted. Mr. Warner stated that it was not his intention to cause actions against all these neighbors, he just wanted to make a point about the uneven application of a local ordinance.

Mr. Hyland asked Mr. Warner if the other 35 people were cited for their basketball backstops and were told that the Zoning Ordinance prohibited them, would he then feel that he had been treated fairly. Mr. Warner replied that yes he would, but that was not his intention. Mr. Warner stated that he would not have erected his backstop if he had not seen so many other installations. Chairman Smith stated that if Mr. Warner's question was on the validity of enforcement, he should have filed an appeal of the Zoning Administrator's decision, rather than a variance request. Chairman Smith stated that one of the requirements under the variance section of the Ordinance and of the State Code, is that a variance not be granted if it is a general condition. It has to be a specific condition that denies reasonable use of the land.

Donna Calley, 6215 Garretson Street, spoke in support of the application. She stated that she did not find the activity of playing basketball on a driveway objectionable. She did not consider a basketball backstop to be an eyesore.

The Board was in receipt of a petition in support of the application signed by 42 homeowners in the immediate area.

No one spoke in opposition, but a letter of opposition was received from Seong and Yeh Hwang, 6225 Garretson Street, directly next door to the applicant's. They indicated that they did not like the Warner children trespassing into their yard to retrieve the basketball. Also, the noise disturbed them when the children were playing, and they said their whole house rattled when the backstop was being used.

There was no one else to speak with regard to the application.

R E S O L U T I O N

In Application No. V-82-S-202 by JAMES A. & PATRICIA B. WARNER, under Section 18-401 of the Zoning Ordinance to allow a basketball backstop to remain in the front yard on a 10,231 sq. ft. lot (Sect. 10-401: no accessory structure or use except a statue or flag pole shall be located (a) in any req. min. front yard on any lot or (b) in any front yard on any lot containing 36,000 sq. ft. or less), on property located at 6223 Garretson Street, tax map reference 78-4((19))46, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 7, 1982; 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 PDH-3.
3. The area of the lot is 10,231 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. Hammack seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

Page 295, December 7, 1982, Scheduled case of:

11:20 A.M. FOX HUNT SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-219-79 for community tennis & swim club to permit addition of deck, extension of bathhouse porch & addition of brick storage area to existing facilities, located 7024 Spaniel Rd., Orange Hunt Estates Subd., R-2, 88-4((2))D & 7A, Springfield Dist., 5.83655 ac., S-82-S-073.

James Pendleton, 7420 Beulah Road, Alexandria, represented the applicant. He stated that the homeowners had voted on these additions. The deck was being erected because the hillside was hard to maintain. Also, they needed more room for people when they had swim meets. He stated that there was an existing 20 by 20 ft. porch area which would be extended another 20 feet. The club also wanted to construct a shed for storage of equipment.

There was no one to speak in support or opposition.

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R E S O L U T I O N

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Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-S-073 by FOX HUNT SWIM CLUB, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-219-77 for community tennis and swim club to permit addition of deck, extension of bathhouse porch & addition of brick storage area to existing facilities, on property located at 7024 Spaniel Road, tax map reference 88-4((2))D & 7A, 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 7, 1982; and

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

1. That the applicant is the owner.
2. That the present zoning is R-2.
3. That the area of the lot is 5.83655 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. All conditions of the previous permits not altered by this permit shall remain in effect.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

Page 296, December 7, 1982, AFTER AGENDA ITEMS:

COUNTRY CLUB OF FAIRFAX, S-82-S-102/V-82-S-214: The Board was in receipt of a letter requesting an out-of-turn hearing for the above captioned applications. It was the consensus of the Board to grant the request and schedule the applications for January 11, 1983 at 12 Noon.

Page 296, December 7, 1982, AFTER AGENDA ITEMS:

ANDREA FIELD/V-81-D-024: The Board was in receipt of a letter requesting a one year extension for the above captioned variance. The subdivision project was currently in bonding status at the County office. It was the consensus of the Board to grant a six month extension.

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Page 297, December 7, 1982, AFTER AGENDA ITEMS:

CARL RICHARD BOEHLERT/V-81-D-044: The Board was in receipt of a letter requesting an extension for the above captioned variance application. The applicant indicated that due to the impact of the severe economic recession, he had been delayed in subdividing the property and constructing appropriate housing. He had done considerable engineering work and planned to construct a house on one of the lots within the next couple of months. It was the consensus of the Board to grant a six month extension.

Page 297, December 7, 1982, AFTER AGENDA ITEMS:

The Board approved the BZA Minutes for April 14, 1981 and April 21, 1981 as presented.

Page 297, December 7, 1982, AFTER AGENDA ITEMS:

KIDDIE COUNTRY DAY CARE LTD., EDNA ANULEWICZ & FRED T. LOWERY/S-82-S-046:

Mr. Hyland made the following motion:

Mr. Chairman, on October 29, 1982, in the case of Kiddie Country Day Care v. Fairfax County Board of Zoning Appeals, At law 58095, the Circuit Court of Fairfax County entered an order declaring that this Board's vote on August 5, 1982 of three in favor, two opposed to Special Permit Application S-82-S-046 operated as an approval of the permit subject to the conditions set forth in the motion made on that date.

Therefore, I move that the Clerk to the Board of Zoning Appeals enter the following notation in the margin of the official minute book for August 5, 1982:

S-82-S-046 deemed approved subject to the conditions enumerated in the BZA's resolution by order of the Fairfax County Circuit Court entered October 29, 1982, in the case of Kiddie Country Day Care, et al. v. Board of Zoning Appeals, At law 58095.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

There being no further business, the Board adjourned at 1:50 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Sept. 11, 1984 APPROVED: Sept. 18, 1984

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 14, 1982. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; and John Ribble (arriving at 10:20 A.M.).

The Chairman called the meeting to order at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 ERNEST J. & MARGARET S. WELLS, appl. under Sect. 3-103 of the Ord. for a nursery
A.M. school, located 3013 West Ox Rd., R-1, Centreville Dist., 35-2(1)29, 4.042
acres, S-82-C-078. (DEFERRED FROM OCTOBER 26, 1982 TO AMEND APPLICATION AND
FOR RECEIPT OF TRANSPORTATION REPORT).

Mr. Frank Grace represented the applicants. His office address was 4160 Chain Bridge Road in Fairfax. Mr. Grace informed the Board that the original application asked approval for 90 children, ages 2 - 6 with hours from 6:30 A.M. until 6:00 P.M. However, due to the septic field limitations, the Health Department was limiting the applicant to 80 students.

Chairman Smith presented the applicant with a copy of a letter in opposition to the nursery school. Mr. Grace stated that the transportation report had not been available at the last hearing. He had received that information and the applicant was willing to dedicate and comply with the requirements set forth in the report dated November 10th.

With regard to the opposition letters from Stephanie King and John Wendt, Mr. Grace disagreed about the noise to be generated. He stated that because the parcel was large, the noise would not adversely affect the adjoining properties. The residence was located at the center of the property. He stated that the applicant had to comply with the screening requirements. There would not be more than 80 children at any one time and they would not all be outside at any one time. Mr. Grace stated that the applicant was quite willing to comply with any noise abatement specified in the report.

Paragraph 2 of the report referred to safety problems. Mr. Grace stated that safety was always a concern but the applicant was willing to comply with the Transportation Department requirements and the Health Department standards which would satisfy the safety requirements. They would widen the road which was expensive but it could be done in a safe fashion if the standards were complied with. Mr. Grace stated there seemed to be relatively light traffic on West Ox Road. The applicant would implement carpooling or bus transportation. It was difficult to indicate when it would be implemented because they did not know the student population yet.

Mr. Grace stated that they could not agree with the survey that this was a dangerous situation. He felt that when they satisfied the site plan requirements, and once the street was widened and the driveway cleared for ingress and egress, it would not be a dangerous situation at all.

In response to questions from the Board regarding conflicting information on an existing hedge row, Mr. Grace stated that the topography of the front of the property line did have a mound on it with an embankment on top of it. Before receiving the transportation report, the applicant wanted to retain the mound and the trees for sound deadening and privacy. Mr. Grace stated that he did not know how the applicant could resolve the conflict of widening and save the mound. They would have to dedicate 45' from the centerline of the road. The applicant was willing to work with the Transportation Office but would rather relocate the driveway than to have to comply with the 45' dedication. Mr. Grace suggested a deceleration lane.

The Board inquired as to whether there had been noise readings taken in view of the letters stating about the unusual conditions of echo effects. Mr. Grace stated that he did not have any readings that would indicate the average decibel level. They did not view the noise to be a problem based on the size of the property and the location of the building and the screening that would be required. There was a suggestion that the play area be 800 sq. ft. Mr. Grace stated that it was not feasible that all 80 children would be outside at any one point in time.

The Board questioned whether the applicant had any experience from other nurseries as to the level of noise to be generated and how it would affect the children. Mr. Grace stated that the applicant was not engaged in the nursery business in any other location. This was the first operation. The applicant was not adverse to providing screening around the play area. A wooden fence with some foliage should alleviate the noise and would not be obnoxious as it would only be seen from inside the property. The perimeter of the property would not be fenced as the children would be bussed or carpooled to the facility. If they were outside, they would be in the back yard area which was to be fenced. No children would be allowed to run free in the front of the property. The children would be monitored at all times.

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Mr. Grace stated that a 42" chain link fence was to be provided even though the plat showed a 3' fence.

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The Board questioned the arrangement between Mr. & Mrs. Wells and their son who was to be the operation of the nursery school. In response, Mr. Grace stated that the Wells had not contemplated any type of lease agreement. The son would be working for his mother and father. He would be the principal supervisor. The Wells would hire staff to work on a full-time basis. There was not to be a lease situation. The son, Brian, would be one of their employees but he would be the principal contact. Col. Wells would not live on the property and would not be involved fulltime in the activities since he was retired. Col. Wells had another residence in Florida where he was presently residing.

The Board suggested that the application be amended to include the son, David Wells, as Col. and Mrs. Wells would not be the operators of the nursery school. Mr. Grace stated that there had been a plan to amend the application to form a corporation named by the Wells. That had not been taken care of yet since at the last hearing there had not been a report from Transportation. The Wells were studying the report to see the impact. The Wells did not live in Virginia fulltime and wintered in Florida. The nursery would be a family operation. Their son would operate it when they were not here. The corporation would be a family function. Mr. Grace stated that Brian Wells was not represented as someone with experience and it was not represented that the Wells would be involved in the operation on a fulltime basis.

With regard to the experience of the Wells' son, Mr. Grace stated that the Wells would hire experienced personnel. They would contact schools with whom they wanted to affiliate and use a "style" of day care center. After discussion of the amendment suggested by the Board, Mr. Grace stated that Mr. Brian Wells was a resident of Fairfax. Mr. Grace was aware of the fact that if the corporation was named to head the permit, there would have to be a public hearing held. There were valid business reasons for not naming the corporation at this time. Mr. Grace stated that he would list Mr. Brian Wells as one of the permittees to resolve any concerns the Board might have since the Wells spent a lot of time in Florida.

There was no one else to speak in support. Mr. John Wendt of 3015 West Ox Road informed the Board that he lived next door. He was in opposition to the request as he believed it would change the character of the neighborhood. His house was about 75 years old and was the initial house on 36 acres. It was 60 ft. from the road. The Wells' house was about 180 ft. from the road. The additional traffic of 40 to 320 cars per day would create a considerable amount of noise. Mr. Wendt stated that his bedroom, living room and dining room were on the front of the house. Mr. Wendt stated that there was a safety problem which would not be alleviated by the relocation of the driveway. The road was elevated and the speed was 45 mph. There was a danger of collision from behind. Mr. Wendt stated that his primary objection was the change to the neighborhood. He had been attracted to the site because of the size of the area. Mr. Wendt stated that it was not possible to create a shoulder on West Ox Road without taking away 10 - 12 ft. of the trees and shrubbery which would affect the value of his property.

Ms. Stephanie King of 3015 West Ox Road also spoke in opposition. She stated that if the Wells property was improved with a deceleration lane, what would happen to her property. The house sat much closer to the road than the Wells' house. Ms. King stated that she objected to any right-of-way being taken from her property. Ms. King and Mr. Wendt had purchased their property a year ago. Mr. Wendt did not believe that the septic system next door could accommodate 80 children. He was advised by the Chairman that the Health Department inspected the property and approved the use for 80 children.

During rebuttal, Mr. Grace stated that the applicant had adequate facilities for 80 children. The Health Department had made that determination. The Wells' home was a custom home and was quite large. It was large and well constructed and was inspected by the Health Department. However, due to the Board's concern, Mr. Grace moved that the matter be deferred until the representative from the Health Department could answer any concerns. With regard to the opposition, Mr. Grace stated that the property line between Mr. Wendt's property and Mr. Wells' property could be screened. There would not be any noise to diminish the property values. There was nothing in the plans about asking the County to expand the facility to add additional structures. Mr. Grace suggested that the Board defer the hearing until January which would allow him to obtain the building plans reviewed by the Health Department.

It was the consensus of the Board to defer the matter until Tuesday, January 18, 1983 at 8:00 P.M.

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Page 299, December 14, 1982, Scheduled case of

10:10 A.M. ALLEN & LYANNE JORSEY, appl. under Sect. 18-401 of the Ord. to allow the enclosure and addition to an existing carport into a garage within 8 ft. of the side lot line (12 ft. req. by Sect. 3-307), located 6304 Zekan Ln., Merriwether Estates, R-3, Lee Dist., 81-3((18))5, 10,609 sq. ft., V-82-L-203.

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Mr. Jorsey of 6304 Zekan Lane in Springfield informed the Board that his property sat back on the road. The back yard was constructed with a pool and the land sloped upward towards the school property. Putting anything at the rear would cause drainage problems. To the south, the land dropped away. Mr. Jorsey was proposing to enclose his carport into a two car garage. The property next door did not have windows on that side except at an elevated point that would overlook his house. In the back of the house were two 90 ft. well established trees. The total width of the garage would be 19.8 ft. and it would have a single door. The depth of the garage would be the depth of the house. Mr. Jorsey stated that he had planned to put an addition at the back which would make the carport deeper. However, he had been advised that it would cause severe drainage problems. The back yard sloped upwards toward the school property. Mr. Jorsey informed the Board that the original plat had been wrong and he had provided a corrected plat with the application.

In response to concerns that the existing carport could be enclosed without a variance, Mr. Jorsey stated that it would only allow room for one car. He proposed to extend the carport because one car had to sit on the street. His house had been robbed three times. The expansion would give him more space. A two car garage would be an improvement and would work better with the natural lines of the house. The expansion would make the garage 19.8 ft. wide.

There was no one else to speak in support and no one to speak in opposition. Mr. DiGiulian questioned the applicant regarding the reason for not building at the rear. Mr. Jorsey cited the problems of the sloping land and the two enormous trees at the back. In addition, there was a patio at the back. The house sat back from the street and there was not much room in the back yard. The pool was located in the back. The back property line was not straight across and the back yard got smaller. Mr. Jorsey stated that the grade at the back was such that he could not build the garage. Mr. Jorsey indicated that his neighbor was a builder and had suggested that it would be better to make the carport bigger and wider than to build in the back and cause drainage problems again. Mr. Jorsey stated that he had corrected the drainage problems by digging out the back wall after the school was built. He had to put in a pump because there was a lot of water. He stated that he built anything in the back and had to remove the two large trees, it would cause water to come into his house and his neighbor's house.

Mr. Jorsey stated that with regard to parking in the street, Zekan was a dead-end street. It was a natural playground for the neighborhood children. His car was first base. Mr. Jorsey stated that he had invested a lot of money in his cars. There were other two car garages in the area. Mr. Jorsey was not aware whether any were as close as 8 ft. to the lot line. He believed there had been a variance for one of the garages.

R E S O L U T I O N

In Application No. V-82-L-203 by ALLEN & LYANNE JORSEY under Section 18-401 of the Zoning Ordinance to allow the enclosure and addition to an existing carport into a garage within 8 ft. of the side lot line (12 ft. required by Sect. 3-307) on property located at 6304 Zekan Lane, tax map reference 82-3((19))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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 14, 1982; 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 10,609 sq. ft.
4. That the applicant's property has a topographic problem and an unusual condition in the location of the dwelling on the 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:

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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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 2 (Messrs. Smith and Hammack).

Page 301, December 14, 1982, Scheduled case of

10#20 RICHARD D. GOODMAN & BOYD D. MYERS T/A GOODMAN-MYERS PARTNERSHIP, appl. under A.M. Sect. 18-401 of the Ord. to allow subdivision of five lots with lots 2, 3 & 4 having widths of six ft. (80 ft. req. by Sect. 3-306), located 7509 & 7511 Ramblewood Ct., Moore-Keith Subd., R-3, Mason Dist., 60-3(6)34A-2 & 34B-2, 1.6814 acres, V-82-M-204.

Mr. Richard Goodman of 3723 Hummer Road in Annandale informed the Board that his proposed subdivision would not be the normal "pipestem" lots as all the lots would have frontage on the street. Due to the land configuration being narrow in the front, it was not possible to use the land in a reasonable manner. The zoning allowed three dwelling units per acre.

The Board questioned the applicant regarding a statement in the staff report about a covenant restricting the lots from being subdivided without 100 ft. frontage. Mr. Goodman stated that he had discussed the covenants with his attorney. He had been informed that the covenants were not enforceable except through civil proceedings. Mr. Goodman stated that it was up to the courts to determine whether the covenants were valid. Mr. Goodman stated that there was language in the covenants restricting the land to the caucasian race which he did not feel the courts would uphold. If the courts upheld the covenants, Mr. Goodman stated that he would not be allowed to use his land. He informed the Board that he had not received any citizen opposition to his request.

Chairman Smith stated that the Board could only consider the land use as far as the Zoning Ordinance was concerned. They did not take covenants into consideration. Mr. Goodman informed the Board that he did not take the covenants in less than a serious manner but he did not believe them to be legally enforceable. He indicated that the width of the lots had been uniformly violated through the neighborhood.

Some of the Board members were extremely concerned that the covenants were being ignored as it would force the citizens to run to the Courts. Chairman Smith stated that the covenants were in conflict with the County and State Code. The covenants did not have any bearing on the Board's decision. Some of the members felt that the covenants should not be ignored as they had been around longer than the Code. It was felt that the covenants ran with the land. Chairman Smith advised the Board that they should only consider the standards set forth in the Zoning Ordinance. He stated that the Board had never been overturned on a decision because of covenants.

In response to justifying the hardship, Mr. Goodman stated that the land consisted of two building lots. The proposed subdivision was not the typical pipestem configuration because the lots had far more frontage than a normal pipestem. The houses would be in conformance with the other houses in the area. The Board questioned why the applicant could not build a standard subdivision street. Mr. Goodman stated that it would reduce the lot square footage and there would not be enough land to construct five lots. Chairman Smith stated that even if the subdivision was reduced to four lots, it would still be a reasonable use of the land and the applicant would not have the question of covenants. Mr. Goodman stated that he had been advised by his engineer that it would be too tight. The plan had been prepared by his engineer who believed it to be the most workable. Mr. Goodman stated that the use of the land was unusable because of the real estate values in the area.

In response to who owned parcels 34A-1 and 34B-1, Mr. Goodman stated that Mr. Jacobi owned lot 34A-1 and Mr. Seibert owned lot 34B-1. It was a fairly recent subdivision that had taken place prior to Mr. Goodman's purchase 2 1/2 years ago.

There was no one else to speak in support. The following persons spoke in opposition. Mr. Walter Rave of 7513 Walton Lane informed the Board that he had lived on the property for 30 years. He represented the opposition and had 52 names of people from Moore-Keith Subdivision who were also opposed to the variance as it would change the character of the area. He stated that this was a stovepipe road without a cul-de-sac. The zoning was R-3 and three of the lots were less than the required R-3 zoning. Mr. Goodman had indicated that the covenants were being violated. Mr. Rave stated that the covenants were not being violated.

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The applicant was proposing to put eight houses on a three acre lot. Twenty-five of the neighbors were willing to contribute to a court case. Mr. Rave presented the Board with a copy of the petition signed in opposition. In response to questions from the Board, Mr. Rave indicated that the opposition had not contacted Mr. Goodman as they had heard he was out-of-town. Everyone in the area had voiced opposition. The covenants had never been broken and they had been upheld in court. Some of the provisions were out-of-date but the covenants were enforceable. If one provisions was not enforceable, the others would still remain. Mr. Rave stated that the covenants went with the land. The citizens had filed a temporary injunction to protect the covenants and were waiting for a hearing date. Mr. Rave stated that approval of the variance would set a precedent and affect the quality and character of the subdivision. The approval of the variance was not in the best interest of the neighborhood. There were 65 lots covered by the covenants.

The Board questioned Mr. Goodman that in view of the opposition whether he wanted to defer the application until a later date or request a withdrawal. Mr. Goodman stated that he wanted to respond to the opposition.

Mr. James Carrington of Ramblewood Court spoke in opposition. He stated that he had lived on his property since the development was built. He presented the Board with a petition from the Ramblewood homeowners consisting of 67 signatures representing 100% of the homes. He had received telephone calls from Hawaii, Germany, Michigan, etc. from military personnel who wanted to return here to their homes. Mr. Carrington read the petition for the record.

The next speaker was Mr. Bob Beers of Supervisor Davis' Office in Mason District. He read a statement that the variance was unacceptable under the requirements of a8-104. He stated that the applicant did not suffer from any hardship of the land and he urged the Board to deny the variance.

During rebuttal, Mr. Goodman informed the Board that he had not been aware of the opposition. He stated that he lived in the neighborhood and no one had knocked on his door. He asked the Board to postpone the decision to give him time to research as felt much of the testimony had been inaccurate. Chairman Smith stated that he was concerned about a deferral because the applicant had not defined a hardship. He felt the applicants could make reasonable use of the land and comply with the general development in the area. Chairman Smith stated that the applicant could build a standard cul-de-sac but would only have four lots. The question on the covenants was a civil matter. Mr. Goodman stated that he wanted an opportunity to explore whether the four lots could be used and still comply with the requirements. He had been under the impression from his engineer that it was not possible. If it was possible, he stated that he would amend his application. Chairman Smith stated that was not necessary if he built a public street.

R E S O L U T I O N

In Application No. V-82-M-204 by RICHARD D. GOODMAN & BOYD D. MYERS T/A GOODMAN-MYERS PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow subdivision of five lots with lots 2, 3 & 4 having widths of 6 ft. (80 ft. req. by Sect. 3-306) on property located at 7509 & 7511 Ramblewood Court, tax map reference 60-3((6))34A-2 & 34-B-2, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 14, 1982; 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 1.6814 acres.
4. That the applicant's property is not compatible with the surrounding single family residential area and there is a widespread petition against the proposed development. The applicant has not shown a hardship in is development plans.

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.

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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 DENIED.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 303 December 14, 1982, Scheduled case of

10:40 A.M. LEONARD C. GAVOR, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage 5 ft. from property line (min. side yard of 20 ft. req. by Sect. 3-107), located 6812 Ridgeway Dr., Franconia Heights Subd., R-1, Springfield Dist., 90-1((7))40, 21,780 sq. ft., V-82-S-206.

Mr. Leonard Gavor of 6918 Lafayette Park Drive in Annandale informed the Board that he owned the property at 6812 Ridgeway Drive. He wanted to construct a garage on the property. The location chosen was the logical place because at one time there was an existing shed which had been torn down. Mr. Gavor stated that the structure could be moved over but there was underground drainage tiles which ran from the back of the house to the back of the property. There was a high water table in the area and very homes had basements. Mr. Gavor stated that the water builds up. By moving the garage over, he would interrupt the tiles. Mr. Gavor stated that his lot was substandard in area and in width. Most of the other garages in the area were right up against the property line including the two houses on either side of his home.

Chairman Smith stated that the location of the drainage tile did not show on the plat. He was concerned that the applicant could construct a garage at the rear without any variances. The drainage tiles would not prohibit the construction of the garage. Mr. Gavor stated that the tiles were not buried that deep. He indicated that you would not have to dig down too far before hitting water. Mr. Gavor informed the Board that the ground was higher where he proposed to construct the garage.

There was no one to speak in support and no one to speak in opposition to the request.

Page 303 December 14, 1982 Board of Zoning Appeals
LEONARD C. GAVOR

R E S O L U T I O N

In Application No. V-82-S-206 by LEONARD C. GAVOR under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage 5 ft. from property line (minimum side yard of 20 ft. required by Sect. 3-107), on property located at 6812 Ridgeway Drive, tax map reference 90-1((7))40, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 14, 1982; 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 21,780 sq. ft.
4. That the applicant's property has exceptional topographic problems and does have a substandard lot in area and in width. The rear of the property is the only other reasonable location. The applicant does have drainage problems and the existence of drainage tiles which would restrict the placement of the garage other than as proposed. The photographs submitted shows that the proposed location is on a higher point to the rear of the property having been previously located there as a shed at the time of the purchase of the property. There has been no opposition registered as to the possible adverse impact.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 3 (Messrs. Smith & Hammack and Mrs. Thonen).

Page 304, December 14, 1982, Recess

At 12:40 P.M., the Board recessed the meeting for lunch and reconvened at 1:50 P.M. to take up the scheduled agenda.

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Page 304, December 14, 1982, Scheduled case of

10:50 ANATOLI & JANE WELIHAKIY, appl. under Sect. 18-401 of the Ord. to allow the
A.M. construction of an addition to rear or dwelling within 19.8 ft. of rear lot line
(25 ft. min. rear yard req. by Sect. 3-307), located 5063 Queenswood Dr., Queens-
gate Subd., R-3, Annandale Dist., 69-3((10))42, 10,996 sq. ft., V-82-A-207.

Mr. Anatoli Welihazkiy of Burke informed the Board that his house sat further back on the lot than normal. He stated that he was being penalized because he could not enjoy a private life. He wanted a variance to build onto the rear. Mr. Welihazkiy stated that he lived in a cul-de-sac with a 45 ft. depth. The house sat back at an angle. He wanted to build a glass enclosed structure on the back of the house. Mr. Welihazkiy explained that his rear yard deepened as it proceeded back. Only one corner of the proposed structure would extend into the setback area. At the rear of the property was a farm house which was abandoned. It was located 150 ft. from the rear property line.

There was no one else to speak in support and no one to speak in opposition.

Page 304, December 14, 1982
ANATOLI & JANE WELIHAKIY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-A-207 by ANATOLI & JANE WELIHAKIY under Section 18-401 of the Zoning Ordinance to allow the construction of an addition to rear of dwelling within 19.8 ft. of rear lot line (25 ft. minimum rear yard required by Sect. 3-307) on property located at 5063 Queenswood Drive, tax map reference 69-3((10))42, County of Fairfax, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 14, 1982; 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 10,996 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and shallow and has an unusual condition in the location of the existing building and is set at an angle.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 application 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

2. This variance shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith) (Mr. Hammack being out of the room).

Page 305, December 14, 1982, Scheduled case of

11:00 HUGH R. THOMAS & DORE MORSE, appl. under Sect. 18-401 of the Ord. to allow the
A.M. subdivision of two lots with lot 2 having a width of 33 ft. (150 ft. min. lot width
req. by Sect. 3-107), located 6723 Georgetown Pike, R-1, Dranesville Dist.,
21-4((1))18, 3.0276 acres, V-82-D-208.

Mr. Henry Mackall, an attorney in Fairfax, represented the applicants. He stated that the property was very narrow and had only 196 ft. of frontage. The property was over 3 acres and was zoned for one dwelling unit per acre. The property could not be subdivided because the corner lot did not have enough frontage. The requested variance was to permit the division of the parcel into two lots in a manner similar to the property to the east. A new entrance had been proposed that would comply with the standards of the Highway Department for sight distance. Mr. Mackall stated that the development would be compatible with the type of development in the area. There was an existing dwelling on the rear yard which had been built in 1956. There was a stream running through the property.

There was no one else to speak in support and no one to speak in opposition.

Page 305, December 14, 1982
HUGH R. THOMAS & DORSE MORSE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-D-208 by HUGH R. THOMAS & DORE MORSE under Section 18-401 of the Zoning Ordinance to allow the subdivision of two lots with lot 2 having a width of 33 ft. (150 ft. minimum lot width req. by Sect. 3-107) on property located at 6723 Georgetown Pike, tax map reference 21-4((1))18, 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 14, 1982; 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 3.0276 acres.
4. That the applicant's property is irregular in shape being long and narrow and does have a restriction with a stream along the western side of the 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

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11:10 ALFRED W. & WINIFRED B. SCHUMANN, appl. under Sect. 18-401 of the Ord. to allow detached shed to remain 2 ft. 5 in. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 9129 St. Marks Pl., Mantua Subd., R-2, Providence Dist., 58-2(9)106, 20,057 sq. ft., V-82-P-209.

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Mr. Alfred W. Schumann of 9129 St. Marks Place in Fairfax informed the Board that his lot was wooded and the topography sloped from the southwest corner down to the front corner with a drop of 16 ft. In addition, it sloped from the western lot line to the eastern lot line with a drop of 6 ft. Mr. Schumann stated that he had selected the proposed location for the shed because it required the least amount of grading or leveling and was in the best position for drainage purposes. The subject location would also require the minimum loss of tall trees and would project a high degree of seclusion because of the screening. He presented the Board with photographs showing the screening and drop of the land. Mr. Schumann stated that the location chosen was the best.

In response to questions from the Board, Mr. Schumann stated that the shed was already constructed. He had purchased a kit and was not aware a building permit was required. The shed was 18'x12' and was 9 ft. tall. Mr. Schumann stated that he purchased the kit from Hechinger's and had installed the shed himself.

Mrs. Thonen made a motion that the Board take some sort of steps to notify the stores that they needed to notify their customers about the requirement for a building permit. Mr. DiGiulian seconded the motion. Chairman Smith suggested that Hechinger's, Lowe's and Scott's main headquarters be notified that their stores might be selling kits that exceeded the square footage of sheds that could be built without a permit. Any shed larger than 8 x 10 would require a building permit. Mr. Covington stated that the sheds had to meet setback requirements if they were over 7 ft. in height. Mr. Covington suggested that the Public Affairs of the County be notified to transmit the information.

There was no one else to speak in support and no one to speak in opposition.

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Board of Zoning Appeals

ALFRED W. & WINIFRED B. SCHUMANN

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. V-82-P-209 by ALFRED W. & WINIFRED B. SCHUMANN under Section 18-401 of the Fairfax County Zoning Ordinance to allow detached shed to remain 2 ft. 5 in. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 9129 St. Marks Place, tax map reference 58-2(9)106, County of Fairfax, Virginia, has been property 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 December 14, 1982; and

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

That non-compliance was no fault of the applicant.

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.

That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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

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. Ribble seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Page 306, December 14, 1982, Scheduled case of

11:20 GENEVIEVE DELFOSSE, appl. under Sect. 18-401 of the Ord. to allow the construction of an addition to dwelling within 10 ft. of side property line (15 ft. req. by Sect. 3-207), located 5229 Chippewa Pl., Lincolnia Park Subd., R-2, Mason Dist., 72-3(11)168, 27,918 sq. ft., V-82-M-210.

Ms. Genevieve Delfosse of 5229 Chippewa Place stated that she had applied for a variance to build an addition to her house. The lot was irregularly shaped and dropped very sharply in back of the house. Based on the recommendations of her architect, the only place to build the addition was on the side. Only a small corner of the garage would be within the setback area.

In response to questions from the Board, Ms. Delfosse stated that her house had three bedrooms. She wanted to remodel and have two extra bedrooms with a garage in front. There were five people in her family. She stated that she had three children. The garage would be one car length and there would be one small room and one large room included in the addition. The garage would house two cars. Ms. Delfosse stated that she was adding to the exterior wall and putting in insulation. She stated that there was a County office building at the rear of her property. The purpose of the addition was to hide it from view. The office building was located 40 ft. from the rear lot line. Ms. Delfosse stated that she had owned her property for ten years and the office building was built one year ago. There had been a public hearing and the civic association worked out a compromise. Ms. Delfosse stated that the view was not too bad during the summer with the screening but in the winter, her proposed addition would help to screen it. The proposed addition would be built of brick matching the existing materials in the house.

Ms. Delfosse stated that the dimensions shown on the proposed addition were necessary because of the planned remodeling. She could not move the addition back because of the large drop. The addition could not be built on stilts. Ms. Delfosse stated that she complied with the front setback. It was only the side yard setback which would be violated. Ms. Delfosse stated that her neighbors did not object.

Some Board members were concerned over the proposed dimensions as the square footage almost exceeded the size of the original house. Ms. Delfosse stated that she could not cut down on the dimensions. She needed the two bedrooms and the garage. They wanted to stay in the house and wanted it to fit their needs. The proposed structure was two stories high.

The Board got into a discussion with the applicant about the proposed dimensions for each of the proposed rooms. As the applicant did not have the benefit of the architect's drawings with her, the Board passed over the case to allow her an opportunity to talk with the architect.

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Page 307, December 14, 1982, Scheduled case of

11:30 A.M. VULCAN MATERIALS COMPANY, appl. under Sect. 8-101 & 7-305 of the Ord. for renewal of S-286-77 for stone quarrying, crushing, sales, quarrying related activities, and accessory uses, located 9800 Ox Rd., R-1 & I-6, Mt. Vernon Dist., 112-2((1))8, 9, 11, 12 & 13, 151.953 acres, S-82-V-091. (DEFERRED FROM 11/30/82 TO AMEND APPLICATION).

Mr. Michael Giguere, an attorney with the firm of Boothe, Prichard & Dudley in Fairfax, represented the Vulcan Materials Company. There were numerous representatives from Vulcan Quarry to answer any questions the Board might have. Mr. Giguere used a model to give a view of the quarry. The quarry was located to the north of the Occuquan River and west of Rt. 123. The quarry had been operating for fifty years. Vulcan became involved with it in 1956. The quarry was operated by Vulcan from 1956 until 1980 at which time the land was sold to the Water Authority. The quarry was leasing the land from the property owners. The old quarry pit was under the ownership of the Water Authority and they used it for the storage of water.

Mr. Giguere stated that the location of the new quarry was ideal because it was far removed from residential properties. It was located near the Lorton Reformatory Juvenile Facility. The new quarry had been operating since 1979 under a special permit which was subject to unannounced inspections by the County, State and Federal agencies. The quarry was inspected at least twice a year. The State inspectors were required to visit at least every 90 days. The existing special permit was subject to 29 conditions. There were monitoring inspections limitations on the hours of operation, blasting, and sales and repair.

Mr. Giguere stated that Vulcan Materials Company wanted to request a change in the conditions as noted in the staff report. Chairman Smith advised Mr. Giguere that the Board could only make the conditions more restrictive but could not relieve any of them as it had not been advertised. The purpose of the application was to renew the existing special permit. Mr. Giguere stated that the changes asked for was a change of operation on Saturday which was allowed by the Zoning Administrator in the past. They wanted to include the area on the Occuquan River below the quarry where the barge was located in their operation. Chairman Smith stated that had been allowed under the first granting. Mr. Giguere explained that it had been part of the old quarry and was now separated and on land owned by the Water Authority. Mr. Giguere wanted to include the additional land area in the current permit. The advertising had included the entire site. The access to the barge was over federal property. Mr. Giguere stated that there were several storage buildings in this area which the County did not have the authority to inspect. He was trying to clear the special permit by including this area so that they would be in compliance with the requirements.

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Chairman Smith stated that he had a problem with the application as it was to renew a special permit for 97 acres. Now the applicant was requesting some additional land to include in a renewal hearing. Chairman Smith stated that the application should be properly advertised.

Mr. Hyland moved that the Board proceed with the hearing including the four amendments. He stated that three of the amendments did not concern him. However, the fourth amendment concerning drilling on Saturday was a change. He asked that the Board decide the matter notwithstanding the issues raised concerning advertising. Mr. Ribble seconded the motion and it passed by a vote of 6 to 1 (Mr. Smith).

Mr. Giguere proceeded with the hearing. He stated that the County needed the quarry as it employed a lot of people on the payroll. The company paid real estate taxes, personal property taxes and the payroll generated money into the County. The request was a renewal for another five years. There was an amended quarry plan with additional berms and a change in the pit configuration. They were also asking to be given permission to drill on Saturday from 7 A.M. to 6 P.M. In the past, the Zoning Administrator had given them that permission. Mr. Giguere stated that the drilling machine had no disruptive effect on anyone. The noise from the drilling machine was very quiet. The property had been inspected annually and had met all conditions.

Mr. Giguere stated that they were requesting a change in the drilling procedures because of the new hammer drill which was located in the ground. By being located in the ground, it muffled the sound of the drilling equipment. There was also a vacuum to pull the dust particles out of the air. The Board discussed modifications to the conditions of the original special permit. The applicant was expected to conform with the original restoration plan. Chairman Smith stated that there was no reason to change the wording even though it was handled by DEM.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-V-091 by VULCAN MATERIALS COMPANY under Section 8-101 & 7-305 of the Fairfax County Zoning Ordinance to permit renewal of @-286-77 for stone quarrying, crushing, sales, quarrying, related activities and accessory uses on property located at 9800 Ox Road, tax map reference 112-2((1))8, 9, 11, 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 December 14, 1982; 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 & I-6.
3. That the area of the lot is 151.953 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 Special Permit Uses in R & 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 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.
3. 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.
4. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

R E S O L U T I O N

5. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
6. This permit is granted for a period of five (5) years with annual review for compliance with conditions set forth in this permit by this Board.
7. The bond of \$2,000 per acre to insure restoration of the property shall be continued for the duration of this operation.
8. The Permittee shall absorb one hundred percent (100%) of the cost of enforcement service.
9. Blasting vibrations shall be limited to a maximum resultant peak particle velocity of 0.4 inches per second in the earth at any privately-owned occupied structure not on the quarry property, except no more than one in ten shots can go over 0.4 with the limit being no more than 0.6.
10. The peak overpressure from any blast shall be limited to 0.0092psi (130 dB) at any privately-owned occupied structure not on the quarry property.
11. Earth vibration produced by the quarry from sources other than blasting shall not exceed 0.05 inches per second at any privately-owned structure not on quarry property.
12. Airborne noise produced by the quarry from sources other than blasting shall not exceed at any privately-owned occupied structure not on quarry property, 58 dB(A) in residential areas, or 65 dB(A) in commercial areas.
13. At the beginning of the operation, additional air monitoring equipment will be provided by the applicant and installed as necessary and as required by the County to demonstrate that the ambient air quality is maintained at the proper level.
14. Paved roads and other paved areas within the confines of the quarry will be watered and cleaned with heavy duty cleaning equipment as often as needed. Unpaved areas subject to quarry traffic will be treated with calcium chloride as often as needed.
15. The applicant will install, maintain and operate dust control equipment on all portions of its processing plant so as to adequately control dust.
16. All conveyors will continue to be covered, if necessary to meet applicable standards.
17. No drilling, blasting or crushing shall be performed other than during the hours between 7:00 A.M. and 6:00 P.M. Monday through Saturday. Blasting shall occur only between the hours of 10:00 A.M. and 6:00 P.M. Monday through Friday, and all blasts shall be coordinated to wind and other atmospheric conditions in order to minimize as far as possible any adverse effect upon the Town of Occoquan or other privately-owned occupied dwellings.
18. Saturday work shall generally be confined to sales of materials and drilling between the hours of 7:00 A.M. to 6:00 P.M. and repair work. Crushing and processing shall not be permitted except with the express prior approval of the Zoning Administrator.
19. All blasting material shall be handled and stored in accordance with standards and regulations established by the United States Bureau of Mines.
20. Vulcan Materials Company, Inc. will take all steps appropriate or as required for deadening sounds of vibrating screens and plant operations during all periods of plant operation.
21. In the event any feasible equipment or means of controlling the dust from blasts becomes available to the industry, the quarry operators shall install and use the same as soon as available to them.
22. Supervision during blasting and discipline of personnel shall be exercised diligently to prevent flying rock.
23. All operations at the quarry shall conform to all applicable performance standards and regulations.
24. The Zoning Administrator, or his agent, shall inspect the premises monthly to determine that the quarry is being operated in compliance with all the foregoing restrictions.
25. These conditions shall be met on the entire operation.
26. Work on Sundays shall be confined to repairs on the processing plant, items of equipment and the operation in general. Watering trucks shall be used from time to time as necessary to control dust.
27. Any expense associated with the operation and maintenance of the seismograph shall be at the expense of the Vulcan Materials Company.
28. If stockpiles prove to be a problem, the Zoning Administrator, or his agent, may require that additional protective steps be taken to insure compliance with conditions.
29. The applicant shall conform to the restoration plan as originally submitted.
30. No blasting, drilling or extraction shall be permitted on the parcel leased from the United States of America and known as Tam Map 112-2((1))13.
31. This approval included the additional berming shown on the plans submitted with this application.
32. This approval includes the barge loading facilities and the operation thereof located on the north side of the Occoquan River adjacent to the site.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 7 to 0.

Page 309, December 14, 1982, Recessed case of

GENEVIEVE DELFOSSEE: V-82-M-210. Ms. Delfosse informed the Board that the total length of the proposed structure would be less than 54.84 ft. The garage was 20 ft. in depth. The reason for the depth was that there was a hallway from the garage into the house. There was no other logical way to get inside the hallway. Ms. Delfosse stated that the architect had made a mistake on the plat and it would have to be amended.

Mr. Hammack moved that the Board accept the applicant's testimony that the dimensions of the structure would be 54.84 ft. and allow her to correct the plat. Mr. Ribble seconded the motion. The vote passed by a vote of 7 to 0.

R E S O L U T I O N

In Application No. V-82-M-210 by GENEVIEVE DELFOSSE under Section 18-401 of the Zoning Ordinance to allow the construction of an addition to dwelling within 10 ft. of side property line (15 ft. required by Sect. 3-207) on property located at 5229 Chippewa Place, tax map reference 72-3(11)168, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 14, 1982; 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 27,918 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including having converging lot lines and has exceptional topographic conditions with a large dropoff to the rear of the property. Further, the variance is only for a corner of the proposed addition and to situate the placement in some other location would operate to the detriment of the applicant by not allowing her to adapt the existing floorplan to the improvements by coming off of the hallway.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Mr. Hyland stated that he wanted to make a resolution commending a member of the Board of Zoning Appeals staff. Mr. Wallace Covington had served the BZA from 1963 until 1982 and had devoted his fulltime and duty during the 19 years with the BZA with dedication and valuable service. His many years of experience and common sense proved valuable to the BZA as well as to the many citizens of Fairfax County. Mr. Hyland moved that Mr. Covington be recognized and commended for his service to the BZA and that a copy of the commendation be included in his personnel file as a permanent record and example of a job well done. Mr. DiGiulian seconded the motion. The motion passed by a vote of 7 to 0.

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SPECIAL MEETING: The Board was informed that the special meeting requested with the Zoning Administrator and the County Attorney had been scheduled for January 20, 1983 at 10:00 A.M. in the Conference Room.

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Page 311, December 14, 1982, After Agenda Items

CHILDREN'S WORLD: The Clerk was instructed to contact the BZA's attorney, Mr. Brian McCormack, regarding a decision in the appeal of Children's World.

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Page 311, December 14, 1982, After Agenda Items

WADE B. ROPP, V-81-D-067 through V-81-D-072: The Board was in receipt of a letter from Mr. Mark S. Abraham of Brock & Bankert in Alexandria requesting an extension of the variances granted to Wade B. Ropp. Mrs. Day moved that the Board grant a six month extension for each of the requested variances. Mr. DiGiulian seconded the motion and it passed by a vote of 7 to 0.

// There being no further business, the Board adjourned at 4:10 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 Sept. 11, 1984

Approved: Sept. 18, 1984
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 Evening, December 21, 1982. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble; and Mary Thonen. John DiGiulian was absent.

The Chairman opened the meeting at 8:05 P.M. and Mrs. Day led the prayer.

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

8:00 P.M. JOHN R. SR. & NANCY L. WILLET, appl. under Sect. 18-406 of the Ord. to allow a shed to remain .8 ft. from the side property line (12 ft. req. by Sect. 3-307 & 10-104), located 6911 Fort Hunt Road, Westgrove Subd., R-3, Mt. Vernon Dist., 93-2((5))1, 18,720 sq. ft., V-82-V-201.

John Willet presented the application to the Board. He stated that one of his clients that owed him money had built the shed for him for credit on his legal bill. Mr. Willet supplied all the materials, and this man supplied the labor. Mr. Willet stated that he assumed the man would obtain the necessary permits for this job, and that he was out of town at the time of construction. He stated that there was no other land on which to build the shed because there were sewer pipes in the middle of his backyard, and an easement on the property line. Most of the backyard was laid out for a swimming pool, and the shed was built on the only piece of his property that was not used for anything. Mr. Willet had been advised by Fairfax County that the soil in the area was slippage soil, and it would have been dangerous if he had dug down any deeper. Also, there was an oak tree approximately 150 feet high in his yard, and he did not want to disturb the root system. Mr. Willet submitted additional photos to the Board showing the shed and the landscaping of the yard. He stated that the building was not unsightly or unsafe and was used solely for storage.

John Martin, 6909 Fort Hunt Road, directly next door to the property in question, spoke in opposition. He submitted photos to the Board taken from his driveway, showing his view of the shed. The shed was less than 13 feet from his house on a downhill slope. The shed extends over 12 feet in height from the ground level. He stated that he wanted to express his strong opposition against this variance request, because he felt the structure severely adversely impacted the value of his property.

Jeffrey Twaroy, 1504 Wakefield Drive, President of the Westgrove Citizens Association, also spoke in opposition. He stated that many of the members that were in the room were there in opposition. During a citizens association meeting with 75 people present, a vote had been taken and the majority of the members were against the shed being retained at its present height and location. Mr. Twaroy stated that Mr. Martin's and Mr. Willett's property were located on a steep slope, and that Mr. Martin's property was greatly affected by the construction of the shed.

During a discussion between the Board members and Mr. Covington, it was determined that a variance was not necessary if Mr. Willett reduced the height of the shed to 7 feet to bring it into conformance. Mr. Hammack made the following motion: In listening to the testimony I am not inclined to grant a variance for Mr. Willett, but I am concerned that he could run into a problem with the building permit section of the County. I would move that we defer either granting or denying a variance for a period of 30 days to give Mr. Willett the opportunity to reduce the height of the shed to 7 feet and to seek a building permit. Frankly I don't think he has met any of the hardship requirements for this Board to grant him the variance. I would like to give him a chance to make modifications to the shed and obtain a building permit. Mr. Ribble seconded the motion. The vote was unanimous to defer. The application was rescheduled for February 15, 1983 at 8:15 P.M.

Page 312, December 21, 1982, Scheduled 8:15 P.M. case heard at 9:20 P.M.:

8:15 P.M. 50/66 G/Y PARTNERSHIP, appl. under Sect. 18-401 of the Ord. for a variance in the min. front yard setback from 40 ft. to 26 ft., located 11225 Waples Mill Rd., High Ridge Office Park, I-5, Providence Dist., 56-2((1))15B, 21.8833 acres, V-82-P-211.

Russell Rosenberger, an attorney at 10521 Judicial Drive, Fairfax, represented the applicant. He stated that the property was located in High Ridge Office Park. The configuration of the property, including its size and shape, had been dictated by the location and design of a master planned roadway which goes through the property. The resulting parcel is rendered narrow and irregular in size and shape by virtue of this Comprehensive Plan road alignment. The size of the property was further made narrow and irregular by additional dedication and construction for the realignment of a portion of Waples Mill Road immediately in front of the property, in conjunction with a rezoning. The development of the property was restricted by the steep topography. Mr. Rosenberger stated that the purpose of the variance was to permit the development and construction of a two level parking structure, with one level of parking on the surface and the second level on deck. The location of this parking in front of the main entrances to the building would help maintain an elaborate security system for access to the offices.

Gene Payne, the facilities manager for Mel-Par, who leased the office buildings, spoke in support. He stated that Mel-Par had no objection to the construction of the parking structure.

There was no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-P-211 by 50/66 G/Y PARTNERSHIP, Under Section 18-401 of the Zoning Ordinance for a variance in the minimum front yard setback from 40 ft. to 25 ft., on property located at 11225 Waples Mill Road, tax map reference 56-2((1))15B, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 21, 1982; 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 21.8833 acres.
4. That the applicants' property is exceptionally irregular in shape including narrow, and has an unusual condition in the location of the proposed buildings on the subject property. The construction of an internal loop road required by Fairfax County Comprehensive Plan resulted in rendering the property irregular in shape. The additional dedication and construction for the realignment of Waples Mill Road has reduced the usable land. The street does not carry external traffic through the property, and it would have no effect on the surrounding area. The granting of this variance enables better security for the employees who can park their car closer to the front of the building.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6-0. (Mr. DiGiulian being absent)

8:30 P.M. CENTREVILLE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for classroom addition to existing church building, located 5730 Stone Rd., Krehbial Subd., R-1, Springfield Dist., 54-1((2))6, 7, & 8, 6.8927 acres, S-82-S-094.

Jim Wilson, 14828 Woodhome Road, Centreville, presented the application. He stated that the Centreville Baptist Church occupied its current facility approximately seven years ago in December of 1975. The church has a seating capacity for 150 people, and five classrooms with the capacity of 75 children. The church has grown steadily in the past seven years, especially the Sunday school attendance. He stated that the church wanted to expand the facility and add seven more classrooms and additional storage space.

There was no one to speak in support or opposition.

R E S O L U T I O N

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Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-S-094 by CENTREVILLE BAPTIST CHURCH under Section 3-103 of the Ordinance for classroom addition to existing church building, located at 5730 Stone Road, tax map reference 54-1((2)) 6, 7, & 8, 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 on December 21, 1982; 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 6.8927 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. All previous conditions of S-215-73 shall remain in effect.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6-0. (Mr. DiGiulian being absent)

Page 314, December 21, 1982, Scheduled 8:45 P.M. case heard at 9:45 P.M.:

8:45 P.M. ELISABETH KOHALMY, appl. under Sect. 3-103 of the Ord. for a child care center, located 1312 Hunter Mill Rd., Blue Grass Hill Subd., R-1, Dranesville/Centreville Dist., 18-2((1))1B, 4.285 acres, S-82-C-095.

Elisabeth Kohalmy, 1312 Hunter Mill Road, presented the application. She stated that this was a pre-school for gifted children. The vicinity to be served would be mainly Reston, Tysons Corner, Vienna and McLean. Capacity enrollment was set at thirty children, with a minimum of two adult staff members. Ms. Kohalmy stated that she leased the property with an option to purchase it. She stated that the lease would be renewed each year, and that she did not have an option to sign a lease for a longer period of time.

There was no one to speak in support or opposition.

RESOLUTION

Mr. Ribble made the following motion:

WHEREAS, Application No. S-82-C-095 by ELISABETH KOHALMY, under Section 3-103 of the Ordinance for a child care center, located at 1312 Hunter Mill Road, tax map reference 18-2((1))1B, 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 21, 1982; 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 4.285 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 on the application and is not transferable to other land.
- 2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
- 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 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 30.
- 8. The hours of operation shall be 7:30 A.M. to 6:30 P.M., Monday thru Friday.
- 9. The premises should be furnished with an all-weather, dustless surface on all walks and driveways.
- 10. The applicant shall submit a final copy of the lease and the addendum to it.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6-0 (Mr. DiGiulian being absent)

Page 315, December 21, 1982, AFTER AGENDA ITEMS:

The Board approved the BZA Minutes for April 28, 1981, as presented.

There being no further business, the Board adjourned at 10:05 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Sept. 18, 1984

APPROVED: Sept. 25, 1984

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 11, 1983. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble and Mary Thonen (arriving at 10:25 A.M.).

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

MATTERS: Election of Officers. Mr. Hyland moved that the Board of Zoning Appeals reappoint Mr. Daniel Smith as Chairman; Mr. John DiGiulian as Vice-Chairman and Ms. Sandra Hicks as Clerk to the BZA. Mr. Hammack seconded the motion. There were not any other nominations. The vote on the motion passed by a vote of 5 to 0 with 1 abstention (Mr. Smith) (Mrs. Thonen being absent).

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Page 316, January 11, 1983, Scheduled case of

10:00 JOSE RODRIGUES, appl. under Sect. 18-401 of the Ord. to allow a tennis court
A.M. covering in excess of 30% of the req. rear yard and a fence in excess of 7 ft. to remain (Sects. 10-103 & 10-104 limit accessory uses and structures to 30% max. coverage of min. rear yard and fence height to 7 ft.), located 1177 Ballantrae Ln., Ballantrae Farms Subd., R-1, Dranesville Dist., 31-1(2)320, 48,783 sq. ft., V-82-D-205.

Mr. Gary Rees, an attorney in Fairfax, represented Mr. Rodrigues. Mr. Rees informed the Board that the tennis court was already erected. It was in violation of the Ordinance; however his client had no intention of violating the Ordinance. Mr. Rees explained that there was a letter in the file from Dr. Myers indicating that Mrs. Rodrigues had undergone treatment for a psychological problem. She had not left her home for eight years. The doctor had recommended that Mr. Rodrigues build a pool or tennis court to bring people from the community to the home in order to help Mrs. Rodrigues adjust. Mr. Rodrigues looked for a new home in McLean. He had the builder, Mr. Murray, construct a tennis court at the rear of the house. Mr. Murray went to the County and found out that he did not need a building permit. The tennis court had been in existence for 2½ years. It was not until the past fall that there was any objection which was to the 10 ft. high fence. The fence was located 8½ ft. from the property line. The fence infringed by 12½ over the minimum rear yard usage. Mr. Rodrigues was not seeking to flaunt the Ordinance.

Mr. Rees stated that the configuration of the lot was such that there was no other place to construct the tennis court except for the rear yard. The variance was required because of the lot configuration and the use of the property would be limited if the variance were not granted. Several neighbors were in support of the variance and had provided letters. There were also letters from Dr. Lee and Dr. Maratoc. Mr. Rees stated that the neighborhood was not a stranger to tennis courts as there were several in the area. He indicated that at least one other tennis court was also in violation of the Ordinance.

Mr. Rees stated that Mr. Rodrigues could correct the fence height down to 7 ft. on the Lavawitz side. They could not correct the rear yard situation. In response to why the tennis court could not be cut down, Mr. Rees stated that the tennis court was regulation size. It was used for recreation and was lighted. The lights averaged about 20 ft. in height. Mr. Rees stated that they had talked to the neighbors and indicated that they would install directional lights. The courts were used Mr. & Mrs. Rodrigues, their children and two other couples who were invited over on occasion. The courts were used daily. Mr. Rodrigues used the courts at night on Saturday and Sunday.

Mr. Rees stated that the situation had been reported by Mr. Lavawitz as it affected his property. The fence could be corrected. It was the rear yard situation that could not be corrected. The Board was in receipt of photographs taken from Mr. Lavawitz' window showing the brightness of the tennis lights. Mr. Rees explained that Mr. Rodrigues had been unaware of the light situation until recently. He would install direction lighting to correct it.

Mr. Steven Murray of 8555 Dolley Madison Blvd. spoke in support of the application. He informed the Board that he was the builder. The tennis court had been moved as far as possible when they built the house. Mr. Murray stated that he had inquired about a building permit and was informed one was not necessary for a tennis court. He stated he had been to the County Zoning Office and was informed that with respect to the fence, whatever the height of the fence was the distance he had to stay back from the property line. He was not told anything about the two acre minimum. Mr. Murray informed the Board that he was conscientious builder and had tried to find out everything he could about tennis courts before building it. A permit had been obtained for the installation of the tennis lights which were inspected by the County. Because the land was level, no grading permit was necessary. Mr. Murray stated that in the plans, he had situated the house farther forward on the lot to accommodate the tennis court.

In response to questions from the Board, Mr. Murray stated that he had not constructed the tennis court. Mr. Rodrigues had hired someone else to build it. Mr. Murray stated that he had been checking on the requirements for tennis courts in order to tell any interested person. Mr. Murray stated that at the time he constructed the home, there was not any contract to purchase. He was not aware of any restrictions for the tennis court. Mr. Murray indicated that he had constructed three homes in the area.

In response to whether he had moved the other two homes forward as well, Mr. Murray stated that one would have accommodated a pool or a tennis courts. The potential buyers desired a pool. The third house only had room for a tennis court.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mr. Harry Ormstrem presented the Board with two letters from people who were unable to attend the hearing. There was concern from the neighbors that if the variance were granted, other people might ask for the same similar variance. The Executive Committee of the Ballantrae Community were in opposition to the variance as it related to coverage of 42% of the rear yard. The Zoning Ordinance allowed coverage of 30% of the rear yard. The variance equated to 12% which was unacceptable to the opposition.

Mr. Robert A. Whitman, President of the Ballantrae Civic Association presented a letter along with a letter from Mr. & Mrs. Robert Hechell. Mr. Ormstrem indicated that he lived across from Mr. Rodrigues and was not affected directly. However, he lived next to a 4 1/2 acre tract of undeveloped land and was concerned about what would be done with it. Mr. Ormstrem stated that he was not affected by any noise from the tennis courts.

The next speaker in opposition was Mr. James Lazur of 1169 Ballantrae Lane. He stated that he had lived in the area for 21 years and was a past president of the association. He reminded the Board that he had last appeared before them on a variance application for Mr. Chong Lee who wished to construct a tennis court on one acre of ground. At that time, it was stated that all other tennis courts in the area conformed to the regulations so the BZA had denied the variance request. Mr. Lazur stated that Mr. Rodrigues had not tried to verify that he was in compliance. After the tennis court was constructed in violation, he applied for a variance. Mr. Lazur stated that he was able to find out about the County regulations and Mr. Rodrigues should have been able to also. Mr. Lazur stated that his property abutted the Rodrigues property and shared the same rear yard line. Mr. Lazur stated that his house faced Mr. Rodrigues' tennis court. When Mr. Rodrigues moved in two years ago, he had wanted to build the tennis courts 8 ft. from the rear yard. Mr. Lazur had informed him to follow the County zoning rules. During the grading process, it appeared that there was not enough space so Mr. Lazur spoke to Mrs. Rodrigues. He was informed that it was all legal. Mr. Lazur asked her to check for herself before beginning construction. Mr. Lazur stated that he called the County last March and talked to Mr. Leigh, Mr. Koneczny and Mr. Kennedy regarding the tennis lights.

In response to questions from the Board, Mr. Lazur stated that the tennis court had been constructed for a year prior to the Chong Lee variance request. It was after the Lee variance request that he began rechecking Mr. Rodrigues' case. After talking with Mr. Koneczny of Zoning Enforcement, it was determined that the tennis court was in violation. Mr. Lazur informed the Board that his family had suffered from noise and lights. Fifty per cent of the rear yard was covered with a pool, concrete and asphalt. All of the noise hit Mr. Lazur's home as it had no where else to go. Mr. Lazur stated that he had a runoff problem from the drainage that had not been present before as Mr. Rodrigues' property was higher than his. He stated that his yard got flooded during a hard rain. Mr. Lazur was disturbed about the construction of the tennis lights which were on until 10 o'clock at night shining into all of his windows. Mr. Lazur stated that all of this had created a hardship for him to maintain his quality of life. In checking with the Zoning Office, he found out there were not any laws governing private tennis court lights. Such was not the case for public community facilities. Great Falls Swim & Racquet Club had been required to turn off their tennis lights. Mr. Lazur stated that he suffered the identical hardship as the swim club's neighbors but had no recourse since the lights were private.

In response to why the County could not enforce the light for private property, Mr. Lazur stated the was informed that the Code was too vague. The Board indicated that the standards applied to both public and private. However, the Board conceded that it might be hard to enforce it for an private individual. Mr. Lazur stated that he was objecting to the lights and the nuisance value. There was a Vepco Pole on Mr. Rodrigues' property that needed some repair. The Vepco repairmen wanted to drive their truck across Mr. Lazur's property to get to the pole because of a septic tank located in Mr. Rodrigues' yard. Mr. Lazur stated that he would not provide a right-of-way just so Mr. Rodrigues could have a tennis court. Mr. Lazur stated there were many other tennis courts in the area but they had more than one acre of land with the exception of Mr. Parker's property. Mr. Lazur stated that he felt Mr. Parker's tennis court was also in violation. Mr. Lazur stated that he did not have an air conditioner and the noise came right onto his terrace. Sometimes the noise disturbed his sleep because of the tennis games going on. Mr. Lazur stated that often times he could not use his terrace because of the noise and had to go inside the house. The noise came from tennis balls popping, conversations of multiple families and cookouts with children in the pool.

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During rebuttal, Mr. Rees stated that not all of the Ordinance could be applied to each and every situation. Regarding the hardship case, the configuration of the property necessitated the variance in order to use the back of the property. The other hardship of the applicant was the reliance upon representation from the Zoning Office to the builder that a building permit was not necessary. The Board indicated that it did not know the question posed to Zoning which generated the response to Mr. Murray. Mr. Rees stated that Mr. Rodrigues acted in reliance on what he had been told. Mr. Lazar informed them of the Ordinance provision relating to coverage 2 1/2 years too late. The Zoning Office never informed Mr. Murray about the provision.

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Mr. Rees stated that they were trying to deal with the lights. Only one light was causing a problem. They put in french drain tiles all across the back of the property. Mr. Lazar was the only one affected by lights and Mr. Rees stated that they would take care of it. The drainage was already taken care of. With regard to the noise, Mr. Rees stated that they would limit the use of the courts. He stated that the applicant was seeking a variance in good faith. The only time a problem was raised was after the Chong Lee matter was before the BZA. In response to limitations of use for the tennis court, Mr. Rees stated that he was proposing no use before 9 A.M. and none after 9 P.M. on weekdays and from 9 A.M. until 11 P.M. on Saturdays and Sundays.

R E S O L U T I O N

In Application No. V-82-D-205 by JOSE RODRIGUES under Section 18-401 of the Zoning Ordinance to allow a tennis court covering in excess of 30% of the required rear yard and a fence in excess of 7 ft. to remain (Sects. 10-103 & 10-104 limit accessory uses and structures to 30% maximum coverage of minimum rear yard and fence height to 7 ft.) on property located at 1177 Ballantrae Lane, tax map reference 31-1(2)320, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 11, 1983; 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 48,783 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and that the house was situated back in the middle to the rear of the property limiting the available back yard to some extent and that it constitutes an unusual condition in the location of the building.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 applicant's use of the tennis court is limited to 9 A.M. to 9 P.M. Monday through Friday and from 9 A.M. to 11 P.M. on weekends.
3. The applicant shall direct the lights of the tennis court in such a way that will not interfere with the use of Mr. Lazar's property or any other property. The lights shall be directed in such a manner so as to meet the satisfaction of the Director of Environmental Management.
4. The applicant shall reduce the height of the fence in the rear area adjacent to Mr. Leboritz's property to 7 ft. at any place where the fence is in violation of the Zoning requirement.
5. The applicant shall add additional screening to the rear of the tennis court and Mr. Lazar's property with the planting of hemlock or other thick foliage. Such planting shall be to the satisfaction of the Director of Environmental Management.

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R E S O L U T I O N

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 2 (Mr. Smith and Mrs. Day).

Page 319, January 11, 1983, Scheduled case of

RAYMOND HUBBARD: Chairman Smith stated that the Board had requested a contractor, Mr. Raymond Hubbard, to appear before it and answer questions relating to a variance request of Mr. J. W. Smith, V-82-A-190. The contractor had been present since early morning and was not able to stay much longer. Chairman Smith inquired if the Board desired to call the matter out-of-turn or if he could submit answers to the Board's questions in written form. The Chairman indicated that the Board would reserve the right to ask Mr. Hubbard to return in person if there were additional information needed.

Mr. Hubbard informed the Board that he had listened to the tapes of Mr. Smith's hearing and was aware of why the Board had requested his appearance. The Board indicated that it would submit a list of questions to Mr. Hubbard.

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Page 319, January 11, 1983, Executive Session

At 12:05 P.M., Mr. DiGiulian moved that the Board adjourn into an executive session to discuss legal matters. Mr. Ribble seconded the motion and it was passed unanimously. Chairman Smith stated that the Board would take the opportunity to have lunch and return to continue the 10:10 case. The Executive session ended at 12:50 P.M. Mr. Ribble left the meeting at 12:50 P.M. and did not return. The Board reconvened the meeting at 1:40 P.M. to continue with the scheduled agenda.

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Page 319, January 11, 1983, Scheduled case of

10:10 MARIA P. & JOSE I. ESTEVEZ, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of garage addition to dwelling 25 ft. from front lot line (30 ft.
min. front yard req. by Sect. 3-307), located 6441 Noble Dr., Birchwood Subd.,
R-3, Dranesville Dist., 31-3(13)4, 12,441 sq. ft., V-82-D-212.

Mr. Estevez stated that he and his wife had purchased the property one year ago. They were a family of five people having three high-school age sons. Mr. Estevez stated that he wanted to build a garage because the house did not have basement and the attic was very small. The streets in the area had a lot of traffic and they did not want to leave their cars in the street. They owned two cars, four motorcycles, several bicycles and would have to soon purchase another car. Every week they were working on the bikes. Mr. Estevez stated that the front of the house was 50 to 60 ft. from the street but there was a big slope. Mr. Estevez stated that he was improving the landscape. One of his neighbors had been present to speak in support but had to leave. Mr. Estevez stated that he planned to incorporate the present carport into the garage.

In response to questions from the Board that a two car garage could be constructed without a variance, Mr. Estevez stated that he needed space for the three cars, four motorcycles and five bicycles and motorcycle trailer. He stated that his sons enjoyed sports. The motorcycles were dirt bikes. The family spent a lot of time working on the bikes. Mr. Estevez stated that he purchased his home because the realtor informed him that he could add a garage. The proposed dimensions of the garage would be 29'x25'. Mr. Estevez stated that he would lose some space because of the columns.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-D-212 by MARIA P. & JOSE I. ESTEVEZ under Section 18-401 of the Ord. to allow construction of garage addition to dwelling 25 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-307), on property located at 6441 Noble Drive, tax map reference 31-3(13)4, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 11, 1983; 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 12,441 sq. ft.

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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. Hammack seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Hyland) (Mr. Ribble being absent).

Page 320, January 11, 1983, Scheduled case of

10:20 A.M. WELLS BLAKESLEE DOTY, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling 18.5 ft. from front lot line (30 ft. req. by Sect. 3-307), located 5600 Helmsdale Ln., Hayfield Farm Subd., R-3, Lee Dist., 91-4((4)) 124, 11,217 sq. ft., V-82-L-213.

Mr. Wells Doty of 5600 Helmsdale Lane informed the Board that he had owned his property for seven years and it would be his permanent home. There was not a garage currently on the property. The only place for a standard 24'x24' garage was where he proposed to construct it. Mr. Doty stated that he had discussed his plans with his neighbors and had letters of support from 2 or 3 of the people. Mr. Doty stated that he wanted to reduce the vehicle clutter. There was some danger with parking in front of the house because of the metro buses. In addition, Mr. Doty stated that he needed a place to store his garden equipment.

In response to questions from the Board as to whether he could reduce the garage to 20'x24' so to have a lessor variance, Mr. Doty indicated it was not desirable but it would be acceptable. In response to whether the construction of the garage would obstruct the view of anyone driving down the road, Mr. Doty stated it would not from Lund Court but might from Helmsdale Lane. Mr. Doty stated that there were shrubs on the property next door which would block the garage from sight except for one corner of it. Mr. Doty stated that the garage would not be a safety problem for anyone as only the metro buses went fast.

There was no one else to speak in support and no one to speak in opposition.

Page 320, January 11, 1983
WELLS BLAKESLEE DOTY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-L-213 by WELLS BLAKESLEE DOTY under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling 18.5 ft. from front lot line (30 ft. required by Sect. 3-307) on property located at 5600 Helmsdale Lane, tax map reference 91-4((4))124, 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 11, 1983; 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 11,217 sq/ ft/
4. That the applicant's 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.

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART (to allow construction of 20'x24' garage addition to dwelling 22 ft. from Helmsdale Lane) 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Ribble being absent).

Page 321, January 11, 1983, Scheduled case of

10:30 A.M. TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB, appl. under Sect. 3-103 of the Ord. to amend S-134-78 for community swimming & tennis club to eliminate parking lot on 1 acre parcel and to permit operation of all existing facilities with existing 138 parking spaces, located 9117 Westerholme Way, R-1, Centreville Dist., 28-4((1))47 & 54A, 6.696 acres, S-82-C-025. (DEFERRED FROM NOVEMBER 30, 1982 AT THE REQUEST OF THE APPLICANT).

Mr. William L. Donnelly, an attorney in Fairfax, represented the applicant. In response to questions from the Board, Mr. Donnelly stated that the membership of the club was 600 as presented in the by-laws. He stated that 550 members had been mentioned in prior special permits but was never made explicit and the club was not up to 600 members. Mr. Donnelly was unaware of the requirement in the Ordinance relating membership to parking mentioned by the Chairman. Mr. Covington stated that parking was related to the tennis courts and the square footage of the pool. Mr. Donnelly stated that their engineer had prepared the calculations for parking and they were proposing 138 spaces which far exceeded the County's requirements. Mr. Donnelly informed the Board that it would be impossible to eliminate 50 club members. He had reviewed the proposed condition #8 and it was acceptable to his client. Mr. Donnelly stated that Mr. Lee Ruck was present and was representing the civic association.

Chairman Smith inquired if the club was agreeable to the five year provision in the conditions. Mr. Donnelly stated that it was agreeable because there were actually two triggers for review. Anytime the club membership exceeded 600 there would be a review. There would also be an automatic review at the end of five years.

Chairman Smith inquired as to the justification for the five years. Mr. Donnelly explained that it was a negotiation settlement. The case had been before the BZA many times. There was finally a settlement between the swim club, the developer and the citizens. The developer had agreed to construct the road to serve the parking lot if additional parking was required. The developer agreed to construct the driveway at such time as the club was obligated to by the BZA. If the memberships were to increase beyond 600, the BZA would review the permit and could require the construction of the driveway. The developer would be obligated to construct if the Board said so.

The Board raised a question about proffers. Mr. Donnelly explained that the club had gotten permission from the BZA to add two tennis courts. At that time, there was a proffer which had been required that the developer construct a driveway to serve the parking lot. Now the club had built the tennis courts but the builder felt that there was not a need to have the parking lot. The citizens opposed the construction. The developer now recognizes his need to construct the driveway if and when the BZA says its needed. In five years, there would be a review of the parking situation at the club. Mr. Donnelly did not see this as being inconsistent with the proffers at the time of rezoning.

The Board discussed condition no. 9 of the old special permit and whether it was intentional to eliminate it from the new conditions proposed. Mr. Donnelly explained that part of no. 9 had been incorporated into the new condition no. 8. The old condition no. 9 would require the club to construct the parking lot now. The Board discussed a modification to condition no. 9 wherein the maximum number of parking spaces to be constructed would be 60. Mr. Donnelly agreed to the modification provided it was understood that 60 parking spaces would be maximum.

Mr. Ruck informed the Board that he represented the Wexford Community Association and supported the proposed conditions and language proposed for the modification. The language would provide a walkway and stub street to the parking lot. The developer had modified the proffers and had escrowed funds to build the street. Mr. Ruck stated that they agreed to the requirement of the five years and the growth provision for the membership as it would have an effect on the community. They did request the review in five years. Mr. Ruck stated

that the provisions related only to parking and not the traffic. The traffic would flow through the neighborhood and have a negative effect on the community. However, he acknowledged that it was unlikely that there would be a substantial use of the parking lot as access to Cardinal Hill.

Mr. Ruck believed that the all aspects of the three party agreement would be protected and he urged the Board to grant the resolution. In response to whether he was satisfied with the \$2,500 in escrow, Mr. Ruck indicated that it was under dispute because of the problem of grading of the two adjacent lots and the retaining walls.

Chairman Smith stated that the Board would accept and make a part of the record the agreement dated 10th of January 1983 between Tysons Briar, Wexford and the developer.

Page 322, January 11, 1983 Board of Zoning Appeals
TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB
R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-C-025 by TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-134-78 for community swimming & tennis club to eliminate parking lot on one acre parcel and to permit operation of all existing facilities with existing 138 parking spaces, on property located at 9117 Westerholme Way, tax map reference 28-4(1)47 & 45A, 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 11, 1983; 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 6.696 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 Permits 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 the 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 dusk.
8. The number of parking spaces shall be 138. The Board may at any time the membership of Cardinal Hill exceeds 600 review the parking and transportation requirements. In any event, the Board shall make such review at its first available meeting after five years from this date. If upon its review of the parking and transportation requirements the Board finds that an increase in current use of Cardinal Hill or an increase in the memberships of Cardinal Hill (or other currently unknown or undefined factors related to or caused by Cardinal Hill) has created or will create a need for additional parking, the Board may then require the construction of an additional parking facility for Cardinal Hill.

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9. This permit is granted based on option "B" - modified to limit the parking lot on the 1 acre parcel to a maximum of sixty (60) spaces to be set back a minimum of 75 feet from the northerly property line and supplemental planting will be provided to the satisfaction of the Director of Environmental Management within the 75 foot strip.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Ribble being absent).

AGREEMENT

MADE this 10th day of January, 1983, between TYSON'S BRIAR, INC., trading as Cardinal Hill Swim and Racquet Club, hereinafter referred to as "Cardinal Hill", WEXFORD COMMUNITY ASSOCIATION, INC., hereinafter referred to as "Association", and WEXFORD ASSOCIATES, INC., hereinafter referred to as "Developer";

WHEREAS, Cardinal Hill is seeking to amend the special permit requirement covering its facility, such request for amendment being currently pending before the Fairfax County Board of Zoning Appeals as S-82-C-025; and

WHEREAS, said amendment requests permanent deletion of a requirement to construct an additional parking facility for Cardinal Hill on land owned by Cardinal Hill, access to which must be gained from Wexford Drive across property developed by Developer; and

WHEREAS, a zoning proffer covering such property purportedly requires construction of an access driveway to the additional parking facility aforementioned; and

WHEREAS, said access driveway has not been constructed by the Developer as purportedly required by the aforesaid proffer; and

WHEREAS, all parties are agreed that the aforesaid access road is not and will not be needed unless there is actual construction of the additional parking facility aforesaid; and

WHEREAS, the Association has previously objected to the deletion of the requirement for the additional parking facility but is now willing to withdraw its current objection upon assurance that the matter can and will be reviewed to determine the necessity for such additional parking facility in five (5) years.

NOW, THEREFORE, the parties mutually agree and covenant as follows:

1. That Developer agrees to construct the access driveway to the aforesaid additional parking facility upon notification by Cardinal Hill that Cardinal Hill is obligated to construct the additional parking facility as part of its then current special permit from the Fairfax County Board of Zoning Appeals.

2. Developer shall place in escrow the sum of Twenty-five Hundred Dollars (\$2,500.00) with Bettius, Rosenberger & Carter, P.C., as escrow agent, who shall place said escrow amount in an interest bearing account to guarantee the availability of funds for construction of the driveway access.

(a) That the escrow agent shall release said funds, together with accrued interest, to Developer for use in constructing the driveway access if Developer receives the notice from Cardinal Hill referenced above.

(b) Escrow agent shall release said sum, together with accrued interest, to Developer for any purpose after notification that the Board of Zoning Appeals has deleted the requirement for the construction of the additional parking facility.

(c) In the event that the Developer is no longer doing business in the Commonwealth of Virginia, or is not a corporation in good standing, or is the subject of a petition filed under the bankruptcy laws, escrow agent shall release said funds and accrued interest to Cardinal Hill upon notification from Cardinal Hill that it is obligated to construct the additional parking facility as part of its then current special permit from the Fairfax County Board of Zoning Appeals.

3. Developer will grade the lots adjacent to the proposed access driveway in a manner acceptable to the County of Fairfax as originally proposed on the subdivision plats filed with the County for the development of the Wexford South Subdivision within one hundred twenty (120) days of the date of this Agreement. Developer may relieve itself of this grading requirement by delivery to Cardinal Hill, acceptable to the attorney for Cardinal Hill, easements permitting Cardinal Hill to grade said lots in the future.

4. Developer will record a deed of correction, or such other document as may be appropriate, to assure that ownership of the right-of-way for the access driveway is in Cardinal Hill.

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AGREEMENT

5. Cardinal Hill agrees to amend its pending application No. S-82-C-025 before the Fairfax County Board of Zoning Appeals to request relief from the construction requirements for the additional parking facility for a period of five (5) years. Cardinal Hill will specifically request that the Board of Zoning Appeals condition its special permit to require a review of the parking and transportation requirements of Cardinal Hill in five (5) years, so that if an increase in current use of Cardinal Hill (or other currently unknown or undefined factors related to or caused by Cardinal Hill) creates a future increase in traffic or parking along Westerholme Way, the Board of Zoning Appeals shall, at its future review, require the construction of the additional parking facility currently part of the special permit, unless the Board of Zoning Appeals finds that such increase in traffic or parking was temporary and caused by factors not reasonable within the control of Cardinal Hill.

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6. Cardinal Hill and the Association agree to support Developer in any application required by the County for a proffered condition amendment to the Zoning Ordinance as it applies to Wexford South to defer the requirement for construction of the driveway access until after the review by the Board of Zoning Appeals in five (5) years.

7. Cardinal Hill and the Association agree to request that the County of Fairfax not consider the present failure of Developer to construct the driveway access as grounds for the refusal to release Developer's subdivision bond.

Tyson's Briar, Inc.

Wexford Community Association

Wexford Associates, Inc.

Page 324, January 11, 1983, Scheduled case of

10:40 A.M. CONTRACTOR RAY L. HUBBARD. Report from staff and discussion with Mr. Hubbard regarding the sun porch that was constructed on J. W. Smiths' property (Re: V-82-A-190) when the building permit only indicated an extension of the patio.

The Board had agreed earlier in the meeting to prepare a list of questions for Mr. Hubbard to respond in an affidavit to be signed, notarized and returned by January 31, 1983. The questions were as follows:

- 1) Are you currently in the home improvement business?
- 2) If so, what is your home improvement business license number?
- 3) How long have you been in the home improvement business?
- 4) If you are no longer in the home improvement business, are you in any other kind of construction business?
- 5) If so, name the other type of construction business you engage in?
- 6) Are you a general contractor?
- 7) Who obtained the building permit relating to the construction of a porch on Mr. Smith's property?
- 8) Were you aware that a variance was necessary before the porch could be constructed?
- 9) If so, did you advise Mr. Smith of the need for a variance?
- 10) Who amended the building permit application to indicate the extension of the patio rather than the construction of the porch?
- 11) Since the building permit was issued for an extension of the patio only but a porch was constructed instead, what information or authority did you rely on to deviate from the building permit?

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Page 324, January 11, 1983, Scheduled case of

11:00 A.M. BEUFORD H. MILLS, appl. under Sect. 3-203 of the Ord. for a home professional office (accounting) located 2917 Chain Bridge Rd., Gray's Subd., R-2, Providence Dist., 47-2((5))5 & 6, 20,741 sq. ft., S-82-P-096.

Mr. Bill LoPorto, an attorney at law, represented the applicant. He asked that the Board grant the special permit with the development conditions. Mr. LoPorto informed the Board that he had been using the residence previously as a home professional office. He indicated that it might have appeared that the special permit was abused but he would not go into it at a public hearing. Mr. LoPorto stated that a sign was necessary to tell people that they had the right place. He was also concerned with condition no. 8 regarding the screening. The property across the street was the Oakton Shopping Center. The screening would not contribute anything to the area. The two properties on either side were not owner occupied. Mr. LoPorto stated that they would put screening in the back but it felt it was unnecessary to screen the front yard from the Oakton Shopping Center.

In response to whether he was planning to relocate the parking, Mr. LoPorto stated that it had been a suggestion. However the house was directly opposite People's Drug Store. Some Board members questioned condition #12. Mrs. Thonen indicated that she agreed with the applicant that a flat sign across the wall of the building was necessary. Mr. Hyland inquired as to what the present Zoning Ordinance regulations were for signs for home professional offices. Mr. Shoup stated that the Code allowed a 6 sq. ft. sign and that the BZA could limit it even further. Mr. Shoup explained that the staff had recommended no sign as it had serious concern over the establishment of a home professional office in that it could encourage additional activity in the area. The staff felt it was best to place a limitation that there be no sign. Mr. Hyland inquired whether a small inconspicuous sign would bother the staff. Mr. Shoup responded that it would depend upon the size of the sign. In response to the Board's question as to what would be on the sign, Mr. LoPorto stated that it would say, "Medical Dental Management". Chairman Smith stated that the special permit application was in an individual's name and not a corporation. Mr. LoPorto stated that it did not make much difference as the residence would still only be used by the applicant. He explained that the special permit had been applied for before the business was incorporated.

Mr. Beuford Mills informed the Board that he operated a business called Medical Dental Management, Inc. It had not been pointed out to him that he needed to apply for the special permit in the name of the corporation rather than his own. In response to further questions from the Board as to who was living on the property, Mr. LoPorto stated that he had been residing there at the time of the original permit. Mr. Kane was living at the property at the time of the current special permit application. Mr. Mills stated that this was his permanent residence. Mr. Kane and Mr. LoPorto were the sole owners of the property. Mr. Mills explained that he had amended the application to his name because the corporation did not own the property at all. Mr. Kane was planning to live at the property and had actually moved in. He was now in the process of getting married. Mr. Mills explained that he was in the process of a divorce and had moved into the house. The application was amended to show Mr. Mills as the resident of the house.

Mr. Hyland moved that the Board allow an amendment of the application to name Medical Dental Management, Inc. as a permittee. Mr. DiGiulian seconded the motion. Chairman Smith suggested that the applicant be given a week to make that change. Mr. Hyland stated that the resolution could be conditioned on the applicant providing the Articles of Incorporation and an affidavit. The vote on the motion passed by a vote of 3 to 3 (Mr. Smith, Mrs. Thonen and Mrs. Day) (Mr. Ribble being absent).

There was no one else to speak in support and no one to speak in opposition. Chairman Smith suggested that the application be deferred for additional information. Mrs. Kelsey stated she had some information for the Board. The Chairman had inquired as to whether the County had any previous problems with corporations filing for a home professional office. She stated that she had checked with Mr. Yates, the Zoning Administrator, and had been advised that it was his position that the person who was going to use the residence as his domicile could apply. He further indicated that how the individual ran his business was up to the applicant. The special permit would be granted to the applicant only. If the permit was applied for in the name of the corporation, the individual would have to be the President of the corporation.

As the Board was still discussing whether the permit should be issued in the individual's or the corporation's name, Chairman Smith suggested a week deferral. He stated that there was still a problem with the parking and the septic field which had to be approved by the Health Department.

In response to further questions from the Board, Mr. Mills stated that four people worked at the site. He indicated that no clients visited the house as they did all of the work at the client's office. Some of the Board questioned Mrs. Kelsey regarding the parking situation for lot 6. Mrs. Kelsey responded that the staff had recommended that the parking be relocated to lot 6. At that time, the septic field was not shown on the plat and it was assumed that it was located on lot 5. The staff had asked that the parking lot be behind the deciduous trees. Chairman Smith inquired if the applicant was satisfied with the parking. Mr. Mills responded that he had not had a problem with backing out onto Chain Bridge Road. Chairman Smith stated that the parking and traffic pattern should not create an unsafe condition. Mr. LoPorto stated that the way the parking was originally designed was safer.

Mrs. Day moved that the Board defer the application for a study on more feasible parking and the question on whether the permit should be issued in the individual's name or the corporation's name. Mr. Hyland suggested that staff look into the possibility of allowing the applicant to have a nameplate on the building. Mr. Hyland seconded the motion. The motion passed by a vote of 6 to 0 (Mr. Ribble being absent). The matter was deferred until January 25, 1983 at 11:30 A.M.

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11:15 A.M. KNOLLWOOD BAPTIST PRESCHOOL, appl. under Sect. 3-P03 of the Ord. for a nursery school in existing church, located 1000 Coffey Woods Rd., Burke Centre Subd., PRC, Springfield Dist., 78-3(1)40, 5.0016 acres, S-82-S-099.

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Mr. Al Gilbert of 10907 Ridgemont Drive informed the Board that he was the pastor of the church. He introduced the staff of the preschool, Ms. Cheri Baker, Cindy Daughery and Linda Icoff. Mr. Gilbert reviewed the proposed changes with the Board. The ages of the children would be 2½ to 5 years. He indicated that the preschool could provide 100 sq. ft. of play area per child at any one time.

There was no one else to speak in support and no one to speak in opposition.

Page 326, January 11, 1983
KNOLLWOOD BAPTIST PRESCHOOL

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-S-099 by KNOLLWOOD BAPTIST PRESCHOOL under Section 3-P03 of the Fairfax County Zoning Ordinance to permit nursery school in existing church on property located at 10000 Coffey Woods Road, tax map reference 78-3(1)40, 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 11, 1983; and

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

1. That the owner of the subject property is the Board of Missions of Mt. Vernon Baptist Association.
2. That the present zoning is PRC.
3. That the area of the lot is 5.0016 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 PRC 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. All conditions of S-82-S-028 shall remain in effect.
8. The applicant is granted the authority to operate a preschool Monday through Friday from 9 A.M. to 12 Noon and that the applicant has the authority to have one afternoon session on Wednesday from 12:15 P.M. to 3:15 P.M. for four year old children. The applicant is granted the authority to hold classes for 3 and 4 year olds on Monday, Tuesday and Wednesday from 9:00 A.M. to 12:00 Noon; a class for 2½ year olds on Monday and Tuesday from 9:30 A.M. to 11:45 A.M.; classes for 2½ year olds on Thursday and Friday from 9:30 A.M. to 11:34 A.M. and classes for 3 and 4 year olds on Thursday and Friday from 9:00 A.M. to 12 Noon.
9. The ages of the children shall be from 2½ years to 5 years of age.
10. The maximum enrollment of children shall be 80 and no more than 40 children shall be on the site at any one time.

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R E S O L U T I O N

11. The staff shall consist of nine persons.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Ribble being absent).

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11:30 P.M. FAIRFAX CIRCLE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to amend existing permit S-80-P-061 to allow construction of an education bldg. addition to existing church and church related facilities, located 3110 Chichester Ln., R-1, Providence Dist., 49-3(1)13, 4.586 acres, S-82-P-100.

Mr. Frank Kinsman represented the church. He was Chairman of the Building Committee. In response to questions from the Board, Mr. Kinsman stated that the church had a special permit to build this same building but it had expired. The church had problems with financing. Now that they were planning to build in the spring, they were back requesting another special permit. The request was to construct an education addition to the original structure. No increase was planned for the membership. The only change from the original request was a change in the sanctuary seating. They were adding 20 seats which required additional parking.

The Board was in receipt of a letter from Mr. Hausler of 8711 Duvall Street who was an attorney with Hazel, Beckhorn & Hanes. Mr. Hausler was concerned with the number of signs associated with the church use. Mr. Kinsman stated that there were only two signs to his knowledge. One was located on Rt. 50 and the other on Chichester Lane. However, he indicated that their corner was used for all types of signs for yard sales, boy scouts, etc.

Mr. Covington informed the Board that only one sign was permitted. Mr. Hammack stated that there was a sign on Rt. 50 for the church. However, on Chichester Lane, the identification for the church was part of the mailbox. Mr. Kinsman indicated that there was also a sign listing the hours of worship.

There was no one else to speak in support and no one to speak in opposition. In further response to questions from the Board, Mr. Kinsman stated that the education building would be used for Sunday school and training classes and serve as the fellowship area for meetings. There were not any plans for a day care center at the present time. However, Mr. Kinsman stated that the church did operate a Mother's Day Out Program several days a week.

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Board of Zoning Appeals

FAIRFAX CIRCLE BAPTIST CHURCH

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application S-82-P-100 by FAIRFAX CIRCLE BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to amend existing permit S-80-P-061 to allow construction of an education building addition to existing church and church related facilities on property located at 3110 Chichester Lane, tax map reference 49-3(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 January 11, 1983; 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; 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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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 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 the normal hours for church activities.

8. The number of parking spaces shall be 65.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Ribble being absent).

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11:45 HAROLD H. LION, appl. under Sect. 18-406 of the Ord. to allow a carport and
A.M. storage room addition to remain 2.9 ft. from side property line (min. side yard of 12 ft. req. by Sect. 3-307), located 8012 Gosport Ln., Ravensworth Farms Subd., R-3, Annandale Dist., 79-2((3))(18)25, 11,475 sq. ft., V-82-A-196. (DEFERRED FROM DECEMBER 7, 1982 FOR NOTIFICATION OF ONE ADJACENT PROPERTY OWNER AND TO GIVE THE APPLICANT TIME TO GET ANY PERSONS THAT CONSTRUCTED THE CARPORT TO TESTIFY).

Mr. Douglas Adams, an attorney in Annandale, represented Mr. Lion. He indicated that there had been three questions at the December 7th hearing. One was the covenants and another was the question of a building permit. Mr. Adams explained to the Board that the carport was constructed without a building permit by the current owner who had a contract with Mr. McCoy. Mr. McCoy built the carport while the Lions were on vacation. They assumed that Mr. McCoy had obtained a building permit. If a building permit had been obtained, it would have been discovered that there was a need for a variance because of the side setback. Mr. Adams presented the Board with letters from two neighbors who were in support of the requested variance.

In response to questions from the Board, Mr. Adams stated that the Lions did not have a written contract with Mr. McCoy. There had never been any discussion about a building permit. Mr. McCoy had been given money to start the job and was given the remainder when the job was finished. Mr. Lion was not aware that he was violating any laws.

There was no one else to speak in support and no one to speak in opposition.

Page 328, January 11, 1983
HAROLD H. LION

Board of Zoning Appeals

R E S O L U T I O N

Mrs. Thonen made the following motion:

WHEREAS, Application No. V-82-A-195 by HAROLD H. LION under Section 18-406 of the Fairfax County Zoning Ordinance to allow a carport and storage room addition to remain 2.9 ft. from side property line (minimum side yard of 12 ft. required by Sect. 3-307) on property located at 8012 Gosport Lane, tax map reference 79-2((3))(18)25, 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 January 11, 1983; and

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

THAT non-compliance was no fault of the applicant.

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

1. 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.

R E S O L U T I O N

2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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

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 1 (Mr. Smith)(Mr. Ribble being absent).

 Page 329, January 11, 1983, Scheduled case of

12:00 COUNTRY CLUB OF FAIRFAX, INC., appl. under Sect. 3-103 of the Ord. to amend
 NOON S-82-S-004 for country club to permit seasonal installation of air-supported
 bubble & enclosure of 3 tennis courts, located 5110 Ox Rd., R-1, Springfield
 & Dist., 68-1((1))17, 18 & 20, 151.1923 acres, S-82-S-102.

12:00 COUNTRY CLUB OF FAIRFAX, INC., appl. under Sect. 18-401 of the Ord. to allow
 NOON seasonally enclosed tennis courts 34 ft. from front lot line (40 ft. min. front
 yard req. by Sect. 3-107), located 5110 Ox Rd., R-1, Springfield Dist., 68-1
 ((1))17, 18 & 20, 151.1923 acres, V-82-S-214.

Chairman Smith stated that he had been advised that the variance was no longer needed in order to install the bubble for the tennis courts. The reason for this was contained in the staff report.

Mr. Daniel Shaner of Hazel, Beckhorn & Hanes represented the club. He informed the Board that in November of 1976, the club had gotten permission to add tennis courts and lights. This special permit request was to ask permission to add a temporary seasonal bubble for the lower three tennis courts. There were a total of ten tennis courts but the club only wanted to enclose three of them. The bubble structure was fabric and would be air supported. It was a dome shaped structure. Mr. Shaner showed the Board a sample of the fabric which was similar to teflon but opaque in color. The structure would be 30 ft. high at the apex. The dimensions would be 120 wide by 160 ft. long. The bubble would be used from October through April. All mechanical systems would be adjacent or enclosed within the bubble.

One concern had been the variance to the Rt. 123. However, it had been determined that the club would be within the bulk regulations for the R-1 district. The total club property consisted of 153 acres. The three tennis courts proposed to be enclosed were 6 to 10 ft. below the road. The club proposed to increase the berm between Rt. 123 and the tennis courts and to install another 2 to 4 ft. earthen berm. Their concern was for noise abatement off of Rt. 123. With regard to the noise abatement from the adjacent properties, the club proposed to plant 20 white pine along the property line of Rt. 123. The pines would be planted 16 to 20 ft. off-center in order to abate noise and to serve as an aesthetic cover.

Mr. Shaner informed the Board that the Fairfax Country Club was a private club managed by a Board of Directors. The club had a dining room, tennis pro shop, etc. Membership of the club was private and the use was for members only. Mr. Shaner stated that in the 1976 permit there had been a restriction on night play for the tennis courts. The club was now asking for hours from 7 A.M. to 10 P.M. In response to questions from the Board, Mr. Covington stated that the upper tennis courts and the golf course predated the Special Permit in 1957.

There was no one else to speak in support. Mr. Don Conns of the Greater Washington Tennis Association spoke in opposition. They were concerned about any commercialization of the racquet sport industry by non-commercial and not for profit organizations such as country clubs, park authorities and other government agencies. In response to questions from the Board as to why the distinction, Mr. Conns indicated that non-covered courts were rarely operated for profit. Mr. Conns explained that it had been his experience that covered courts start out just like the other non-profit activities of a club but generally became commercial and for profit. He cited examples in the area such as Bethesda Country Club, Washington Golf and Country Club and Belle Haven Country Club. The clubs all had tennis bubbles and charged fees to non-members. Mr. Conns stated that the bubbles had to be lighted, heated, etc. so the clubs charged fees. Mr. Conns was distressed because the clubs received a tax break as a non-profit organization.

During rebuttal, Mr. Shaner stated that the Fairfax County Country Club was a group 4 use and required a private membership. They were regulated by the Zoning Ordinance and were a recreational use. The use of the club was for members only. They did not solicit business from the street or pull customers from the commercial sector. In response to questions from the Board as to whether the club held tennis classes for non-members, Mr. Shaner responded that they had to be members of the club. There had been one instance of a tournament held in which non-members participated.

Mr. Shaner informed the Board that the purpose of the tennis enclosure was to provide a year round tennis program. He indicated that the tennis program had suffered because it was not year round. The club had a program for 8 to 12 year olds of a round robin nature. Mr. Shaner stated that he did not believe their tennis program would interfere with Mr. Conn's facilities.

Page 330, January 11, 1983

Board of Zoning Appeals

COUNTRY CLUB OF FAIRFAX, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application S-82-S-102 by COUNTRY CLUB OF FAIRFAX, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-82-S-004 for country club to permit seasonal installation of air-supported bubble and enclosure of three tennis courts on property located at 5110 Ox Road, tax map reference 68-1(1)17, County of Fairfax, Virginia, has been property 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 11, 1983; 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 151.1923 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 12 midnight, seven (7) days a week, October through April.
8. All other provisions of S-82-S-004 shall remain in effect.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Ribble being absent).

Page 330, January 11, 1983, After Agenda Items

Cancellation of BZA Meeting: The Board of Zoning Appeals cancelled its meeting for February 1, 1983 as there was a lack of applications.

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Page 331, January 11, 1983, After Agenda Items

EXPIRATION OF TERM: The Board was in receipt of notice that the term of office for Mrs. Mary R. Thonen was due to expire on February 18, 1983. Mrs. Thonen was appointed to the BZA on November 19, 1982 to complete the unexpired term of Mr. John Yaremchuk. It was the unanimous consensus of the Board to send notice to the Clerk of the Court's Office for reappointment of Mrs. Thonen.

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Page 331, January 11, 1983, After Agenda Items

Approval of Minutes: The Board was in receipt of Minutes for May 5, 1981; May 12, 1981 and May 14, 1981. Mrs. Day moved that the Minutes be approved. Mr. Hyland seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent).

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Page 331, January 11, 1983, After Agenda Items

DORIS W. WOOD, V-81-D-091: The Board was in receipt of a request for an extension of V-81-D-091 granted by the BZA on July 7, 1981 to Mr. Stanley Westreich to allow the construction of a dwelling 12.4 ft. from the front lot line. Mrs. Day moved that the Board allow a six month extension to Mrs. Wood. Mr. Hyland seconded the motion and it passed by a vote of 5 to 1 (Mr. Smith) (Mr. Ribble being absent).

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Page 331, January 11, 1983, After Agenda Items

The Clerk was directed to resend a copy of Pat Taves' memo regarding National Memorial Park, Inc. vs. BZA, At Law No. 53006. The Clerk was also directed to send a staff report to Mr. Hyland for the next week.

// There being no further business, the Board adjourned at 4:45 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 Sept. 18, 1984

Approved: Sept. 25, 1984
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 Evening, January 18, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribbte and Mary Thonen.

The Chairman opened the meeting at 8:20 A.M. and Mrs. Day led the prayer.

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

8:00 P.M. ERNEST J. & MARGARET S. WELLS, appl. under Sect. 3-103 of the Ord. for a nursery school, located 3013 West Ox Rd., R-1, Centreville Dist., 35-2((1))29, 4.042 acres, S-82-C-078. (DEFERRED FROM 10/26/82 FOR TRANSPORTATION REPORT AND FROM 12/14/82 FOR INTERIOR FLOOR PLAN & REVISED PLAT INDICATING TYPE OF SCREENING TO BE PROVIDED)

Frank Grace, an attorney, represented the applicants. He stated that he had submitted all the requested information to the Board. The Board took a few minutes to review the revised plats and the interior floor plan. Mrs. Day inquired about the report submitted by the Office of Transportation. Mr. Grace replied that the applicant was prepared to meet those requirements; the dedication of the right-of-way 45 feet from centerline, and also widening the road 12 feet from centerline. The applicant would also comply with the sight distance requirements imposed by the Department of Environmental Management and the Health Department. Mr. Grace stated that the applicant intended to maximize busing and carpools to alleviate traffic on West Ox Road.

Mr. Grace stated that the applicant was involved in interviewing professional staff people at the director level, to directly manage the facility. Mr. Brian Wells, the son of the applicants, would be the business manager and coordinator for the center. There would be a professional staff running the center.

There was no one else to speak regarding the application.

Mr. Hammack stated that he still felt concerned that the applicant had not presented any testimony as to the qualifications of the actual directors and operators of the school, other than to say that qualified people would be hired. Mr. Hammack stated that it seemed extraordinary that the BZA would permit day care for young children, without much criteria to protect them as to the suitability of the people that will actually operate the centers.

Page 332, January 18, 1983
ERNEST J. & MARGARET S. WELLS

Board of Zoning Appeals

RESOLUTION

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-C-078 by *ERNEST J. & MARGARET S. WELLS under Section 3-103 of the Fairfax County Zoning Ordinance for a nursery school, located at 3013 West Ox Road, tax map reference 35-2((1))29, 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 18, 1983; 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 4.042 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 IN PART with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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 80, ages 2 thru 6.
8. The hours of operation shall be 6:30 A.M.-6:30 P.M., Monday thru Friday.
9. The number of employees shall be 8.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 7-0.

*Amended by BZA on October 18, 1983 to permit a change in name to EJW Enterprises, Inc.

Page 333, January 18, 1983, Scheduled 8:30 P.M. case heard at 8:40 P.M.:

8:30 P.M. RAYMOND H. MILKMAN, appl. under Sect. 3-103 of the Ord. for a home professional office, located 6726 Lucy Ln., Langley Forest Subd., R-1, Dranesville Dist., 21-4((4))31, 62,492 sq. ft., S-82-D-098.

Raymond Milkman presented his application. He proposed to operate The Lazar Institute, which is a non-profit research corporation in the lower level of his home. The Lazar Institute had been granted tax exempt status and conducted research under Federal agencies and private organizations. Mr. Milkman presented samples of some of the publications he had done. He stated that he would have two employees. There would be less than 5 visitors per week, and they would generally park in the driveway. Most of the visitors would be government officials who sponsor Lazar projects.

Jane Kelsey indicated that the staff was concerned that if the use involved a large number of clients, additional parking would be required. Staff believed that the addition of more parking spaces would be disruptive to the residential appearance of the property and should not be provided; therefore, the use should be limited to its current level.

There was no one to speak in support or opposition.

Page 333, January 18, 1983
 RAYMOND H. MILKMAN

Board of Zoning Appeals

R E S O L U T I O N

Mrs. Thonen made the following motion:

WHEREAS, Application No. S-82-P-098 by RAYMOND H. MILKMAN under Section 3-103 of the Fairfax County Zoning Ordinance for a home professional office, located at 6726 Lucy Lane, tax map reference 21-4((4))31, 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 18, 1983; 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 62,492 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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. Transitional screening and barrier requirements shall be modified provided the existing trees and vegetation remain undisturbed.
7. The total number of employees shall be two (2).
8. The visitor vehicles to this property in connection with this use shall be limited to one (1) at a time with a total of no more than five (5) per week.
9. The hours of operation shall be between the hours of 9:00 A.M. and 6:00 P.M., Monday thru Friday.
10. There shall be no exterior changes to the property in connection with this use.
11. Signs shall be limited to the existing sign which is 1 ft. x 2 1/2 ft. attached to the dwelling.
12. This permit is granted for a period of five (5) years.

Mr. Hyland seconded the motion.

The motion passed by a vote of 7 - 0.

Page 334, January 18, 1983, AFTER AGENDA ITEMS:

The Board approved the BZA minutes for May 19, 1981 as presented.

Page 334, January 18, 1983, AFTER AGENDA ITEMS:

KOREAN PRESBYTERIAN CHURCH/S-81-S-002: The Board was in receipt of a letter requesting an extension of the above captioned special permit. It was brought to the Board members' attention that there was a problem between this church and the former owner of the property. Apparently a lot of site work had not been done, and there was a problem as to who was responsible for the completion. On a motion by Mr. Hyland, it was the consensus of the Board to defer the request for a period of one week to allow the staff time to research the property and provide background information.

Page 334, January 18, 1983, AFTER AGENDA ITEMS:

GROVETON PRESCHOOL, INC./S-308-79: The Board was in receipt of a letter requesting a one-year extension from the Zoning Administrator, but also requesting a change in the hours of operation. It was the consensus of the Board that any changes in the special permit would require another public hearing. The Board members felt that this request should never have been brought to them, because the Zoning Administrator was empowered to extend the permit.

There being no further business, the Board adjourned at 9:20 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Sept 18, 1984

APPROVED: Sept 25, 1984

The Special Meeting of the Board of Zoning Appeals was held in the Third Floor Conference Room of the Fairfax Building on Thursday, January 20, 1983. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack and John Ribble. (Mr. John DiGiulian and Mrs. Mary R. Thonen were absent).

The Special Meeting began at 10:00 A.M. The Board of Zoning Appeals met with the Zoning Administrator to discuss revisions to their by-laws; the Code of Virginia; Powers and duties of Board of Zoning Appeals; and proposed amendments to the Zoning Ordinance.

// 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

Submitted to the Board on Sept. 18, 1984

Approved: Sept. 25, 1984
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, January 25, 1983. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble and Mary Thonen.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 EILEEN RAIZEN, appl. under Sect. 18-406 of the Ord. to allow 16 ft. high playhouse/storage shed to be completed and to remain 3.5 ft. from rear lot line (16 ft. min. distance from rear lot line req. by Sect. 10-104), located 2233 Chestertown Dr., Tysons Woods Subd., R-4, Providence Dist., 39-3(28)101, 8,937 sq. ft., V-82-P-215.

Mr. William Shoup presented the staff report. The application was to allow a playhouse built in error to remain 3.5 ft. from the rear lot line. Ms. Eileen Raizen explained to the Board the events leading up to the construction of the playhouse and shed. The shed was 8'x12' and was no more than 7 ft. in height. On top of it was an 8'x8' structure which at one point was 16 ft. in height sloping down to 14 ft. The actual treehouse was 64 sq. ft. in area and was less than the 100 sq. ft. referred to in the County booklet. Ms. Raizen stated that in constructing the treehouse, she had consulted the booklet but there was not any mention of height at all. The treehouse was well below the 100 sq. ft. required for a building permit. Ms. Raizen stated that there were a series of things that led to the construction of the structure. She had a nine year old youngster who wanted a treehouse. Her lot did not contain any trees. She finally agreed to build a platform or post. About a year ago, she started consulting with a construction firm to work on her home. Her son reminded her about the treehouse so she had the gentleman come over and look over the yard. She was advised of the zoning regulations but did not feel that she was out of line. The construction gentleman felt the same way. Ms. Raizen proceeded with construction of the treehouse without any intention of building anything underneath it. They put in the posts and dug the concrete. Later they poured the concrete pad. Then she decided to use the nice pad for a base for a storage area. The storage shed was 96 sq. ft. in area making the total structure 160 sq. ft. The height was 16 ft. Ms. Raizen indicated that the storage shed would be in compliance if it was no more than 7 ft. in height. The whole structure was built casually. It had been a day to day thing. Ms. Raizen stated that she did not have a contract with Mr. Gurten as he was her employer.

Ms. Raizen stated that the structure was not inappropriate. She stated that she had invested time and money and effort. It would be a hardship to remove the treehouse as it supported the shed. She understood the problem but indicated that it had been intentional. As far as the land use, this was the only way she had to go. Ms. Raizen reminded the Board that she had followed the publication from the County on building codes. There had not been anything in the booklet about the height restrictions. She further stated that she had called the County and was informed that she did not need a building permit because it was less than 100 sq. ft. in area.

Ms. Raizen stated that the County Zoning Inspector had cited her for not being the proper distance from the property line. She was not cited for lack of a building permit. Ms. Raizen had been sent a letter about the setback which was later retracted by the inspector's supervisor.

In response to questions from the Board, Ms. Raizen stated that there was a basket on the side of the playhouse. She indicated that she could climb up the structure but her mother could not. If there were any problems, her mother could call the ambulance authorities. Ms. Raizen stated that she lived in a contemporary home and the structure was in conformance with her home.

The Board was in receipt of a letter in opposition from Mr. Robinson which indicated there were large trees which were removed. Ms. Raizen explained that she had a water leakage problem in her basement and the trees were removed. She then decided to put in a contemporary landscaping. Some Board members were concerned about the safety of the structure. Ms. Raizen stated that there was another structure very similar to her in the area. Ms. Raizen stated that she had neighbors to speak in support of the structures. Ms. Raizen stated that you could not see the treehouse from the front of her lot. In response to concerns about the safety of children playing in such a structure, Chairman Smith reminded the Board that it was not a consideration of the BZA to make.

Mr. Gurten, President of the Gurten Associates of 2596 Viking Drive in Herndon informed the Board that he had a Class A contractor's license with the State of Virginia. Mr. Gurten stated that he had explained to his crew how to build the structure. The structure was built and cemented in the ground so it could not be blown out of the ground. It was braced and had siding and a roof. Mr. Gurten stated that the structure was built safely and according to specifications. The platform for the treehouse was 8 ft. off the ground. It had a trapdoor and walls. Mr. Gurten stated that if the trapdoor was left open, it would be the

same as falling downstairs. Mr. Gurten did not share some of the Board's concern that it was a dangerous structure.

There was no one else to speak in support and no one to speak in opposition although the file contained letters in opposition.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. V-82-P-215 by EILEEN RAIZEN under Section 18-406 of the Fairfax County Zoning Ordinance to allow 16 ft. high playhouse/storage shed to be completed and to remain 3.5 ft. from rear lot line (16 ft. min. distance from rear lot line req. by Sect. 10-104), on property located at 2233 Chestertown Drive, tax map reference 39-3((28))101, 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 January 25, 1983; and

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

THAT the safety factor is a minor issue in the case. I am not satisfied that the applicant has proven that she is not responsible for the violation of the Ordinance which does not satisfy the requirements under the Ordinance. I would have a difficult time supporting a 16 ft. treehouse of that height and there is no tree involved. This is a structure and I feel it is obtrusive. Even if she had come in with a variance prior to construction, I would have a difficult time granting such a variance for this particular location on this particular lot.

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

I do not believe that she had satisfied the Ordinance and that is required for a Variance.

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

Mrs. Day seconded the motion.

The motion passed by a vote of 7 to 0.

10:10 EDWIN A. & NORMA J. HECK, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport into attached garage 10.0 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7003 Catlett St., N. Spfd. Subd., R-3, Annandale Dist., 80-1((2))(3)12, 14,739 sq. ft., V-82-A-216.

There was a questions on notices; however, the applicant had obtained a waiver from the affected property owner. Chairman Smith was concerned that the waiver was not notarized and asked that the meeting be deferred in order to satisfy the notice procedures in the proper manner. After a long discussion regarding the notices, Mrs. Thonen moved that the Board proceed with the hearing but place a restriction on the motion that the applicant provide a notarized statement from Mr. Robinson, the affected property owner. Mr. Hyland seconded the motion. The motion passed by a vote of 4 to 3 (Messrs. Smith, DiGiulian and Mrs. Day).

Ms. Norma Heck informed the Board that she resided at 7003 Catlett Street in Annandale. She had been there since 1955. They had added onto their home with a family room on the back and a carport with a storage area. They now wished to enclose their carport and applied for a building permit. It was determined that they needed a variance. The carport was located 10 ft. from the side lot line but the Ordinance required a minimum of 12 ft. Ms. Heck presented the Board with photographs of other homes in the area with the same thing she was proposing. Ms. Heck stated that the way her home and carport were located, this was the only place to construct a garage on the lot. They were not adding anything to it and the foundation was already there.

In response to questions from the Board, Ms. Heck stated that development in the rear of the lot was impossible because of a hill going up with large trees. In back of the yard was woods which they loved. There was also a 50 ft. buffer of trees behind her property which could not be disturbed. The hill went across the entire back yard and was as high as 5 ft. in some areas. Ms. Heck stated that she had obtained a building permit for the carport in 1962. There was no feasible way to construct a garage at the rear of the house without destroying the trees and the terrain.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-A-216 by EDWIN A. & NORMA J. HECK under Section 18-401 of the Zoning Ordinance to allow enclosure of carport into attached garage 10.0 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 7003 Catlett Street, tax map reference 80-1((2))(3)12, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes with the by-laws of 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 25, 1983; 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 14,739 sq. ft.
4. That the applicants' property has exceptional topographic problems in the rear yard which is the only other logical place for construction and that the topographic condition is a slope or a hill which would preclude the reasonable construction of building a garage in the rear. The amount of the variance is minimal being only 2 ft. The Board has received testimony that there is no objections from any of the abutting property owners for the enclosure of the carport into a garage. In addition, there is a structure behind the carport which would preclude getting into the rear of the 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Page 338 January 25, 1983, Scheduled case of

10:20 RIVERBEND GOLF & COUNTRY CLUB, INC., appl. under Sect. 3-E03 of the Ord. to amend
A.M. S.U.P. #5669 for countru club, for approval of several existing additions and to permit enclosure of existing porch and construction of shelter over existing deck, located at 9901 Beach Mill Rd., Acreage Subd., R-E, Dranesville Dist., 8-1((1))22, 23, & 41 and 8-3((1))4, 151.321 acres, S-82-D-101.

Ms. Jane Kelsey presented the staff report which recommended approval of the application in accordance with the development conditions. The application was to allow several additions and to allow three other additions such as a shelter over a wood deck.

Mr. Kennan Bryan of 10511 Judicial Drive represented the applicant. He indicated that the club was bringing some of its existing facilities into compliance with the site plan. In addition, they were requesting permission for three additions to the facilities which were in the forms of shelters. They wanted to place a roof over an existing tennis deck. They also wanted to add room by enclosing the patio off of the dining room. It would be enclosed in glass and would be in harmony with the existing structure. Third, they wanted to enclose a snack room area for golfers which presently was only screened in.

The club had been in existence since 1960. It originally was called Forest Lake and it started out with a clubhouse, bathhouse and recreational facilities. The first tennis court was added in 1964. Additional courts were added in 1972 and late 1978. All tennis courts had been in use for at least 4 years and were lighted. The nearest location to any property owner was 590 ft. Mr. Bryan stated that the club had received a complaint about the lighting within the last six months. The County tested the lights on January 12th with a light meter and found no problem with the glare whatsoever.

Mr. Bryan stated that he had read the staff report and the club was willing to comply with the development conditions. The bylaws provided for a membership of 600 families. There were some inactive members which were not included in the active membership. In response to questions from the Board, Mr. Bryan stated that if the inactive members returned to the area they were not automatically included back into the membership. Mr. Bryan indicated that the hours of operation mentioned in condition no. 9 were satisfactory to the club. The Board mentioned a letter in opposition concerning the tennis court lights and the entrance lights. Mr. Bryan stated that the entrance was up a driveway easement and then there was a wrought iron gate. The club had experience with autos pushing in the gate so they installed a security light. On January 12th, the County inspector checked the glare from the security light at the club's property line closest to the nearest residence. At that time, the club met the Code requirements. Mr. Bryan explained that the light focused light down on the gate itself. It was not shielded.

There was no one else to speak in support. The following persons spoke in opposition. Mrs. Collins of 9103 Beach Mill Road stated that her home backed up the 10th hole of the golf course. They had been living there for 11 years. They had been members of the club for ten years. After their last child left home, there was no longer a desire to be members of the club. At that time, there were only two tennis courts. Within the past year, extra lights and tennis courts had been constructed. Mrs. Collins stated that the lights affected her property. It would take 30 ft. trees to shield the lights. Mrs. Collins stated that there were 6 huge poles and two double poles. There were 30 lights and 6 spot lights. In the evening, she had to pull the drapes in her home and bedroom. She resented having to do that as she moved out there to enjoy country life. Ms. Collins stated that if Fairfax County reduced her property taxes, she might put up with the lights. Mrs. Collins was concerned that the club had not gotten a permit to put up the lights and she wondered what would prevent them from doing anything else they wanted to do. She indicated that if she had not started complaining, the club would have continued without regard to the permits. Mrs. Collins stated that she had never received a letter of any kind from the club whenever it expanded.

Chairman Smith explained that the original special permit was granted to Forest Lake over 23 years ago. Since that time, the County had recognized many of the things Mrs. Collins was concerned about and were taking steps to insure that it did not happen in the future. All of the permits in the last 10 years had carried conditions to prevent additions. Chairman Smith questioned whether any of them should have been added without action from the BZA. He inquired as to how the lights affected Mrs. Collins. She responded that she lived 450 ft. from the tennis courts and the lights were so strong that they shone into her home. She indicated that her home was in line with the tennis courts and got the full view of the tennis lights. The lights were so high on the poles. Mrs. Collins invited the Board to come and look at the lights from her home at night. She stated that the County had not looked at the lights at night. Mrs. Collins stated that she talked to Mrs. North who was also concerned about the light situation as it lighted up her whole back yard. Mrs. Collins indicated that some people did not wish to complain.

The Board was confused about the light situation since the staff report had indicated that there was not a problem with glare. Chairman Smith stated that apparently a measurement was not taken. Mr. DiGiulian stated he couldn't imagine someone going out during the day to measure the lights. He asked that that portion of the staff report be clarified. Ms. Kelsey stated that she had spoken with Doug Leigh and confirmed with Mr. Kennedy that the inspection was done at night and was not in violation.

Mr. Bryan informed the Board that there was a timer that went off at 11 o'clock. The lights could be turned on individually. It depended on the number of courts in use as to how many lights were turned on. The lights could also be turned off individually. Mrs. Collins asked for consideration that the lights be turned around and regulated so as not to shine on her property.

Mr. James Elgin of 9907 Beech Mill Road also spoke in opposition. He stated that he was the one who had complained about the lights at the entrance last September. He was still waiting for the light to be shielded. He indicated that he had talked to Doug Leigh of the County who informed him not to expect anything to happen as the Ordinance was not strong enough to enforce. Mr. Elgin stated that the light was not shielded and shone over an open field towards Walker Road. The light stayed on all night long. The tennis court lights came on and went off but there were times when they stayed on also. Mr. Elgin stated that the security light was so strong, it shone onto his property so that he could not see anything in his back yard. The light was 300 ft. away but he could not see his dog in the back yard. Mr. Elgin stated that he had asked the club to direct the light onto their property and not his.

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The Board was concerned about the additions to the facility without benefit of a public hearing. Some Board members raised a question of legality of the additions. Chairman Smith stated that the applicant had a period of one year to construct any of the facilities shown on the plat approved by the BZA. The resolution did not allow construction over a long period of time. Chairman Smith indicated that there was a lot of ambiguity in the granting but experience had taught the County and staff the proper way to handle special permits and conditions.

Mr. Bryan informed the Board that over the years when the club had gone to the County for permission to build, they were told that as long as what they were doing was in the confines of the special permit, a public hearing was not necessary. Mr. Joseph Berry, President of the club, stated that he had met with Mr. Woodson when he was Zoning Administrator for the County in the early 60s. He had signed the building permit for the storage shed addition. The first tennis court was constructed in 1963 or 1964 and was lighted. The lights had been remodeled and improved for the tennis operation. In 1979, the last two courts were constructed for use all year. Mr. Berry stated that the club had always obtained building permits. The Zoning Office had checked the setbacks and allowed the additions since it was in the confines of the special permit. Mr. Berry stated that nothing was done with the intention of bypassing the BZA.

Chairman Smith stated that if the club had permission, they were not at fault. It was an interpretation by the officials that the club had the right to build. Chairman Smith stated that he did not agree with it as it was not in keeping with the Ordinance.

During rebuttal, Mr. Berry responded to complaints about the lights from the nearby residences. He stated that he had stood at the fence which was 200 ft. south of the Collins property and the light meter read zero. Mr. Berry stated that there was dull glow in her back yard.

Mr. Hyland moved that the Board defer decision on the matter to allow the County staff to meet with the property owners involved. Mrs. Thonen seconded the motion. It was the consensus of the Board that the club try to view the problem of the lights from the perspective of the complainants, Mrs. Mildred Collins of 9813 Beach Mill Road and Mr. James Elgin of 9907 Beech Mill Road. The Board directed staff to make an on-site inspection of the lighting problems from the complainants' properties. The staff was also directed to make recommendations as to the lights if the club did not see fit to make any specific adjustments. The vote on the motion passed by 6 to 0 with Mr. DiGiulian being out of the room.

The Board asked Mr. Bryan to be present on February 15, 1983 to provide information as to the type of lighting the club was using for the tennis courts and security gate. Further, depending on what the staff report indicated regarding the on-site inspection, the Board inquired as to whether or not the lights could be shielded or modified in any way.

The matter was deferred until Tuesday, February 15, 1983 at 8:45 P.M. for additional information.

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Page 340 January 25, 1983, Scheduled case of

11:00 FREDERICK WEYMER, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrators' decision that a proposed detached garage is not a permitted accessory use to the single family residence located at 6111 Covered Bridge Rd., Cardinal Glen Subd., R-3, Springfield Dist., 78-3((8))71, 16,316 sq. st., A-82-S-019.

Mr. Philip G. Yates, Zoning Administrator, informed the Board that his position was set out in the staff report. For elaboration, he stated that the proposed structure was a second garage to be used for the storage of an antique automobile, a car-trailer and a pick-up truck. There was an existing two car garage on the property which would house the family's vehicles.

Mr. Steven David Stone of 6551 Loisdale Court, Suite 900, Springfield, Va. represented the applicant. The Weymers moved to the Burke area six years ago. Mr. Weymer was employed with the Department of Defense as a computer programmer. He presently drove 100 miles round trip for his job to Fort Meade, Maryland. Mr. Stone explained that the family owned several cars as the children held part-time jobs to finance school.

The proposed garage was 780 sq. ft. which was over the 600 sq. ft. allowed by the Zoning Office as an accessory use. Mr. Stone stated that they would be happy to amend the request. The garage would be brick frame with aluminum siding. It would be compatible with the design of the house and the neighborhood. The garage would be used to house an antique 1925 Model T Ford and a 4-wheel drive vehicle which would not fit into the existing garage. The 4-wheel drive was used by Mr. Weymer as he was on call 24 hours a day, even in bad weather, and needed it for the 100 mile trip. The car trailer was used for the Model T Ford

Mr. Stone stated that too much emphasis had been placed on this situation. He felt there was a problem with the legal interpretation by Mr. Yates that the accessory structure was not a permitted use in the R-3 zone. Mr. Stone stated that garages were permitted under the Ordinance.

In response to questions from the Board, Mr. Stone stated that there would not be a driveway to the proposed garage. Mr. Weymer would drive over the lawn. The truck would be used in bad weather and for recreational use. Mr. Stone argued that the 600 sq. ft. cutoff was arbitrary as it was not contained in the Zoning Ordinance. If Mr. Weymer had applied for a building permit prior to the Zoning Administrator's interpretation, he could have had the accessory structure. Mr. Stone stated that a garage was customarily found in a home. In response to questions from the Board, Mr. Stone stated that some families had second garages because of the number of children who drove. Others used more yard area to park all of the cars.

Mr. Stone stated that the cut-off of 600 sq. ft. was arbitrary but he was willing to amend the request to fit Mr. Yates' objections. In response to questions from the Board, Mr. Stone stated that the antique car was a hobby of Mr. Weymer. It was presently being garaged in Pennsylvania as it could not be kept outside.

The Board questioned Mr. Stone as to whether it made sense in terms of applying the accessory rule to have some size limitation. Mr. Stone indicated that it did but stated the limitations needed to part of the Ordinance. The Board stated that it was an interpretation of the Zoning Administrator having the full force and effect as the Ordinance.

With regard to the custom of a second accessory structure, Mr. Stone cited an example of a second garage in the Springfield District. It was on a half-acre lot and was used for an antique car. The Board questioned Mr. Yates as to if Mr. Weymer limited his garage to 600 sq. ft. whether approval would be given in light of the existing garage on the property. Mr. Yates responded that in this instance he could not approve a second garage regardless of the size. Mr. Yates explained that he looked at these on a case by case basis. He stated that the applicant would need a few acres before he would approve the second garage. Mr. Yates stated that if the applicant did not have an existing garage and made an application for less than 600 sq. ft., he would approve the building permit.

Mr. Bob Weber of 6114 Covered Bridge Road spoke in opposition to the appeal. He stated that there were 36 families in the immediate vicinity who opposed the appeal. Mr. Weber presented the Board with a copy of the covenants. The neighbors were concerned that Mr. Weymer had seven vehicles. They felt that if he had another garage, he would have more vehicles. They did not want a junk yard or a miniature car lot in the backyard. Mr. Weber stated that the second garage would lower property values and set a dangerous precedent. Mr. Weber stated that Mr. Weymer had a vehicle that did not fit into his garage. Mr. Weber stated that he had a van conversion that did not fit into his garage. He indicated that everyone worked for the government and had to get to work. Mr. Weber stated that he did not know how Mr. Weymer would get out of his back yard if it was not paved.

The next speaker was Rick A. Wolfe of 6110 Covered Bridge Road. He stated that Mr. Weymer had a very small side yard. It would make a muddy area going back to the proposed garage. Mrs. Peggy Williams of 9514 Vandola Court spoke in opposition to the appeal. She stated that her lot backed up to Mr. Weymer. She stated that her dining room and living room were on the back of the house and she did not want to look at Mr. Weymer's garage. Mr. Michael Roberts of 6109 Covered Bridge Road stated that he lived next door to Mr. Weymer. Mr. Weymer owned seven vehicles and there were only two drivers in the family. Mr. Roberts felt that an accessory structure was inconsistent with the neighborhood. There was not any other structure like it according to Mr. Roberts. Mr. Roberts presented the Board with photographs of the Weymers back yard showing the Grand Prix, the two pintos, a red Chevrolet and a white Cadillac. Mrs. Yvonne Roberts, wife of Michael Roberts, supported her husband's views. She stated that the citizens were considering court action to get the garage stopped.

During rebuttal, Mr. Stone stated that Mr. Weymer had always obeyed the law. Mr. Weymer stated that he loved cars. One of the vehicles did not belong to him. He was holding it for someone but could not locate him. Mr. Stone stated that the photographs submitted by the citizens showed various times. He stated that an accessory structure would be more pleasing as the cars would be out of sight. Mr. Stone stated that some of the neighbors were against that many cars and were not concerned about the building at all. Mr. Stone stated that the number of cars was not relevant to the appeal.

In Mr. Yates' concluding remarks, he indicated that he and Mr. Stone were in agreement on one point and that was that the provision of the Ordinance should be more specific with reference to accessory structures. Mr. Yates informed the Board that it was his intent to do a comprehensive review of Chapter 10 as to the size of the permitted accessory structures for garages, pools, etc. Anything over a certain size, would have to go to the BZA in the form of a special permit. That was not the case at the present time, however. Mr. Yates stated that he had taken the position in keeping with the definition of the Ordinance.

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R E S O L U T I O N

Mrs. Day moved that in Application A-82-S-019 by Frederick Weymer that in Part II of Article 20 in accessory uses, there was a great deal of testimony received by the BZA. But regardless of the 600 sq. ft. limitation, the Code clearly says that it serve as a principal use. She was concerned about the proposed second garage when the applicant had an existing garage. The storage of the extra vehicles were not a necessity to Mr. Weymer's lifestyle. She stated that he would not be driving the Model T Ford to work. If there was an emergency at Fort Meade, she felt the applicant could get there in a regular car. The second garage was not in keeping with the neighborhood and was not according to use. Therefore, she moved that the BZA uphold the decision of the Zoning Administrator. Mr. Hammack seconded the motion. The vote on the motion to uphold the Zoning Administrator passed by a vote of 6 to 0 with 1 abstention (Mr. DiGiulian).

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Page 342 January 25, 1983, Recess

At 1:40 P.M., the Board recessed for lunch. Mr. Hammack announced that he would not be present after 2:00 P.M. Mr. Hyland stated that he had to be in Alexandria by 4 o'clock and was not flexible in that regard. The Chairman asked that everyone eat a quick lunch. The Board reconvened at 2:30 P.M. to continue with the scheduled agenda.

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Page 342 January 25, 1983, Scheduled case of

11:30 A.M. BEUFORD H. MILLS, appl. under Sect. 3-203 of the Ord. for a home professional office (accounting), located 2917 Chain Bridge Road, Gray's Subd., R-2, Providence Dist., 47-2((5))5 & 6, 20,741 sq. ft., S-82-P-096. (DEFERRED FROM JANUARY 11, 1983 TO ALLOW APPLICANT TO AMEND APPLICATION IN NAME OF CORPORATION AND TO FILE ARTICLES OF INCORPORATION, NEW AFFIDAVIT AND TO PREPARE A STUDY ON MORE FEASIBLE PARKING).

Chairman Smith stated that it was the decision of the Zoning Administrator that since the application was filed in Mr. Mills' name that the application be heard accordingly. The only matter to be resolved was the parking. Mr. Shoup discussed several parking plans with the BZA and the applicant. The Board was concerned with screening the parking from Chain Bridge Road. Since there was an adjacent lot available, the Board wanted the applicant to move the parking from the front yard. However, some Board members were concerned that it might impact on residential properties if it was moved. There was commercial zoning across Chain Bridge Road.

Page 342 January 25, 1983
BEUFORD H. MILLS

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-P-096 by BEUFORD H. MILLS under Section 3-203 of the Fairfax County Zoning Ordinance to permit home professional office (accounting), located at 2917 Chain Bridge Road, tax map reference 47-2((5))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 January 25, 1983; 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-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 on the application and is not transferable to other land.
2. This applicant must comply with all conditions of the special permit and the requirements of all applicable state and County Codes. The applicant must obtain a Non-Residential Use Permit within six (6) months from this date.

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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 except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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. The total number of parking spaces shall be five (5).

7. The parking area for the applicant's business shall continue to remain in the front yard and consistent with the plat showing those parking spaces which had been submitted by the applicant today. Second, that the screening as required by the Director of Environmental Management shall be placed in the front yard in such a manner as to maximize covering or shielding or hiding the cars that are parked there and, third, with consideration for maximizing sight distance out on the roadway for cars that are exiting from the premises.

8. Additional landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

9. The number of client visits shall be limited to one at any time with a total of three (3) per day.

10. The hours of operation shall be 9:00 A.M. to 5:00 P.M., Monday through Friday.

11. There shall be no signs displayed on the properties in conjunction with this use.

12. The property shall be open for inspection by County personnel during the hours of operation.

13. This permit is granted for a period of two (2) years from this date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith) (Mr. Hammack being absent).

Page 343 January 25, 1983, After Agenda Items

Korean Presbyterian Church, S-81-S-002: The Board was in receipt of a letter from Pastor Taek Yong Kim seeking an extension of special permit S-81-S-002 which was due to expire February 10, 1983. Pastor Kim informed the Board that with respect to the unfinished site work which was the major problem of obtaining the occupancy permit, the Church of God was in the process of working with Fairfax County to resolve the problem with the understanding that the original site project should be completed as per site plan drawings as required by Public Utilities for the final inspection.

Staff had researched the problems involved with the application and found that the applicant had not obtained the Non-Residential Use Permit because the site work had not been completed. The final inspections had been made for the interior of the structure and the appropriate departments had found that the building met the Code requirements and had given final approval for the structure. There was not any health or safety problem involved with the structure itself. The only remaining work was some site work to be completed in accordance with the site plan which was approved.

Therefore, in Application No. S-81-S-002 granted to the Korean Presbyterian Church of Washington on February 10, 1981, Mr. Hyland moved that an extension be granted for a period of ninety (90) days provided that within the ninety day period, the applicant obtain a Non-Residential Use Permit and comply with the conditions of the Permit. In addition, he requested the staff to inspect the property to assure that this has been accomplished. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 1 (Mr. Hammack being absent).

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Page 343 January 25, 1983, After Agenda Items

Mansion House Yacht Club, V-80-V-234: The Board was asked for clarification of condition no. 3 in the variance granted to Mansion House Yacht Club on January 31, 1981. This condition read: "The dustless surface shall be allowed for a single road access for a period of two years. At the end of two years, the applicant must show the Board a plan to provide a two way access and meet the dustless surface requirements." The Board had allowed the gravel access and the applicant could not proceed with development as required by condition no. 3. Mansion House Yacht Club was inquiring whether the BZA would support a request for an extension of the time to develop the property. It was the consensus of the Board to have the applicant present a plan for development in a reasonable period of time or to have the applicant request a further variance.

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Mr. DiGiulian left the meeting at 3:30 P.M.

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Page 344 January 25, 1983, After Agenda Items

Gunther Variance: The Board was in receipt of a request for an out-of-turn hearing for a variance application filed by Mr. Gunter. It was the consensus of the Board to grant the request. The Board scheduled the hearing for Tuesday, March 8, 1983 providing the applicant met all of the scheduling requirements.

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Page 344 January 25, 1983, Recessed Special Meeting

On Thursday, January 20, 1983, the Board had recessed its special meeting to be continued at the end of the regular meeting on Tuesday, January 25, 1983. The Board had been discussing amendments to the Ordinance. Mr. Philip G. Yates presented the Board members with copies of the proposed amendments. He asked that each member take the time to read them and contact him by phone with any recommended changes before the amendments were authorized for public hearing.

By-Laws: The Board asked that a copy of the revised by-laws be presented when all Board members were present to review it.

// There being no further business, the Board adjourned at 3:35 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

Sept. 18, 1984

Approved:

Sept. 25, 1984
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, February 8, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble and Mary Thonen.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. SUSAN E. MAREK, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrators' decision that a dwarf pygmy goat is livestock, and not "a commonly accepted pet", located 4220 Oakhill Dr., Columbia Oaks Subd., R-2, Mason Dist., 71-2((6))12, 15,300 sq. ft., A-82-M-020.

Philip Yates stated that it was his position that a goat is livestock and not a "commonly accepted pet" and therefore, not permitted on a lot less than two acres in size. In researching this issue, contacts were made with officials of the United States Department of Agriculture, the National Zoo and the University of Maryland Agriculture Department. It was the consensus of these officials that the African Pygmy Goat is indeed livestock even though it is relatively small in size.

John Marek Jr., 4133 Wadsworth Court, Annandale, the appellant's husband, presented the application. He indicated that he had failed to notify one of the abutting property owners on lot 88 at 4215 Wynnwood Drive, but he had obtained a waiver letter from the owner. It was the consensus of the Board to accept the signed waiver letter and hear the appeal. The Board indicated that in the future, they would like to see all waiver letters notarized.

Mr. Marek stated that this miniature goat was one-third the size of an ordinary goat, and when fully grown would be only 16" tall, much smaller than the average dog. It had no commercial value and was being raised and kept exclusively as a pet. Mr. Marek submitted a letter to the Board from Ronald Ware, Director of the Virginia State Dairy Goat Association, which stated that dwarf pygmy goats do not qualify as commercial animals or livestock. They are used only as pets, to his knowledge. Mr. Marek stated that according to the Zoning Ordinance, the lot where the goat was kept could have up to four dogs on it. In his opinion, this would be a much greater nuisance to the neighbors than one dwarf goat. The animal is kept in an enclosed pen which is not noticeable except if you walk into the backyard. There is no odor, and no complaints were ever made from any neighbors. Mr. Marek stated that many pet stores offer pygmy goats for sale and breeders raise them for sale as pets. Mr. Marek submitted a petition to the Board from many nearby neighbors stating that they saw no reason why the goat should not be allowed. He stated that he and his wife did not live at the property in question, but that they were boarding the goat with his father.

Elizabeth Black, who lived at the corner of Gallows Road and Idylwood Road, President of the Capital Dairy Goat Association, spoke in support of the appellant. She stated that she owned many dairy goats that were kept on eight acres. As a point of information to the Board, she stated that female goats do not have an odor, and that this type of goat did not qualify as a farm animal. John Marek, Sr., also spoke in support. He stated that he was the owner of the property where the goat was kept. He did not know he was in violation of the Zoning Ordinance when he permitted the goat to be brought to his lot. He stated that according to a telephone survey that was made, no one objected to the presence of the goat, and a lot of people did not even know it was there.

Mr. Hyland asked Mr. Yates if at the time the definition was placed in the Ordinance, did any member of staff have any knowledge that there was such a thing as a dwarf pygmy goat, that was different from a regular sized goat? Mr. Yates stated that he felt there was no distinction made by staff at the time.

There was no one else to speak in support or opposition.

Page 345, February 8, 1983
SUSAN E. MAREK

Board of Zoning Appeals

R E S O L U T I O N

On a motion by Mr. Hammack, the BZA denied the appeal and upheld the determination of the Zoning Administrator. It was the unanimous consensus of the Board that this animal was not an exception to the rule that applies to livestock. Part of the motion was based on the fact that there is a reasonable limitation in the Ordinance, and that this type of animal would be allowed on a larger lot. The members of the BZA stated that they were dealing with what the Board of Supervisors felt was an appropriate distinction in allowing animals to remain on smaller lots, and that these types of animals were not prohibited in every situation. Mrs. Thonen seconded the motion. The motion passed by a unanimous vote.

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10:30 A.M. LOUIS GEE, JR., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrators' decision that a proposed 1,200 sq. ft. garage is not a permitted accessory use on appellants' property, located 7436 Convair Dr., Hybla Valley Subd., R-4, Lee Dist., 92-4(3)(9)24, 12,880 sq. ft., A-82-L-021.

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Chairman Smith indicated that the notices were not in order, but Mr. Gee had two waiver letters he was asking the Board to accept. Chairman Smith indicated that the waiver letters were not very precise, and did not even have a date on them. It was the consensus of the Board to accept the waiver letters and hear the appeal.

Philip Yates stated that the Board was dealing with the definition of accessory uses as set forth in Article 20. He stated he had presented the background for the appeal in a memo dated February 1, 1983, as well as the basis for his determination.

Louis Gee presented his application. He stated that his wife had called the County and was informed by the Zoning Branch that a detached building could not be any larger than 600 square feet. He stated that he was a Mac Tool distributor and sold tools from his van in Arlington County. He wanted to build a garage large enough to house this van plus the family car with extra storage space for lawn equipment and bicycles. He said he needed the van enclosed for security reasons since he usually had about \$100,000 worth of inventory stored in it. Also, he felt it would give the neighborhood a much neater appearance to get the van off of the street. Mr. Gee stated that there was parkland behind his property, and none of the neighbors had any objections.

In response to questions from the Board members, Mr. Gee stated that his van was 10 feet by 22 feet in length including the mirrors. From bumper to bumper it was 22 feet. Mrs. Thonen stated that what Mr. Gee was doing was bringing a commercial atmosphere into a residential area. Mr. Gee stated that he was permitted to keep one commercial vehicle at his residence, and that he had heard no complaints from his neighbors. Mrs. Thonen indicated that she had received several calls that morning from people living on Convair Drive. They had not been aware that the proposed structure would be so large.

Mr. DiGiulian asked Mr. Gee if he had received a copy of the staff report. Mr. Gee stated that he had not. It was the consensus of the Board to recess for lunch to give Mr. Gee a chance to review the staff report.

Page 346, February 8, 1983

//The Board recessed for lunch at 12:00 P.M. and returned at 1:25 P.M. to continue the hearing on A-82-L-021, Louis Gee, Jr.

Page 346, February 8, 1983
Louis Gee, Jr./A-82-L-021
(continued)

Mr. DiGiulian referred Mr. Gee to page 3, paragraph 3 of the staff report submitted by the Zoning Administrator. He asked Mr. Gee if the garage was subordinate in purpose to his use of that property as a dwelling. Mr. Gee stated that 1,200 square feet wouldn't be, and he really didn't need that much room. He felt if he revised his original request it would be subordinate. Mr. Gee stated that he felt a garage about 850 square feet in size would be sufficient to meet his needs.

Joe Malley, 7434 Convair Drive, spoke in support of the appellant. He stated that he felt the garage would be an asset to the neighborhood and that he was in favor of it.

Mr. Yates stated that the staff reports had been mailed out, and he did not know why the first two appellants had not received a copy. He stated that they had been mailed the same day the Board members had been mailed copies. Mr. Yates stated that he had not been aware that Mr. Gee was willing to reduce his request for a 1,200 square foot garage to 850 feet.

There was no one else to speak regarding the request.

Page 346, February 8, 1983
LOUIS GEE, JR.
A-82-L-021

Board of Zoning Appeals

RESOLUTION

On a motion from Mrs. Thonen, the BZA denied the captioned appeal and upheld the determination of the Zoning Administrator. It was the consensus of the Board members by a vote of 6 - 1 (Mr. DiGiulian) that the proposed garage did not meet the Accessory Use that is permitted in the Ordinance subject to the provisions of Part 1 of Article 10 which states: (1) is clearly subordinate to, customarily found in association with, and serves a principle use; and (2) is subordinate in purpose, area or extent to the principal use served; and (3) contributes to the comfort, convenience or necessity of the occupants, business enterprise or industrial operation within the principal use served.

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10:40 A.M. KENNETH WAYNE ANDERSON, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport into living space addition to dwelling 10.75 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7403 Blackford St., N. Spfd. Subd., R-3, Annandale Dist., 80-1((2))(17)48, 11,509 sq. ft., V-82-A-221.

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Kenneth Anderson presented his application. He stated that the existing dwelling and existing attached carport were built in 1956, and he had purchased the property in 1973. He wanted to increase his living space by adding a room under the carport roof.

The staff report noted that in September of 1982, Mr. Anderson obtained a building permit to enlarge the existing patio at the rear of the dwelling with footings for a possible future room addition. It was noted that there was ample area at the rear of the dwelling for expansion of the structure without the necessity of a variance. In response, Mr. Anderson stated that the cost was one deterrent. He already had a roof if he used the carport. Also, he wanted to add a bathroom, and the plumbing was more accessible from the carport location.

There was no one to speak in support or opposition.

Page 347, February 8, 1983
KENNETH WAYNE ANDERSON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-A-220 by KENNETH WAYNE ANDERSON under Section 18-401 of the Zoning Ordinance to allow enclosure of carport into living space addition to dwelling 10.75 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 7403 Blackford Street, tax map reference 80-1((2))(17)48, 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 8, 1983; 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 11,509 sq. ft.
4. That the applicants' property has an unusual condition in the location of the existing buildings on the subject property. An addition added to any other part of the existing house would not allow connection to the sanitary sewer.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

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10:50 A.M. EDWARD E. MUNGER, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 5.1 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), located 1115 Anesbury La., Collingwood Estates, R-3, Mt. Vernon Dist., 102-4((10))63A, 12,108 sq. ft., V-82-V-221.

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The staff report indicated that on November 2, 1982, the applicant obtained a building permit to construct a 15 foot by 26 foot carport. The applicant never built this carport, however, and instead filed a variance application for a slightly larger structure.

John Kephart, a civil engineer, 1928 Duke Street, Alexandria, represented the applicant. He stated that the applicant needed a carport of this size because of the existence of a 4 foot by 11.7 foot areaway to the basement. The proposed size of the carport was necessary to shelter the number of vehicles the existing parking pad was designed for. The additional carport is in keeping with the character of the neighborhood and would not be detrimental to other properties.

Edward Munger spoke regarding his application. He stated that there was somewhat of a hollow between his house and the one to the right. Their driveway is parallel to the property line. Even with the carport extension, there is a natural drainage channel that handles water from both the yards very effectively. He stated that none of the neighbors had voiced any objections.

There was no one else to speak in support or opposition to the application.

Page 348, February 8, 1983
EDWARD E. MUNGER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-V-221 by EDWARD E. MUNGER under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 5.1 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), on property located at 1115 Anesbury Lane, tax map reference 102-4((10))63A, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 8, 1983; 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 12,108 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, being narrow in the front and spreading larger toward the rear, not exactly triangular. The right front corner of the proposed carport would be 5.1 ft. from the property line, but the rear corner line would be within the acceptable boundary of the Ordinance. It would be a hardship on the applicant to restrict the width of the carport in order for him to park two cars because of a stoop to the house which reduces the available parking space. It is not feasible to build a carport and to park cars in the rear, due to required turn around space in the backyard. I move we grant a variance of 1.9 ft. from the right front corner of the carport to the side line.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. A building permit shall be obtained prior to the start of construction as the previous building permit would be inadequate for the applicants use and the granting.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

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Page 349, February 8, 1983, Scheduled case of:

11:00 A.M. RUDOLPH A. & TAKAKO PETTINATO, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport into a two car garage 8.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8444 Chapelwood Ct., Chapelwood Subd., R-3, Annandale Dist., 70-1((23))16, 10,532 sq. ft., V-82-A-222.

Rudolph Pettinato presented his application. He stated that he planned to enclose the carport by the addition of a back wall, 2 windows, and a wall on the adjacent west side. He would continue the brick front to meet the supports for the roof trusses, and add a garage door. The exterior of the garage would be similar to other attached garages in the area. Mr. Pettinato stated that he wanted to eliminate the debris that blows onto his cars, and house his lawn equipment. The lawn equipment was currently housed in a metal shed that he intended to tear down if the variance was granted. He stated that there was no other part of his property where a garage could be built, because the lot was only 100 feet wide.

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

Page 349, February 8, 1983
RUDOLPH A. & TAKAKO PETTINATO

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-A-222 by RUDOLPH A. & TAKAKO PETTINATO under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport into a two car garage 8.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) on property located at 8444 Chapelwood Court, tax map reference 70-1((23))16, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 8, 1983; 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 10,532 sq. ft.
4. That the applicant does have a piece of property where he does have an existing carport. The existing carport, if one reviews the photographs, is not an open carport in the classic sense of the word so far as entirely around the carport stands a brick wall at least 3 feet in height. There is no other place on the property where the applicant could place a garage. There has been no opposition from any of the property owners to whom the applicant has given notice.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

11:10 A.M. ADELA AGUIRRE, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 8.5 ft. from edge of a contiguous pipestem driveway (25 ft. min. front yard req. by Sect. 2-416), located 6832 Ben Franklin Rd., Ben Franklin Park, R-5, Springfield Dist., 90-1((13))71, 6,832 sq. ft., V-82-S-223.

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Howard Young, a contractor in Fairfax, represented the applicant. He stated that at the time the house was purchased, the homeowner was assured that the house could be added on to. The existing dining room and living room is very small. When the Ordinance was amended in April of 1980, a 25 foot setback was required to a pipestem driveway. The existing house as it now stands, falls short of that requirement, being only 22 feet from the pipestem.

Jane Kelsey stated that by the Zoning Administrator's interpretation #38, it does make a difference whether the pipestem driveway serves one or two or three lots. If it only serves one lot it does not have to meet the 25 foot front yard requirement. In that interpretation Mr. Yates says that from a traffic consideration, there is a legitimate basis for the minimum front yard requirements on lots adjacent to pipestem driveways that serve more than one lot. Ms. Kelsey stated that this pipestem served two lots and had to meet the 25 foot minimum requirement. Mr. Hammack inquired if there was anything to support Mr. Yates statement in interpretation #38 which said "from a traffic safety consideration there was a legitimate basis for the prescribed minimum front yard requirements on lots adjacent to pipestem driveways which serve more than one lot. Mr. Hammack asked what surveys the Zoning Administrator had done to come up with that conclusion. Ms. Kelsey stated that she was not familiar with the background on that interpretation. She stated that the first part of the interpretation said "the analogy is presented that a pipestem driveway serving a single lot is no different, in effect, from a driveway serving a lot that has full frontage on a public street." The Zoning Ordinance does not regulate the location of driveways on a given lot. She stated that this showed the difference between a pipestem serving one lot, and a pipestem serving more than one lot.

The Board members decided they needed more clarification on the Zoning Administrator's interpretation and answers to some of their questions. It was the consensus of the Board to recess the variance application, and take up the after agenda items, to allow time for the Zoning Administrator to be contacted and appear at the hearing.

Page 350, February 8, 1983, AFTER AGENDA ITEMS:

The Board approved the BZA minutes for June 2; June 9, and June 16, 1981, as presented.

Page 350, February 8, 1983, AFTER AGENDA ITEMS:

JOHN WARD SMITH/V-82-A-190: The Board was in receipt of a response from Raymond Hubbard to the Board members questions regarding the above variance application. Mr. Hubbard informed the Board members that as the contractor, his corporation attempted to obtain a permit for the construction of a porch for Mr. John Smith. When the Zoning Department turned down the permit, John Smith directed him to obtain a permit for the extension of the concrete slab. Mr. & Mrs. Smith were aware a variance had to be obtained to construct a porch.

Mr. Hyland stated that he was uncomfortable with the fact that the Board had granted the captioned variance application before having all the available facts. It was apparent to him that someone was not telling the truth, and he felt that the conflict had not been resolved. Mr. Hyland felt that the Board should have some guidance from the County Attorney about reconsidering the granted variance. It was the consensus of the Board to contact the County Attorneys Office about reopening this case based on the information just received.

Page 350, February 8, 1983, AFTER AGENDA ITEMS:

MEADOWBROOK ASSOCIATES/S-306-78: The Board was in receipt of a letter requesting a six month extension for the captioned special permit. Economic circumstances and the inability to obtain financing for the project had hindered the development and construction of the project. It was the consensus of the Board to grant a six month extension.

Page 350, February 8, 1983, AFTER AGENDA ITEMS:

ST. ANDREWS EPISCOPAL CHURCH/SPA 81-S-044-1: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned special permit application. It was the consensus of the Board that in order to give the staff time to prepare the staff report, the application would remain scheduled for March 29, 1983, and the request was denied.

Mr. Hammack stated that he had read the section of the Ordinance pertaining to this application and was clear on it at this time. Howard Young stated that this house was set back from the street and would not impair anyone's vision. He stated that he thought there were two pipestems side by side, each serving a house. The Board members inquired of staff if this was true. Mr. Yates replied stated that there are two pipestems serving lot 72 and 73, but there was one driveway within that pipestem. The pipestem is actually that portion of the lot which connects that subject lot to the public street.

Mr. Hammack questioned about Mr. Yates's ruling #38 that the 25 foot front yard setback requirement would not apply to a single lot served by a pipestem, but for traffic safety reasons, that the 25 foot setback would have to be applicable if there were two lots served by the pipestem. He asked Mr. Yates if his interpretation was applicable in this case. Mr. Hammack also stated that if there were two separate pipestems, and each of the lots owned it, he thought the Board would have to go with how the land is dedicated. He thought this was a critical question and nothing in the staff report covered that question.

Chairman Smith stated that he failed to see how this had any bearing on this request because the Ordinance required that it be set back a certain distance from the pipestem. Mr. Yates agreed with the statement. He stated that the only position he was presenting was that if there was one pipestem lot with one driveway, it is no different than a driveway serving a house located further back from the road than other houses. When you have a driveway that serves two or three pipestems, there is more traffic generated.

There was extensive discussion between the Board members and staff regarding the definition of pipestem and driveways, and the provisions of the Ordinance and interpretation #38.

There was no one to speak in support or opposition.

Page 351, February 8, 1983
 ADELA AGUIRRE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-S-223 by ADELA AGUIRRE under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8.5 ft. from edge of a contiguous pipestem driveway (25 ft. min. front yard req. by Sect. 2-416), on property located at 6832 Ben Franklin Road, tax map reference 90-1((13))71, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 8, 1983; 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-5.
3. The area of the lot is 6,832 sq. ft.
4. That the applicants' property is extremely narrow. We find that the house next door is approximately 8.5 ft. from the boundary line.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. A Building Permit shall be obtained prior to the start of construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 3 (Messrs. Smith & Hyland and Mrs. Thonen)

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Page 352, February 8, 1983, AFTER AGENDA ITEMS:

MOON HO KIM/SP-83-P-003: The Board was in receipt of a letter requesting a deferral of the captioned special permit to allow the applicant time to submit revised plats. It was the consensus of the Board to grant the request and defer the application to April 19, 1983.

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Page 352, February 8, 1983, AFTER AGENDA ITEMS:

//On a motion by Mr. Hammack, the BZA adopted the amended by-laws as presented. Mrs. Thonen seconded the motion. The motion was carried by unanimous vote.

// There being no further business, the Board adjourned at 4:45 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on October 9, 1984 APPROVED: October 16, 1984
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, February 15, 1983. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack and Mary Thonen. (Messrs. John DiGiulian and John Ribble were absent).

The Chairman opened the meeting at 8:20 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8 o'clock case of:

8:00 P.M. MAYWOOD BUILDING CORPORATION, appl. under Sect. 2-511 of the Ord. for industrial access across R-1 & R-3 Districts, Mt. Vernon Dist., I-5, 108-1((1))1B & 30 and 108-1((2))B1, 72.745 acres, S-82-V-086. (DEFERRED FROM 11/16/82 AT THE REQUEST OF THE APPLICANT).

As the Zoning Administrator had administratively withdrawn the special permit application of Maywood Building Corporation, the BZA did not take any action.

//

Page 353, February 15, 1983, Executive Session

Mr. Hyland stated that he had raised a question at the last meeting with respect to legal issues involved in the reconsideration of a granting of a variance based on new information received after a public hearing. As it involved legal advice, he moved that the Board adjourn into an Executive Session to obtain the legal advice. Mr. Hammack seconded the motion and it passed unanimously of the members present. The Board broke at 8:25 P.M. for the Executive Session and reconvened at 9:15 P.M. to continue the scheduled agenda.

//

Page 353, February 15, 1983, Scheduled case of

8:15 P.M. JOHN R. SR. & NANCY L. WILLET, appl. under Sect. 18-406 of the Ord. to allow a shed to remain .8 ft. from the side property line (12 ft. req. by Sect. 3-307 & 10-104), located 6911 Fort Hunt Rd., Westgrove Subd., R-3, Mt. Vernon Dist., 93-2((5))1, 18,720 sq. ft., V-82-V-201. (DEFERRED FROM 12/21/82 TO GIVE THE APPLICANT TIME TO MODIFY THE HEIGHT OF THE SHED AND BRING IT INTO COMPLIANCE).

Chairman Smith advised the Board that the shed had been brought into compliance and the variance was no longer necessary. The applicant was seeking a withdrawal of the application. Mr. Hammack moved that the Board allow the applicant to withdraw without prejudice. Mrs. Day seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Ribble being absent).

//

Page 353, February 15, 1983, Scheduled case of

8:30 P.M. NATIONAL ALCOHOLIC BEVERAGE CONTROL ASSOCIATION, appl. under Sect. 18-401 of the Ord. to allow construction of office building 10 ft. from rear line (25 ft. min. rear yard req. by Sect. 4-307), New Alexandria Subd., C-3, Mt. Vernon Dist., 83-4((2))4010 & 11, 14,850 sq. ft., V-82-V-218.

Mr. James Goldberg, counsel for the applicant, of 1735 K Street, N.W., Washington, D.C., informed the Board that the National Alcoholic Beverage Control Association was a trade association representing the State of Virginia and 17 other states. They did not plan to put a liquor store on Belle Haven Road. They wanted to construct a one story office building on property they had purchased two years ago. They had asked for a special exception from the Board of Supervisors for the office building. The variance was necessary because the property was in a floodplain. Mr. Goldberg explained that the adjoining property was zoned residential and the office building would have to set back 12 ft. from the west property line.

In response to questions from the Board, Mr. Goldberg stated that the Board of Supervisors were aware of the request for a variance. Mr. Goldberg stated that they had asked for a waiver of the transitional screening requirements but the Planning Commission had denied their request. It was the Planning Commission's feeling that other alternatives were open to the applicants.

Mr. Goldberg stated that the applicants were applying for a variance because they had a lot that was 10 ft. less than the minimum lot width required for the C-3 zone. The lot was 90 ft. wide instead of 100 ft. wide. Mr. Goldberg explained that the applicant had lost 12 ft. along the western property line because of the screening requirements. Accordingly, they were asking for a variance from the rear yard to make up the 12 ft. that was lost along the back of the building. Construction of a one story building was a reasonable use of the lot.

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Mr. Goldberg stated that the association generated 6 million pages of reports. For that reason, they regarded a one story office building as essential to the use of the association. They wanted the office on ground level as they had as many pages going in as out.

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Mr. Goldberg stated that because of the narrow lot width and the property to the rear being used as a dental lab, the association had requested a variance to enable them to set the building 10 ft. from the rear property line rather than the 25 ft. In response to questions from the Board regarding the type of paperwork, Mr. Goldberg stated that the association collected statistical data from the State of Virginia and 17 other controlled states. The data pertained to spirits being sold by brand, size, by location of sales and all kinds of reports and sales data. The information was valuable to the controlled states. Most of it was gathered by computer and put on paper and mailed to the 17 states as well as the distributors. They produced 6 million pages a year.

The Board stated that the office building could have a second story and still accommodate the needs for paperwork. The entire first floor could be reserved for printing. Mr. Goldberg stated that the reason they could not use the first floor for printing and a second floor for administrative offices was because of the requirement for parking spaces based on the square footage of the entire building. They were limited to 4,000 sq. ft. They would have 18 to 20 parking spaces.

The Board referred to the staff report which indicated that there were other lots of similar size in the area being used commercially. Mr. Goldgerg stated that he had read the report and knew that there were other lots but he did not know their size. The property to the east was the dental office and there was a Texaco station and the George Washington Parkway.

In response to questions from the Board regarding the transitional screening, Mr. Goldberg stated that the applicant lost 10 ft. due to the lot being less than the minimum width. If the lot were 100 ft. wide, the 12 ft. screening would leave 88 ft. which was sufficient. However, the lot was only 90 ft. wide and that's where they lost the 10 ft. Mr. Goldberg stated that the transitional screening sketch had been presented going from one property line to another because there was a provision in the Zoning Ordinance which permitted the Director of DEM to waive certain conditions. In conversations he had with the staff of DEM, he had received indications that the Director looked favorable upon the request. However, they never got a chance to ask him for the waiver because it came up at the Board of Supervisors hearing. They did not ask the Board of Supervisors to waive the screening as they preferred to take their chances with the Director of DEM. They were never given the opportunity.

There was no one else to speak in support and no one to speak in opposition. In response to the Board, Mr. Shoup stated that he had examined the surrounding lots which were zoned commercial. They were similar in size and shape to the applicant's property but he did not have the specifics. The property to the west was zoned residential and was owned by the Belle Haven Country Club.

Page 354, February 15, 1983 Board of Zoning Appeals
NATIONAL ALCOHOLIC BEVERAGE CONTROL ASSOCIATION
R E S O L U T I O N

In Application No. V-82-V-218 by NATIONAL ALCOHOLIC BEVERAGE CONTROL ASSOCIATION under Section 18-401 of the Zoning Ordinance to allow construction of an office building 10 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 4-307) on property located on the south side of Belle Haven Road, tax map reference 83-4(2)(40)10 & 11, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 15, 1983; 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-3.
3. The area of the lot is 14,850 sq. ft.
4. Although the property is narrow, it is noted that there are several other lots similar in size and shape commercially zoned to the east. It appears that the applicant could enjoy reasonable use of the property in view of the fact that a multi-story building with adequate floor area could be constructed absent the need for a variance. Consequently, it is difficult to conclude that this applicant has satisfied the Standards for variances set forth in Section 18-401 of the Ordinance.

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. Hammack seconded the motion.

The motion passed unanimously by a vote of 5 to 0 (Messrs. DiGiulian & Ribble being absent).

Page 355, February 15, 1983, Scheduled case of

8:45 RIVERBEND GOLF & COUNTRY CLUB, INC., appl. under Sect. 3-E03 of the Ord. to amend
P.M. S.U.P. #5669 for country club, for approval of several existing additions and to permit enclosure of existing porch and construction of shelter over existing deck, located at 9901 Beach Mill Rd., Acreage Subd., R-E, Dranesville Dist., 151.321 acres, S-82-D-101. (DEFERRED FROM 1/25/83 FOR ADDITIONAL INFORMATION FROM ZONING ENFORCEMENT STAFF INSPECTION OF PROPERTY WITH REGARD TO TENNIS COURT LIGHTS AND SECURITY LIGHTS AFFECTING LOTS 7 & 16).

Ms. Jane Kelsey informed the Board that the staff did not have the status report prepared in adequate time for mailing. Briefly, the BZA had deferred the application to allow time for additional viewing by the Zoning Enforcement Staff. Ms. Kelsey stated that the property had been inspected and it was not in violation of the standards but there was a nuisance factor. The club put shields on all of the lights but six. Ms. Kelsey spoke with Mrs. Collins and she had no problem with the lights as they now existed. Mr. Elgin still had a problem with both the security entrance light and the tennis court lights. Ms. Kelsey indicated that the County was hesitant to make any recommendations regarding the lights. She asked the Board to defer the application until such time as the BZA could join the staff in another inspection of the problems.

In response to the BZA as to what was normal, Ms. Kelsey stated that she could not say. When she was standing in the middle of the tennis courts, the area surrounding was quite illuminated. From Mrs. Collins' living room, the staff could see the tennis court lights which cast shadows on the living room walls. In response to whether the lights were distressing, Ms. Kelsey stated that was a personal opinion that she could not give. The lights originally were bare bulbs but the club had since put shields on them and Mrs. Collins was satisfied. Ms. Kelsey explained that there were six more shields to be installed and they were on order.

Mr. Ken Bryan of 10511 Judicial Drive represented the club. He stated that they had worked with Mrs. Collins since the last hearing. The lights were fixed the previous Thursday evening and Mrs. Collins was consulted. Mrs. Collins wanted the exterior of the lights painted black to eliminate any reflection and Mr. Bryan assured the Board that it would be done. With regard to Mr. Elgin's concern about the light, Mr. Bryan stated that with the installation of the six other shields, the glare would be removed. Mr. Elgin would still see the lights. Mr. Bryan indicated that the club had changed the entrance light. In response to questions from the Board as when the other shields would be erected, Mr. Bryan stated that it would take 1 to 2 weeks for delivery. Then the club would have to arrange for a cherry picker as the lights were 27 ft. high. The Board was concerned that the 27 ft. high poles were a nuisance factor. Mr. Bryan stated that there were a grove of pine trees between Mrs. Collins' house and the tennis courts. When the foliage is on the other trees, the lights would not be a nuisance at all.

Mrs. Day moved that the Board defer the application until the light situation had been corrected and met the requirements of the County. Mr. Hammack seconded the motion. Chairman Smith stated that there were not any County requirements, only a nuisance factor. Mr. Bryan asked the Board to approve part of the application as the club was running into a time problem. Mr. Bryan stated that the club was preparing for the bidding process in order to hire a contractor and begin construction by spring. It would take 2 to 3 weeks to get the lighting work completed. Mr. Hammack withdrew his second to Mrs. Day's motion.

Page 355, February 15, 1983 Board of Zoning Appeals
RIVERBEND GOLD & COUNTRY CLUB, INC.
RESOLUTION

Mrs. Day made the following motion:

WHEREAS, Application No. S-82-D-101 by RIVERBEND GOLF & COUNTRY CLUB, INC. under Section 3-E03 of the Fairfax County Zoning Ordinance to amend SUP #5669 for country club, for approval of several existing additions and to permit enclosure of existing porch and construction of shelter over existing deck, located at 9901 Beach Mill Road, tax map reference 8-1(1)22, 23 & 41 and 8-3(1)4, 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 February 15, 1983; 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-E.
3. That the area of the lot is 151.321 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 IN PART (to grant the request for a shelter over wood deck between tennis courts 30.7'x39' to replace patio on southern portion of clubhouse with a glass enclosure approximately 93.2'x25'; to enclose and enlarge snack bar area which is located on the north end of the structure which is predominantly used for storage--the structure is attached to the clubhouse by a wood canopy) with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 matter regarding the lights will be held in abeyance by the BZA until the situation on the lights have been corrected to the satisfaction of this Board. The BZA shall defer the matter of the lights for a period of thirty (30) days to allow for a report from staff as to the correction of the lights and a final decision shall be made on March 15, 1983 at 8:45 P.M.

Mr. Hammack seconded the motion.

The motion passed unanimously by a vote of 5 to 0 (Messrs. DiGiulian and Ribble being absent).

Page 356, February 15, 1983, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of BZA Minutes for June 23, 1981. It was the consensus of the Board to approve the minutes as submitted.

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Page 356, February 15, 1983, After Agenda Items

John L. Probst: The Board was in receipt of a request for an out-of-turn hearing for a variance application, VC 83-L-011 by John L. Probst to allow construction of addition to existing dwelling 15.9 ft. from rear lot line. It was the consensus of the Board to grant the request and the hearing was scheduled for Tuesday, March 22, 1983.

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HIGHLAND SWIM CLUB, INC.: The Board was in receipt of a request from the Highland Swim Club seeking approval for renovation of the bathhouse. It was the consensus of the Board that the changes outlined (exterior work to include changing the existing flat roof to a pitched gable type, new fascia band and new windows) would not require a public hearing as long as the renovation of the bathhouse did not change the dimensions of the building. In addition, the BZA approved the changing of a flat roof to a pitched gable roof as minor engineering changes.

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Raymond L. Hubbard: The Board directed the Clerk to schedule a discussion on the Raymond L. Hubbard matter for the next BZA meeting.

// 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

Submitted to the Board on October 9, 1984

Approved: October 16, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 22, 1983. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack and John Ribble. Mary Thonen and John DiGiulian were absent.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

//The Board approved the BZA Minutes for June 23 and July 7, 1981 as presented.

The Chairman called the scheduled 10:00 A.M. cases of:

10:00 A.M. BRUCE JAMES NETSCHERT, appl. under Sect. 18-401 of the Ord. to allow veterinary hospital with gravel parking lot and with existing house 13 ft. from front lot line (dustless surface req. by Sect. 11-102; 40 ft. min. front yard req. by Sect. 3-C07), located 6801 Old Clifton Rd., R-C, Springfield Dist., 75-2((1))12, 1.3859 acres, V-82-S-217.

10:00 A.M. BRUCE JAMES NETSCHERT, appl. under Sect. 3-C03 of the Ord. for a veterinary hospital, located 6801 Old Clifton Rd., R-C, Springfield Dist., 75-2((1))12, 1.3859 acres, V-82-S-217.

Jane Kelsey reviewed the staff report for the Board. Lee Ruck, P.O. Box 5, Clifton, represented the applicant. He stated that the applicants wanted to take the existing building and restore it for their personal use. They would put on an addition in which they would operate a small veterinary hospital. The existing house was built in 1904 and has not been used in the last 14 years. Mr. Ruck stated that there was a need for veterinary care in this area, and there were currently only two veterinarians south of Centreville and west of Route 123, neither of which provide emergency service. The community, in general, is in support of more veterinary service in the area. Mr. Ruck stated that this service would not affect the residential character of the neighborhood. The architectural drawings show what looks like a residential farmhouse not unlike many homes in the Clifton area. There is beautiful foliage surrounding the home, including a 70 ft. tall Monarch fir tree given to the previous owners by the Botanical Gardens and cared for for over 50 years. There is also a 25 ft. Monarch magnolia.

Mr. Ruck stated that there was very little pedestrian traffic that would be involved. The twenty-five maximum clients visiting this site per day would not have a significant impact on traffic on Clifton Road. He stated that this is an exceptional location for this use.

Mr. Ruck stated that there are other standards for veterinary hospitals, and he felt they had all been addressed. He stated that the noise and odor would be contained. This building was designed to be constructed at an STC level of 55. He stated that the County's own animal shelter was constructed with an STC level of 49. Mr. Ruck stated that it was not the intention of Dr. Netschert to run a boarding kennel, he wanted to run a medical facility.

People speaking in support included: Austin Holloway, 13101 Springdale Estates Road; Page Peck, Briar Croft Street; Sally Semler, Knollbrook Drive; Mark Nighousen, 12100 Seven Hills Lane; Gabriel Swafford, who lived two miles from the site; Diane Digby, a member of the Clifton Town Council; Travis Worsham, a resident of Clifton for the past 13 years; Miner MacIntyre, 12801 Chestnut Street, former mayor of the Town of Clifton; Betty Ferries, who lived two miles west of the site; and Don Stoupp, 6501 Clifton Road, an Economist and Animal Scientist. They all supported the establishment of the Clifton Animal Hospital and indicated that it was a welcome addition to their fast growing community.

People speaking in opposition included: Shepherd Moore, 12522 Knollbrook Drive; Ralph Smith; Gerald Hennessy, White Rock Road; Frederick Smith, 6627 Clifton Road; and William Donnelly, an attorney representing Gerald Walsh. Their major concerns were the commercial atmosphere the hospital would create, and the fact that it was inconsistent with existing development in that area. They felt that the requirements of the community were amply served by Dr. Mouser of Deepwood Clinic on Union Mill Road, and Dr. Garrison of Centreville Animal Hospital. In addition, Clifton Road was a heavily traveled, winding road that would cause traffic concerns. The Board was also in receipt of several petitions in opposition to the request.

William Donnelly stated that he was concerned about the variance application. He felt there had been no testimony presented as to the hardship. Regarding the special permit request, the applicant was proposing to put a commercial facility on a 1.3 acre site, which was surrounded by 5 acre residential estates. Mr. Donnelly stated that it would be another matter if the facility was on a 10 or 15 acre site, because there would be more room for buffering. He felt that the applicant was trying to shoehorn into an undersized lot with a very intense use for that neighborhood. With regard to the variance, Mr. Donnelly stated that the applicant was the contract purchaser of the property, and the contract was contingent on zoning approval. Therefore, if the variance is denied, the deposit is returned and no hardship is suffered. He stated that this was self-inflicted hardship. Mr. Donnelly cited Virginia Supreme Court case Allegheny Enterprises vs. Board of Zoning Appeals rule that you cannot grant a variance when the only hardship is a self created hardship.

The Board members discussed the point brought up by Mr. Donnelly concerning the variance application. It was the consensus of the Board to draft a memo to the County Attorney's Office asking for an opinion on how this court case related to the subject application, and what rights a contract purchaser has pertaining to a variance application. The applications were deferred to March 1, 1983 at 10:45 A.M.

//The Board recessed for lunch and returned to take up the scheduled agenda at 1:50 P.M.

Page 359, February 22, 1983, Scheduled 10:10 A.M. case heard at 1:50 P.M.

10:10 A.M. LONG & FOSTER REAL ESTATE, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, one having width of 10 ft. and the other 144.30 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11273 Maples Mill Rd., R-1, Providence Dist., 46-4((1))18, 2.7577 acres, Y-82-P-219.

The applicant's agent requested a deferral for a full board. It was the consensus of the BZA to defer the application to March 1, 1983 at 11:00 A.M.

Page 359, February 22, 1983, Scheduled 10:20 A.M. case heard at 1:55 P.M.

10:20 A.M. ROBERT TRUMBLE/DR. INDER JIT BHAMBRI & DR. VIRENDRA P. SIROHI, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, proposed lot C-38 having width of 12 ft., (200 ft. min. lot width req. by Sect. 3-E06), Peacock Station, R-E, Dranesville Dist., 19-2((9))C-3, 5.0 acres, Y-82-D-224.

The Chairman announced that the notices were not in order for the above captioned variance application. It was the consensus of the Board to defer the case to March 22, 1983 at 11:30 A.M.

Page 359, February 22, 1983, Scheduled 10:30 A.M. case heard at 2:00 P.M.

10:30 A.M. NICHOLAS Z. AJAY, JR., appl. under Sect. 18-401 of the Ord. to allow enclosure of existing porch to be living space addition to dwelling 10.6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8312 Lilac Ln., Collingwood on the Potomac, R-3, Mt. Vernon Dist., 102-4((6))47, 12,525 sq. ft., Y-82-V-225.

William Shoup reviewed the staff report for the Board. Nicholas Ajay presented his application. He stated that he wanted to create more living space for his family, and provide for the security of his home. His home was connected to his porch by double french doors which are very vulnerable to break-ins. Mr. Ajay stated that other homes in his neighborhood had been granted similar variances. He had purchased this property in 1968, and out of 16 homes in the area, 14 had porches. This proposed enclosure entails no expansion.

There was no one to speak in support or opposition.

Page 359, February 22, 1983
NICHOLAS Z. AJAY, JR.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. Y-82-V-225 by NICHOLAS Z. AJAY, JR. under Section 18-401 of the Zoning Ordinance to allow enclosure of existing porch to be living space addition to dwelling 10.6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) on property located at 8312 Lilac Lane, tax map reference 102-4((6))47, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 22, 1983; 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 12,525 sq. ft.
4. That the applicants' property has an unusual condition in the location of the positioning of the existing porch 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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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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.
3. A Building Permit for the proposed enclosure and the existing roof shall be obtained prior to construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. DiGiulian & Mrs. Thonen being absent).

Page 360, February 22, 1983, Scheduled 10:40 A.M. case heard at 2:20 P.M.

10:40 A.M. COL. & MRS. SCOTT S. PINCKNEY, appl. under Sect. 18-401 of the Ord. to allow construction of living space addition to dwelling to 15.96 ft. from rear lot line and deck addition to 17.40 ft. from rear lot line (25 ft. min. rear yard for enclosed addition and 19 ft. min. rear yard for deck req. by Sects. 3-307 & 2-412), located 3990 White Clover Ct., R-3, Briars at Westchester, Providence Dist., 58-4((33))16, 16,421 sq. ft., V-82-P-226.

William Shoup reviewed the staff report for the Board. Scott Pinckney presented his application. He stated that his cul-de-sac lot was long and narrow with the house positioned at one corner laterally with the lot. The northeast corner of the house is positioned 25 feet from the property line, and the house is slanted slightly with the rear property line so that the northwest corner is 34 feet from the line. A third of the lot is an open storm drainage easement. The west side of the house is a blank wall with buried gas, electric and telephone lines coming into the house.

There was no one to speak in support or opposition.

Page 360, February 22, 1983
COL. & MRS. SCOTT S. PINCKNEY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-P-226 by COL. & MRS. SCOTT S. PINCKNEY under Section 18-401 of the Zoning Ordinance to allow construction of living space addition to dwelling to 15.96 ft. from rear lot line and deck addition to 17.40 ft. from rear lot line (25 ft. min. rear yard for enclosed addition and 19 ft. min. rear yard for deck req. by Sects. 3-307 & 2-412) on property located at 3990 White Clover Court, tax map reference 58-4((33))16, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 22, 1983; 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 16,421 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, in fact, it is most unusual in the surrounding area. It is a long lot. It has exceptional topographical problems because the one third portion at the rear has a storm drainage easement and on the east side there is a storm drainage easement which limits the use of his property. It is not feasible for him to build on the west side due to buried utility lines and there is no access to his house. Also, he has difficulty moving an existing air conditioning condenser. The neighboring houses are several hundred feet away and screened by trees. The proposed construction would not adversely affect any neighbor.

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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 structures indicated on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire eighteen (18) months after the effective date of the variance unless construction has commenced, or unless an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for an extension should be justified in writing and should be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit for the proposed addition and deck shall be obtained prior to construction.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. DiGiulian & Mrs. Thonen being absent)

Page 361, February 22, 1983, Scheduled 10:50 A.M. case heard at 2:40 P.M.

10:50 A.M. CAPITAL HOMES, INC., appl. under Sect. 3-303 of the Ord. for community recreational facilities including basketball court, tennis court and two tot lots, Terra Grande Subd., R-3, Lee Dist., 99-3(1)pt. of 1B, 4.43168 acres, S-82-L-105.

William Shoup reviewed the staff report for the Board. Jack Rinker, an engineer with the firm Rinker, Detwiler, represented the applicant. He stated that the Terra Grande subdivision is being developed subject to the approval of rezoning application number 77-S-055 on December 12, 1977. A preferred condition of that rezoning required that 4 tot lots, 2 basketball/multi-use courts, and 1 tennis court be provided. The facilities proposed in this special permit application are requested so that the preferred condition requirement may be fulfilled. The proposed facilities will not be artificially illuminated, and the hours of operation will be strictly limited to daylight hours. Every effort would be made to maximize the natural tree buffer on those lots immediately adjacent to these parcels. Only pedestrian access has been provided.

Mr. Hammack asked staff why the transitional screening requirements were recommended to be waived on the basketball courts. Mr. Shoup replied that it is located in the Vepco easement, and because of the distance from residential properties, staff felt that to require transitional screening would be going beyond what was really necessary to protect residents of the adjacent residential properties. Mr. Rinker read a letter from Vepco stating that although they wished to cooperate, they had standards that must be maintained. Vepco's policy concerning transmission right-of-way easements stated that shrubbery and nursery stock may not be planted (1) on the 10 ft. access strip ie roadway, (2) within 25 ft. of a transmission structure, or (3) on a 25 ft. wide access strip between the 10 ft. reserve strip and structures. Vepco indicated that in light of these policies and a recent inspection of the area, Vepco could not grant permission for any additional plantings on the right-of-way.

There was no one to speak in support or opposition.

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-82-L-105 by CAPITAL HOMES, INC. under Section 3-303 of the Fairfax County Zoning Ordinance for community recreational facilities including basketball court, tennis court and two tot lots, tax map reference 99-3(1)pt of 1B, 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 22, 1983; 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. That the area of the lot is 4.43168 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. However, upon conveyance of the subject parcels to the Terra Grande Community Association, this approval will transfer to the Association. This approval is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the uses indicated on the plans submitted with this application except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. There shall be strict adherence to sedimentation and erosion control requirements during construction.
4. Upon completion, the construction site on Parcel B shall be stabilized with vegetation or any other appropriate measures to prevent further erosion. The nature and extent of the stabilization shall be at the discretion of the Director of the Department of Environmental Management.
5. Transitional Screening requirements may be modified provided the proposed uses are screened from adjacent residential properties with dense evergreen plantings as determined by the Director, Department of Environmental Management.
6. The barrier requirement for the basketball court on Parcel B shall be waived.
7. All metal apparatus on Parcel B shall be grounded to VEPCO specifications.
8. 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 if there is a building where it can be placed. Otherwise, the applicant shall be required to keep a copy of the Special Permit and the Non-Residential Use Permit with the President of the Homeowners Association who will make it available to all departments of the County of Fairfax during the hours of operation of the permitted use.

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

Under Sect. 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for extension should be justified in writing, and should be filed with the Zoning Administrator not less than thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0 (Mr. DiGiulian & Mrs. Thonen being absent)

Page 362, February 22, 1983, Scheduled 11:10 A.M. case heard at 3:20 P.M.

11:10 A.M. TRP, INC., appl. under Sect. 4-803 of the Ord. for bowling alleys, located 8558 Richmond Hwy., Lee Dist., C-8, 101-3(1)37, 3.8044 acres, S-82-L-106.

The Chairman indicated that the notices were not in order. The applicant requested a sixty day delay in the hearing. It was the consensus of the Board to defer the special permit application to April 19, 1983 at 8:00 P.M.

11:20 A.M. HALLE ENTERPRISES, INC./HALMAR, INC., appl. under Sect. 3-C03 of the Ord. for modification of minimum yard requirements for R-C lot, located 6111 Henry House Ct., Fairfax Station Subd., R-C, Springfield Dist., 76-2((7))626, 26,475 sq. ft., SP-83-S-001.

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Mr. Hyland indicated that several people had asked to have this case deferred to another date. They had to leave the hearing because of the late hour and return to work. He asked for the applicants reaction to the deferral request. Mr. McDermott, who represented the applicant, stated that this was an out-of-turn hearing with a contract involved.

Jane Kelsey reviewed the staff report for the Board which recommended approval subject to the conditions set forth in Appendix 1 of the report. Ms. Kelsey indicated that there was a question on the notices. Mr. McDermott responded to the issue on the notices. He stated that 36 property owners had been notified, because the immediate properties were owned by builders. Mr. Hyland indicated that there were two letters in the file in opposition that indicated they did not receive notice about this application. Mr. McDermott replied that he was required to send notice to whomever is shown on the real property identification records in the County as being the property owner. Those do not necessarily reflect any transactions that took place subsequent to those records being put together. Mr. Hyland stated that one of the people not notified, Mr. Hebbe, lived in a house constructed by Halle Enterprises. Mr. McDermott stated that if the letter had been sent to him, and not to whom is shown on the County records, the notice requirement would not have been satisfied. Mr. Hyland was concerned that this meant the notification letter was sent to the applicant, and not the property owner. This did not seem like sufficient notification to him, since Halle Enterprises was aware of the lot being sold and knew who the new owner was. Mr. Hyland asked if the application could be deferred for one week. Mr. McDermott stated that this would probably jeopardize the contract on the property. Mr. Hyland stated that the purpose of the notice requirement was to tell the person that owns the property about BZA hearings. In this case, the person that was notified was the developer that sold the property to the individual that has a direct interest in what happens in this case. Mr. Hyland stated that this is the person that should be notified as a matter of fairness. If you don't know that the property had been sold and you use the County records, then it was a perfectly legitimate requirement. But in this case, the developer knows that he sold the lot. Mr. Hyland stated that he had a problem with proceeding on that basis, because it was unfair to the property owner.

Mr. McDermott stated that obviously the people who wrote the letters were aware of the hearing, and the property had been posted. He stated that he had followed the notification policy in accordance with the instructions he had received. Mr. Hammack said that it appeared from Mr. Hebbe's letter that he knew about the hearing approximately 70 days before the hearing. There was no assurance that he would attend the hearing even if it was deferred. Mr. Hammack stated that although he agreed with Mr. Hyland's concerns about the notice procedure, the Ordinance said that they "shall approve" this application. He preferred to go along with the hearing. It was the consensus of the Board to proceed with the hearing.

Mr. McDermott stated that the subject property was downzoned on July 26, 1982. Lot 626 was the subject of a subdivision plat recorded on May 6, 1981 in Deed Book 5549 at Page 443 among the land records of Fairfax County. The lot size and the front and side yard set backs all meet restrictions in the Zoning Ordinance for R-1 cluster subdivisions as those provisions existed on July 26, 1982, the date of the downzoning. The development proposed for lot 626 would fit in with the character and existing development in the remainder of the subdivision.

Monaca Weinberg, 6101 Henry House Court, spoke in opposition. She was concerned about the removal of many trees for the construction of the house.

There was no one else to speak regarding the application.

Page 363, February 22, 1983 Board of Zoning Appeals
HALLE ENTERPRISES, INC./HALMAR, INC.

R E S O L U T I O N

WHEREAS, Application No. SP-83-S-001 by HALLE ENTERPRISES, INC./HALMAR, INC. under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow a 30.50 ft. front yard and a 12.50 ft. side yard, located at 6111 Henry House Court, tax map reference 76-2((7))626, 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 22, 1983; and

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

1. That the property was the subject of final plat approval prior to July 26, 1982.
2. That the property was comprehensively rezoned to the R-C District on July 26, or August 2, 1982.
3. That such modification in the yard shall result in a yard not less than the minimum yard requirements of the zoning district that was applicable to the lot on July 25, 1982.
4. That the resultant development will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

AND WHEREAS, the Board has reached the conclusion of law that the applicant has met the provisions for the approval of modifications to the minimum yard requirements for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED in accordance with the following conditions.

1. This approval is for the location and the specific structure indicated on the plat included with this application prepared by Paciuilli, Simmons & Associates, Ltd., and is not transferable to other land or to other structures on the same land.
2. A Building Permit shall be obtained prior to the start of construction.

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

Under Sect. 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for extension should be justified in writing, and should be filed with the Zoning Administrator not less than thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. DiGiulian and Mrs. Thonen being absent)

Mr. Hyland stated that for the record, he wanted to indicate that he had substantial problems with the entire notification process, and that case SP-83-S-001 is a good example of how notice should not work, in terms of notifying property owners of record. He felt there was a flaw in the system and asked staff to look into revising the notice procedure to prevent any more problems of this nature. Mr. Ribble and Mrs. Day said they concurred with Mr. Hyland about the notice procedure.

Page 364, February 22, 1983, AFTER AGENDA ITEMS:

JOHN WARD SMITH/V-82-A-190: It was the consensus of the Board to contact John Smith and Ray Hubbard and have them both present at a BZA hearing to answer questions. If necessary, a subpoena could be issued for both parties.

Page 364, February 22, 1983, AFTER AGENDA ITEMS:

LITTLE HOUSE OF TOMORROW/S-82-C-095: The Board was in receipt of a memo asking them to define a special permit condition. It was the consensus of the Board to defer any action for one week to allow the staff time to do more research.

// There being no further business, the Board adjourned at 5:15 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on October 9, 1984 APPROVED: October 16, 1984
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, March 1, 1983. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 12:20 P.M.); John Ribble and Mary Thonen (departing at 11:55 A.M.).

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. FRANCONIA BAPTIST CHURCH CHILD DEVELOPMENT CENTER, appl. under Sect. 3-303 of the Ord. for a child care center for 99 children, located 5912 Franconia Rd., R-3, Lee Dist., 81-4((1))18, 7.6292 acres, S-82-L-103.

Ms. Kelsey presented the staff report which recommended approval of S-82-L-103 subject to the conditions set forth in Appendix I of the staff report. The applicant currently operated a child care center for 60 children and wanted to increase it to 99. The hours of operation were from 7:30 A.M. until 6:00 P.M., Monday through Friday. Ms. Kelsey stated that there was adequate parking on site and an adequate play area. The lot consisted of 8.25 acres. The applicant was requesting a waiver of the transitional screening requirements. Ms. Kelsey stated that the traffic to be generated by the use would be almost double the current use but it would be spread from 1 P.M. to 6 P.M. in the afternoon. Ms. Kelsey did not feel the traffic would be hazardous.

Ms. Louis Ann Doyle of Alexandria represented the applicant. She stated that they were only asking for an increase in the number of children. There was not any request for use of additional buildings in connection with the child care center.

There was no one else to speak in support and no one to speak in opposition. The Board questioned the land area involved. Ms. Kelsey confirmed that the 8.25 acres was correct as it was certified on the plat. Mr. DiGiulian noted that the plat was dated 1964. He stated that there had been some road widening since then. Chairman Smith stated the record would show the acreage as being 7.629 acres.

Page 365, March 1, 1983

Board of Zoning Appeals

FRANCONIA BAPTIST CHURCH CHILD DEVELOPMENT CENTER
R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-82-L-103 by FRANCONIA BAPTIST CHURCH CHILD DEVELOPMENT CENTER under Section 3-303 of the Fairfax County Zoning Ordinance to permit child care center for 99 children on property located at 5912 Franconia Road, tax map reference 81-4((1))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 March 1, 1983; 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 7.6292 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. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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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FRANCONIA BAPTIST CHURCH CHILD DEVELOPMENT CENTER
(continued)

R E S O L U T I O N

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

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

5. Hours of operation of this facility shall be from 7:30 A.M. to 6:00 P.M., Monday through Friday.

6. The total number of children shall be 99.

7. All conditions as set forth by the Health Department shall be met.

8. A waiver of the standard transitional screening and barrier requirements shall be permitted subject to adequate screening of the play area from adjacent single family dwellings as determined by the Director of Department of Environmental Management.

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

UNDER Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of granting of the Special Permit. A request for extension should be justified in writing, and should be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hammack being absent).

Page 366, March 1, 1983, Scheduled case of

10:15 A.M. LANCE GAINES/MARSHALL GUNTER appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 10.5 ft. from each side lot line (12 ft. min. side yard req. by Sect. 3-307), located 5726 Magnolia La., Springdale Subd., R-3, Mason Dist., 61-4(19)3, 10,533 sq. ft., VC 83-M-005.

Ms. Kelsey presented the staff report which did not recommend approval or denial of the application. However, if the BZA intended to grant the variance, the staff report contained conditions set forth in Appendix I.

Mr. Marshall Gunter of Oak View Glade Drive in Falls Church informed the Board he had applied for a variance to allow construction of a dwelling 10.5 ft. from each side lot line. Mr. Gunter stated that he was the contract purchaser for the property. He had a contract with Ryan Homes as well as a construction loan to pay off the lot. He stated that he had not been aware of the need for the variance.

In response to questions from the Board, Mr. Gunter stated that the dwelling would meet the front set back. The only variance requested was to the side lot lines. The Board inquired as to the setback prior to the adoption of the present Ordinance. Ms. Kelsey stated that she did not have the old Zoning Ordinance with her but believed the setback had been 12 ft. as the old zoning would have been R-12.5. Mr. Gunter stated that the width of the dwelling was 44 ft. Ms. Kelsey informed the Board that most of the lots in the area were narrow in width. All of them were approximately 65 ft. in width. Most of the lots were developed with much older homes. The minimum lot width requirement under the current zoning was 80 ft. Mr. Gunter stated that he could not set the house any other way.

Chairman Smith advised the Board that the lot was substandard and did not meet the R-3 zoning. He indicated that this was a situation that the Ordinance addressed. Chairman Smith felt this was a reasonable request.

There was no one else to speak in support and no one to speak in opposition.

Page 366, March 1, 1983

LANCE GAINES/MARSHALL GUNTER

R E S O L U T I O N

In Application No. VC 83-M-005 by LANCE GAINES/MARSHALL GUNTER under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 10.5 ft. from each side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 5726 Magnolia Lane, tax map reference 61-4(19)3, County of Fairfax, Virginia, Mrs. Thonen 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 March 1, 1983; 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 10,533 sq. ft.
4. That the applicant's property is exceptionally irregular in shape being narrow and has an unusual condition in the location of the proposed structure on the narrow 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 plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for an extension should be justified in writing and should be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit for the proposed construction shall be obtained prior to construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hammack being absent).

Page 367, March 1, 1983, Scheduled cases of

10:30 OAKTON SWIM & RACQUET CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend
A.M. S-82-C-067 for community swim & tennis club to permit deletion of Condition #14
requiring a dustless surface parking lot for a max. 48 spaces, located 11600
& Waples Mill Rd., Waples Mill Estates, R-1, Centreville Dist., 46-2(1)pt. 20,
6.75214 acres, SPA 82-C-067-1.

10:30 OAKTON SWIM & RACQUET CLUB, INC., appl. under Sect. 18-401 of the Ord. to allow
A.M. gravel parking lot for community swim & tennis club (dustless surface req. by
Sect. 11-102), located 11600 Waples Mill Estates, R-1, Centreville Dist.,
46-2(1)pt. 20, 6.75214 acres, VC 83-C-001.

Ms. Kelsey presented the staff report. She stated that the site would be surrounded by single family homes. Ms. Kelsey explained that on July 26, 1982, the BZA had approved a special permit on land designated as open space. There were 15 conditions attached to the granting. Number 14 read that a dustless surface shall be required. The applicants were proposing a two part application. One application was to amend the current special permit to modify condition no. 14 by deletion. The second application was a request for a variance that would allow a gravel parking area. Ms. Kelsey explained that this was an environmentally sensitive area and every effort should be made to reduce runoff. The staff was recommending that the gravel be allowed for an interim basis. After the subdivision had been completed, then the matter could be reviewed after the gravel had compacted.

The Board inquired as to whether the soils were suitable. Ms. Kelsey replied that the applicant's engineer was in the process of providing a soils analysis which would be furnished to the Director of Department of Environmental Management. Mr. Edward Addicott of Paciulli, Simmons & Associates informed the Board that the soils analysis had not been done yet. There had been an analysis of the pool site at the rear of the property and the drain fields but not the parking area as yet. However, it was the opinion of the soils scientist that the parking area would be suitable with a gravel surface. Mr. Addicott suggested that the Board approve the variance but that the applicant not be allowed to implement it before it was reviewed by the Director of DEM. The Board expressed concern

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avout granting the request without seeing the soils report. They felt it was better to get the facts and then there would be no regrets. Mr. Addicott stated that they would schedule the analysis as soon as possible.

It was the consensus of the Board to defer the applications until March 22, 1983 at 11:45 A.M.

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Page 368, March 1, 1983, Executive Session

Mr. DiGiulian moved that the Board go into an Executive Session to discuss legal matters pertaining to V-82-S-217 and S-82-S-104. The BZA convened into Executive Session at 10:55 A.M. reconvened at 11:55 A.M. to continue with the scheduled agenda.

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Page 368, March 1, 1983

Mrs. Thonen left the meeting at 11:55 A.M.

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Page 368, March 1, 1983, Scheduled cases of

10:45 A.M. BRUCE JAMES NETSCHERT, appl. under Sect. 18-401 of the Ord. to allow veterinary hospital with gravel parking lot and with existing house 13 ft. from front lot line (Dustless surface req. by Sect. 11-102; 40 ft. min. front yard req. by Sect. 3-C07), located at 6801 Clifton Road, R-C, Springfield Dist., 75-2(1)12, 1.3859 acres, V-82-S-217. (DEFERRED FROM FEBRUARY 22, 1983 FOR A LEGAL OPINION FROM THE COUNTY ATTORNEY).

10:45 A.M. BRUCE JAMES NETSCHERT, appl. under Sect. 3-C03 of the Ord. for a veterinary hospital, located at 6801 Clifton Road, R-C, Springfield Dist., 75-2(1)12, 1.3859 acres, S-82-S-104. (DEFERRED FROM FEBRUARY 22, 1983 FOR A LEGAL OPINION FROM THE COUNTY ATTORNEY).

Chairman Smith announced that the applications had been deferred for additional information from the County Attorney and for any additional testimony from the parties involved provided it was submitted in writing. The Board was prepared to make the following motion:

Page 368, March 1, 1983
BRUCE JAMES NETSCHERT

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-82-S-217 by BRUCE JAMES NETSCHERT under Section 18-401 of the Zoning Ordinance to allow veterinary hospital with gravel parking lot and with existing house 13 ft from front lot line (dustless surface req. by Sect. 11-102; 40 ft. min. front yard req. by Sect. 3-C07), on property located at 6801 Clifton Road, tax map reference 75-2(1)12, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 22, 1983 and deferred until March 1, 1983 for additional information; and

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

THAT under the provisions of Section 15.1-496 of the Code of Virginia, a contract purchaser is not a person or organization described in that section of the Code that is properly before this Board as far as presenting an application for a variance. Specifically, with reference to that section, the Code requires that an application for a variance be presented by an owner which is not the case here. Second, in a review of Section 15.1-191 which talks to the issue of rezoning matters, the use of the term 'contract purchaser' is specifically included in that section of the Code which indicates an intent, at least concerning rezonings, that the General Assembly intended that a contract purchaser would be a proper person for making an application for rezoning.

As it was not so indicated a similar authority for a contract purchaser, my first finding of fact would be to indicate that the application by the contract purchaser for a variance is not properly before this Board. Second, even assuming for the sake of discussion that a contract purchaser was considered to be a proper applicant for a variance than the fact of this case indicates that any hardship involved is self-inflicted because of the applicant's desire to place a veterinary clinic on the property rather than use the property as a residence.

R E S O L U T I O N

And, finally, even if the hardship was considered to be one not self-inflicted or created by the applicant, the granting of a variance in this case would be only for the convenience of the applicant since the applicant has a reasonable use of the land by rehabilitation of the existing structure or alternatively by erecting a new structure which conforms to the applicable setbacks.

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 5 to 0 (Mrs. Thonen and Mr. Hammack being absent).

Chairman Smith stated that in view of the resolution, he felt the applicant should apply for a new application coming in with a new plan as far as the use was concerned. Mr. Lee Ruck represented the applicants. He informed the Board that the applicants had originally requested to build a new structure. They had been advised it was better to restore the old house and make use of a variance. Chairman Smith informed the applicant that they could not make use of any part of the existing structure that would require a variance. He indicated that the application would have to be readvertised. Chairman Smith stated that the only testimony to be heard would be on the amendment.

It was the consensus of the Board to schedule the amended application for Tuesday, April 19, 1983 at 8:45 P.M.

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Page 369, March 1, 1983

Mr. Hammack arrived at the meeting at 12:20 P.M.

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Page 369, March 1, 1983, Scheduled case of

11:00 A.M. LONG & FOSTER REAL ESTATE, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, one having width of 10 ft. and the other 144.30 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11273 Waples Mill Rd., R-1, Providence Dist., 46-4(1)18, 2.7577 acres, V-82-P-219. (DEFERRED FROM 2/22/83 FULL FULL BOARD).

Ms. Kelsey presented the staff report. In response to questions from the Board, Ms. Kelsey stated that the property was acreage located adjacent to Fairfax Farms.

Mr. Richard Hobson of 4103 Chain Bridge Road in Fairfax represented the applicant. He stated that the application was for a lot width variance which would permit a subdivision of the property as indicated. He stated that lot width, under the Ordinance, was measured at the building restriction line. The proposed pipestem was only 10 ft. wide. Mr. Hobson stated that the property sloped away and had more than 200 ft. at the back. The proposed lot 1 would have 144.30 ft. lot width. Mr. Hobson introduced the engineer, Mr. Huntley. Mr. Hobson stated that the subdivision plat did not show the proposed house locations but it did show the proposed dedication for the widening of Waples Mill Road. The property had a 50 ft. buffer along its side with an easement. No structure would be built in that area according to Mr. Hobson.

Mr. Hobson stated that the proposed lots were less than 150 ft. in width which necessitated the variance. He indicated that the property was different from its neighbors in that it was undeveloped. The only ingress and egress was from the front of the property. Mr. Hobson stated that there was not sewer in the area. Mr. Hobson stated that each lot would be in excess of the one acre zoning. The only question was the lot width. Mr. Hobson stated that the granting of the variance would be consistent with the lots in the immediate area.

Mr. Hobson stated that this property had been subject to a variance in 1979 which had been presented by Mr. Huntley. Mr. Huntley, an engineer with offices located at 7202 Poplar Street in Annandale, informed the Board that the hardship was the narrow frontage of the property. The property was very deep. He stated that the parcel had been divided out in 1966. It had been allowed under the one cut into two lots. Each lot had two acres. Mr. Huntley stated that they were proposing the same pipestem of 10 ft. with the other lot having 144.30 ft. When the plan was submitted to the County, DEM asked for additional dedication which caused a slight deviation of the lot width.

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In response to questions from the Board, Mr. Huntley stated that the topography of the land for proposed lot 2 sloped from the north to the south. Mr. Hobson stated that all of the conditions were the same as before. Long & Foster had acquired the property three months before the application was filed. The original variance had been granted to Mr. & Mrs. Cox. Mr. Cox worked for Long & Foster and had sold the property to them. Mr. Hobson stated that the previous granting had not been utilized because the property had not been recorded in the time specified by the Board. The original owners did not have the money necessary to get the land perced and recorded before it expired.

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There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-82-P-219 by LONG & FOSTER REAL ESTATE, INC. under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, one having width of 10 ft. and the other 144.30 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 11273 Waples Mill Road, tax map reference 46-4((1))18, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 1, 1983; 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 narrow and deep 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 variance is approved for the subdivision of this lot into two lots as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for an extension should be justified in writing and should be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. The limits of clearing for these lots shall be as shown on the plats submitted with this application.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 2 (Messrs. Smith & Hammack) (Mrs. Thonen being absent).

Elisabeth Kohalmy, S-82-C-095: The Board was in receipt of a request from Michael R. Keys regarding a special permit issued to Elisabeth Kohalmy for the operation of a child care center. A variance was necessary to the dustless surface requirement because of a gravel easement for the property which the applicant could not pave since they did not own it. The applicant was asking for an out-of-turn hearing on the variance application. Ms. Kelsey informed the Board that the special permit which was granted had not included the land area for the easement. Rather than going for a variance, she stated that the applicant was going to ask for a waiver for a temporary period until the dustless surface issue was decided.

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Swim & Tennis Club at Fairfax Station, Inc.: The Board was in receipt of a request for an out-of-turn hearing on the special permit application of the Swim & Tennis Club at Fairfax Station, Inc. Mrs. Szymczak indicated that the club was trying to avoid a monthly fee which was to begin April 1st on the purchase of the lots for the club. It was the consensus of the Board to grant the request. The hearing was scheduled for Tuesday, April 26, 1983 at 10:00 A.M.

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ROBERT TRUMBLE/DR. INDER JIT BHAMBRI & DR. VIRENDRA P. SIROHI, V-82-D-224: The Board was in receipt of a request from Royce Spence for a deferral of the variance application scheduled for March 22, 1983 as Mr. Spence had a jury trial that date which could not be changed. He was seeking an intent from the BZA as to whether they would allow a further deferral. Mr. Hammack moved that the BZA issue an intent to defer the hearing until March 29, 1983 at 11:30 A.M. Mr. Ribble seconded the motion and it passed unanimously of the members present.

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St. Luke's United Methodist Church, SPA 80-D-059-1: The Board was in receipt of a request from Pat Czakra, Director of St. Luke's United Methodist Church, for an out-of-turn hearing on a special permit application for a summer program. The reason for the request was to allow advertising to begin as soon as possible so they would have the enrollment by June. It was the consensus of the Board to grant the request and the hearing was scheduled for April 26, 1983 at 10:30 A.M.

// There being no further business, the Board adjourned at 1 o'clock.

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

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on October 9, 1984

Approved: October 16, 1984
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, March 8, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; and John Ribble. Mary Thonen and Paul Hammack were absent.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

//The Board approved the BZA Minutes for July 14, 1981 as presented.

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

10:00 A.M. J. R. STEPHENS, appl. under Sect. 18-406 of the Ord. to allow garage attached to dwelling to be completed and to remain 12.7 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 2042 Greenwich St., Southhampton Subd., R-2, Dranesville Dist., 40-2((32))5, 13,286 sq. ft., VC 83-D-002.

William Shoup reviewed the staff report for the Board. He stated that the applicant had obtained a building permit for a carport on February 14, 1981. Since the rear of the carport was several feet above ground, a wall or railing was necessary for safety purposes. At the time of construction, the applicant requested that his contractor build a brick wall along that side of the carport. Mr. Shoup stated that upon review, staff determined that because the carport was partially enclosed it was not in conformance with the Zoning Ordinance definition of a carport. Mr. Shoup pointed out that there was an existing two story garage to the rear of the property. A building permit had been obtained for the construction of that garage in 1975. A corner portion of the garage appeared to be located over the rear lot line.

Rolland Stephens presented his application. He stated that there was a flood plain to the rear of the property. His original plat showed that portion of the garage as flood plain, not a right-of-way. Mr. Stephens stated that no land was taken from his lot for the Dulles Access Road. Mr. DiGiulian stated that everything on the plat indicated that at one time this lot was somewhat larger than it is now. Mr. Stephens showed the Board members a copy of his original plat. It indicated that he owned 17,889 square feet when he bought the land. Mr. Stephens stated that he bought the property in 1974. According to the deed, he only owned the square footage shown on the current plat.

Mr. Stephens stated that he had obtained a building permit for a carport two years ago, with the idea that he would apply for a variance for a garage when he neared completion. He stated that the ground dropped off suddenly from the carport which necessitated the wall that had been built.

There was no one to speak in support or opposition.

Page 372, March 8, 1983
J.R. STEPHENS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC 83-D-002 by J. R. STEPHENS under Section 18-406 of the Zoning Ordinance to allow garage attached to dwelling to be completed and to remain 12.7 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 2042 Greenwich Street, tax map reference 40-2((32))5, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on March 8, 1983; AND,

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

1. That non-compliance was the result of a misunderstanding of a carport versus a garage subsequent to the issuance of a building permit.
2. That non-compliance was no fault of the applicant.

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

1. 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.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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 plat included with this application, and is not transferable to other land or to other structures on the same land.

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- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for an extension should be justified in writing and should be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
- 3. An amended Building Permit for this garage shall be obtained prior to the continuation of any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. Hammack and Mrs. Thonen being absent)

Page 373, March 8, 1983, Scheduled case of:

10:10 A.M. MR. & MRS. EDMOND D. PHILLIPS, appl. under Sect. 18-401 of the Ord. to allow construction of tennis court, swimming pool and retaining wall covering more than 30% of the min. req. rear yard, and to allow 10 ft. high fence in rear and side yards (30% max. coverage of min. req. rear yard by accessory uses and structures req. by Sect. 10-103; 7 ft. max hgt. for fence in any side or rear yard req. by Sect. 10-104), located 6514 West Langley Ln., Salons Village Subd., R-1, Draneville Dist., 30-2(19)28, 47,410 sq. ft., VC 83-D-003.

William Shoup reviewed the staff report for the Board. He stated that the applicant proposed to construct a swimming pool and tennis court at the rear of the lot, which would cover 49.9% of the required minimum rear yard.

Edmond Phillips presented his application. He stated that he and his wife had been looking for several years to find property suitable to accommodate a house, tennis court and swimming pool which they had planned. The lot had been purchased in June of 1975, and percolation tests were performed to assure that the septic tank and drainage field could be located in the front yard so as not to interfere with the proposed facilities. At the time he was obtaining the necessary permits to construct the house, he was told he could not put the drainage field in the location originally approved by the County, and had to move the house back 16 feet from the planned location. This changed the available rear yard area for the proposed facilities. Mr. Phillips stated that the proposed location of the tennis court could be moved to meet all Zoning requirements, but that would place it only 9 feet from the home, which was not practical from a functional point of view.

Speakers in support included Franklin Bray, 1309 Darnell Drive, former owner of the property in question, who lived next door on lot 29; and Mrs. David Anderson, 6449 W. Langley Lane. Mr. Bray indicated that he had a perk test done on this property and was able to place his home 25 to 35 feet closer to the front lot line than Mr. Phillips was able to do. Mrs. Anderson stated that these were all large lots, and the sound of a tennis ball would not cause any noise problems.

Speakers in opposition included Darrell Trent, 6510 West Langley Lane, adjacent to the property in question; Robert Whitman, 6501 Menlo Road, the president of the Ballantree Citizens Association; Henry Smoot, 6515 Menlo Road; and Barbara Hatrick, a resident of the area. Mr. Trent stated that his house would be closer to the tennis court than the Phillip's house. He was concerned that he would be seeing a 10 foot high chainlink fence instead of the trees he could view at the present time. Other concerns included noise from the tennis games that would disrupt the peaceful environment. Mr. Trent stated that he had reviewed the proposed facilities and he felt that 54% of the required minimum rear yard would be covered, not 49.9%. Ms. Hatrick stated that there were tennis facilities and community centers within a five minute drive, and also indoor facilities where you could play all through the year.

During rebuttal, Mr. Phillips stated that he was not going to disturb any trees in his yard for the tennis court construction. He stated that he had no plans for lights on his courts. Mr. Phillips stated that each case is weighed on its individual merits, and he did not feel he was setting a precedent for the area.

There was no one else to speak regarding the application.

R E S O L U T I O N

In Application No. VC 83-D-003 by MR. & MRS. EDMOND D. PHILLIPS under Section 18-401 of the Zoning Ordinance to allow construction of tennis court, swimming pool and retaining wall covering more than 30% of the min. req. rear yard, and to allow 10 ft. high fence in rear and side yards (30% max. coverage of min. req. rear yard by accessory uses and structures req. by Sect. 10-103; 7 ft. max. hgt. for fence in any side or rear yard req. by Sect. 10-104), on property located at 6514 West Langley Lane, tax map reference 30-2((19))28, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 1983; 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 47,410 sq. ft.
4. The front location of the septic field narrows the use of the property, but by the proposed additions to the rear it is more than 49% of that area. We have listened to testimony of the neighbors whose property Mr. Phillips proposals effect, lots 27, 31, 30, 29 and others in the neighborhood who object. Mr. Trent, the abutting neighbor, would be sitting on his rear screened in porch and over-looking someone playing tennis.

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. Hyland seconded the motion.

The motion passed by a vote of 5 - 0 (Mr. Hammack and Mrs. Thonen being absent)

Page 374, March 8, 1983, Scheduled case of:

10:20 A.M. WILLIAM E. & ANNE C. GILBERT, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 15.3 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 13119 Memory Ln., Greenbriar Subd., R-3(C), Providence Dist., 45-3((2))6)5, 9,051 sq. ft., VC 83-P-004.

William Shoup reviewed the staff report for the Board. William Gilbert presented his application. He stated that he wanted to put an addition on the back of his house to accommodate his family. He had purchased the property in 1967 and had maintained continuous residence there for 15 years. Mr. Gilbert stated that he did not have enough room to add on to the west side of the house. The east side was encumbered by two easements, one for electric and the other for storm and sanitary sewer. The back of the existing house was the only suitable location to build an addition.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC 83-P-004 by WILLIAM E. & ANNE C. GILBERT under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.3 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) on property located at 13119 Memory Lane, tax map reference 45-3((2))6)5, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 1983; 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 R-3(C).
3. The area of the lot is 9,051 sq. ft.
4. That the applicants' property has an unusual condition in the location of the existing building, that is to say it is located 12 ft. from the West property line. On the East property line there exists two easements which prohibit construction of the addition. The only logical and reasonable place to build the addition is on the rear of the property. The size of the proposed addition appears to be reasonable and there is no opposition expressed by the abutting and contiguous property owners.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for an extension should be justified in writing and should be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. Hammack and Mrs. Thonen being absent)

Page 375, March 8, 1983, Scheduled case of:

10:30 A.M. ROBERT A. YOUNG ASSOCIATES, INC., appl. under Sect. 18-401 of the Ord. to allow construction of dwelling with front porch 24.38 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-307), located 1545 Hunting Ave., Hunting Ridge Subd., R-3, Dranesville Dist., 30-3((2))29, 4,549 sq. ft., VC 83-D-006.

William Shoup reviewed the staff report for the Board. He stated that this lot was located in the Hunting Ridge Subdivision, which was a substandard subdivision. Robert Young presented his application. He stated that he was merely asking for porch with a roof over it. He stated that the lot was very shallow, being only 90 feet deep. In order to build a home of the size that is in keeping with the neighborhood, a variance is necessary. Mr. Young handed the Board members several letters in support of the request, including the owners of lot 28 and lot 44. Mr. Young stated that the average lot size in the subdivision was 6,500 square feet. This lot was only 4,549 square feet.

Janet Smith, 1544 Hunting Avenue and Rosalyn Henderson, 1551 Hunting Avenue, spoke in opposition to the application. They handed in a petition to the Board with all the neighbors listed that were in opposition. Ms. Smith stated that all the other houses on Hunting Avenue complied with the Zoning Ordinance, and she felt the variance should be denied.

There was no one else to speak with regard to the application.

March 8, 1983

Board of Zoning Appeals

ROBERT A. YOUNG ASSOCIATES, INC.

R E S O L U T I O N

In Application No. VC 83-D-006 by ROBERT A. YOUNG ASSOCIATES, INC. under Section 18-401 of the Zoning Ordinance to allow construction of dwelling with front porch 24.38 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-307) on property located at 1545 Hunting Avenue, tax map reference 30-3((2))29, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

Page 376, March 8, 1983
 ROBERT A. YOUNG ASSOCIATES, INC.
 (continued)

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 8, 1983; 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 4,549 sq. ft.
4. That the applicants' property is substandard in size and extremely small and 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 on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for an extension should be justified in writing and should be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to the start of any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. Hammack and Mrs. Thonen being absent)

Page 376, March 8, 1983, Scheduled case of:

10:40 A.M. JACQUELINE SCHWARTZ, appl. under Sect. 3-203 of the Ord. for a home professional office (artist), located 3430 Mansfield Rd., Lake Barcroft Subd., R-2, Mason Dist., 61-1((11))987, 20,300 sq. ft., SP 83-M-002.

William Shoup reviewed the staff report for the Board. He stated that the property backed up to Lake Barcroft. The studio was already in operation, and the applicant had filed this application in order to legitimize her use of that studio. The applicant had indicated that there would be no more than four visitors to the property a month, and there would be no employees associated with the use.

Jacqueline Schwartz presented her application to the Board. She stated that when she moved into the home in 1977, the garage was converted into a studio. She had some students come to her home for lessons, but prefers to work alone. She was now selling her paintings, but did not sell out of her studio. Most of the sales were done through studios and dealers. Ms. Schwartz stated that all of her neighbors supported her request.

There was no one else to speak in support or opposition to the request.

Page 376, March 8, 1983
 JACQUELINE SCHWARZ

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. SP 83-M-002 by JACQUELINE SCHWARZ under Section 3-203 of the Fairfax County Zoning Ordinance for a home professional office (artist), located at 3430 Mansfield Road, tax map reference 61-1((11))987, 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 8, 1983; and

Page 377, March 8, 1983
 JACQUELINE SCHWARTZ
 (continued)

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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. That the present zoning is R-2.
3. That the area of the lot is 20,300 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 on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plans submitted with this application except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. This approval shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures within two (2) months of this date, and this Special Permit shall not be valid until this has been accomplished.
4. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. There shall be no employees other than the applicants.
6. The number of visitor vehicles in association with this use shall be limited to no more than one at any one time.
7. All parking associated with this use shall be restricted to the existing driveway.
8. Screening may be required in accordance with Article 13 of the Zoning Ordinance as determined by the Director of the Department of Environmental Management.
9. There shall be no signs displayed on the property in conjunction with this use.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0 (Mr. Hammack and Mrs. Thonen being absent)

Page 377, March 8, 1983, AFTER AGENDA ITEMS:

MOBIL OIL CORPORATION/V-81-V-147: The Board was in receipt of a letter requesting an extension of the above referenced variance application. It was the consensus of the Board to grant a six month extension. The new expiration date was November 24, 1983.

Page 377, March 8, 1983, AFTER AGENDA ITEMS:

ANTIOCH DAYCARE AND LEARNING CENTER/S-82-C-043: The Board was in receipt of a letter requesting a review of the hours of operation for the referenced special permit application. They felt that the Board had set different hours than what was requested during the hearing. The Board members were provided with a partial verbatim of the hearing. It was the consensus of the Board to delay a decision for one week to give them time to review the information they had received.

Page 377, March 8, 1983, AFTER AGENDA ITEMS:

ISLAMIC COMMUNITY CENTER/SP 83-M-015: The Board was in receipt of a letter requesting an out-of-turn hearing for the referenced special permit application. It was the consensus of the Board to grant the request. The application was scheduled for April 12, 1983.

// There being no further business, the Board adjourned at 12:20 P.M.

By Judy L. Moss
 Judy L. Moss, Deputy Clerk to the
 Board of Zoning Appeals

Daniel Smith
 DANIEL SMITH, CHAIRMAN

Submitted to the Board on Oct. 16, 1984

APPROVED: October 23, 1984
 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, March 15, 1983. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble and Mary Thonen. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 8:15 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8 o'clock case of:

8:00 JOHN MICHAEL WILLSEY, appl. under Sect. 18-401 of the Ord. to allow construction
A.M. of storage shed addition to dwelling to 7.4 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7502 Milway Dr., Milway Meadows Subd., R-3, Mt. Vernon Dist., 93-3((22))(2)5, 11,759 sq. ft., VC 83-V-007.

Ms. Kelsey presented the staff report. Mr. John Michael Willsey of 7502 Milway Drive informed the Board that this was his first experience with a variance. Mr. Willsey stated that he was only asking for an extension of his shed. He indicated that perhaps his statement might not have been prepared too well. He thought the staff misunderstood the use of his shed. Mr. Willsey informed the Board that this was the only place he could put all of his gardening tools and fertilizer and bicycles. He indicated that he had two bicycles stolen in the past two years. He had asked for an extension and enlargement of the shed in order to accommodate all of the items customarily located in a garage. He did not want to have to keep these items in a closet. Mr. Willsey stated that the enlargement would have a more attractive appearance. Mr. Willsey informed the Board that the other property owners had enclosed their carports or extended the sheds to enjoy storage space. Mr. Willsey was not aware whether any other property owners had applied for a variance. Mr. Willsey stated that at any location on his property would necessitate a "tin shack" in his yard. There was an easement at the back with twenty-five trees between the easement and his house.

In response to questions from the Board, Mr. Willsey stated that the access door to the shed would be at the back and not from the side. Some Board members questioned whether the shed would have been allowed by the builder under the Code in existence at the time the house was constructed. Chairman Smith stated that it was allowed still as far as he was aware. He indicated that a 10'x12' shed could be attached at the end of a carport. Ms. Kelsey confirmed that had been her recollection of the old Ordinance. The BZA had agreed that a carport could have a certain size shed located at the rear providing it did not exceed the size limitations.

Mr. Willsey informed the Board that his shed conformed to the roofline and would blend in with the architecture of the house. Mr. Willsey stated that if he was denied the variance, all of his garbage cans, grills, etc. would be exposed in the carport. It would be a real mess and he did not want to have to store everything in the kitchen.

There was no one else to speak in support and no one to speak in opposition.

Page 378, March 15, 1983
JOHN MICHAEL WILLSEY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC 83-V-007 by JOHN MICHAEL WILLSEY under Section 18-401 of the Zoning Ordinance to allow construction of storage shed addition to dwelling to 7.4 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 7502 Milway Drive, tax map reference 93-3((22))(2)5, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 15, 1983; 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 11,759 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 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, and is not transferable to other land or to other structures on the same land.
2. A revised Building Permit Application shall be filed and approved before any further construction is undertaken.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 2 (Mr. Smith & Mrs. Thonen) (Mr. DiGiulian being absent).

Page 379, March 15, 1983, Staff Reports

The Board brought to staff's attention the fact that the plat had not been included in the staff report on the last application. In addition, the staff report cited attachments which were not included. Ms. Kelsey apologized to the Board for the oversight.

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Page 379, March 15, 1983, Scheduled case of

8:30 P.M. GEORGE A. DARNE & SONS, INC., appl. under Sect. 3-C03 of the Ord. for modification to minimum yard requirements, located 11610 Havenner Rd., Fairfax Station Subd., R-C, Springfield Dist., 76-2(1)pt. 12, 23,289 sq. ft., SP 83-S-004.

Ms. Kelsey presented the staff report. Mr. Chip Paciulli of 307 Maple Avenue in Vienna represented the applicant. He stated that Fairfax Station was a subdivision planned for 600 houses. Approximately 400 homes were constructed and lived in or under construction at the present time. About 350 of the homes were developed under the R-1 zoning district setback requirements. On July 26, 1982, the zoning was changed to R-C by the Board of Supervisors. Mr. Paciulli stated that during the planning stages, the applicants had gone to considerable lengths to fit the drainage fields and the houses on the lots. During the planning stage, they had used the R-1 zoning requirements. Mr. Paciulli stated that the lot in question was recorded on May 6, 1981 and the yards were in compliance with the previous setbacks of 12 ft. for the side and 30 ft. for the front. Mr. Paciulli stated that he had received several phone calls from property owners in support of the application.

There was no one else to speak in support and no one to speak in opposition.

Page 379, March 15, 1983
GEORGE A. DARNE & SONS, INC.

R E S O L U T I O N

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 83-S-004 by GEORGE A. DARNE & SONS, INC. under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow construction of a dwelling having a 30.5 ft. front yard and 12.5 ft. side yard on property located at 11610 Havenner Road, tax map reference 76-2(1)pt. 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 March 15, 1983; and

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

1. That the property was the subject of final plat approval prior to July 26, 1982. The subdivision was recorded on May 6, 1981.
2. That the property was comprehensively rezoned to the R-C District on July 26, 1982.
3. That the requested modification in the yard requirement results in a yard not less than the minimum yard requirement of the Zoning District that was applicable to the lot on July 25, 1982.
4. That the resultant development will be harmonious with the existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area

AND, WHEREAS, the Board has reached the conclusions that the applicant has met the provision for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 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 development conditions:

1. This approval is for the location and the specific structure indicated on the plat included with this application prepared by Paciulli, Simmons & Associates, Ltd., and is not transferable to other land or to other structures on the same land.

2. A Building Permit shall be obtained prior to the start of construction.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith) (Mr. DiGiulian being absent).

Page 380, March 15, 1983, Scheduled case of

8:45 P.M. RIVERBEND GOLF & COUNTRY CLUB, INC., appl. under Sect. 3-E03 of the Ord. to amend S.U.P. #5669 for country club, for approval of several existing additions and to permit enclosure of existing porch and construction of shelter over existing deck, located at 9901 Beach Mill Rd., Acreage Subd., R-E, Dranesville Dist., 8-1(1)22, 23 & 41 and 8-3(1)4, 151.321 acres, S-82-D-101. (DEFERRED FROM 1/25/83 FOR ADDITIONAL INFORMATION FROM ZONING ENFORCEMENT STAFF INSPECTION OF PROPERTY WITH REGARD TO TENNIS COURT LIGHTS AND SECURITY LIGHTS AFFECTING LOTS 7 & 16, AND DEFERRED FROM 2/15/83 FOR CORRECTION OF TENNIS COURT AND SECURITY LIGHTS TO THE SATISFACTION OF THE BOARD OF ZONING APPEALS).

As the lights still had not been corrected, the Board of Zoning Appeals deferred the final action of the application until March 29, 1983 at 11:45 A.M.

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Page 380, March 15, 1983, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of BZA Minutes for July 16, 1981. Mr. Hyland moved that the Board approve the Minutes as submitted. Mr. Ribble seconded the motion and it passed unanimously by the members present.

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Page 380, March 15, 1983, After Agenda Items

ANTIOCH DAY CARE & LEARNING CENTER, S-82-C-043: The Board was in receipt of a letter from Rev. David Caldwell requesting a correction of the hours of operation for the day care center approved by the BZA on July 20, 1982. At the original hearing, Rev. Caldwell had indicated that the center would operate 12 hours a day. The BZA placed a condition on the special permit limiting the hours to 6:00 A.M. to 6:00 P.M. However, the actual hours of operation were 6:30 A.M. to 6:30 P.M. and Rev. Caldwell was requesting the BZA to allow the change.

It was the consensus of the Board to allow the change as requested. The Clerk was directed to send a corrected resolution to the applicant.

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Page 380, March 15, 1983, After Agenda Items

BRUCE J. & DONNA B. NETSCHERT, S-82-S-104: The Board was in receipt of a letter from the applicants seeking an intent from the BZA as to whether it would defer the special permit application scheduled for April 19, 1983 until May 17, 1983 at 8:00 P.M. It was the consensus of the Board that an amended application be filed in order that readvertising, posting and notices could take place. The Board consented that it was their intent to defer the special permit as requested.

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Page 380, March 15, 1983, After Agenda Items

Fairfax County Police Association, Inc., A-83-S-001: The Board was in receipt of a letter from Ken Sanders, attorney for the applicant, seeking a deferral of the appeal application scheduled to be heard on March 22, 1983. It was the consensus of the Board to announce its intent to defer the appeal until May 3, 1983 at 10:15 A.M. as requested.

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Page 381, March 15, 1983, After Agenda Items

The Swim & Tennis Club at Fairfax Station, Inc, SP 83-S-012 & VC 83-S-018: The Board was in receipt of a request from Rosemary Szymczak seeking an out-of-turn hearing on the special permit and variance applications of the Swim & Tennis Club at Fairfax Station, Inc. The BZA had originally granted the request and scheduled the hearing for April 26, 1983. However, Ms. Szymczak was seeking a further acceleration of the hearing. It was the consensus of the BZA to grant the request and the new hearing was scheduled for Tuesday, April 12, 1983 at 11:45 A.M.

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Page 381, March 15, 1983, After Agenda Items

Notices: The Clerk informed the Board that an attorney had questioned the notice procedures and indicated that the BZA was using out-dated information. The Board indicated that it would examine the notice procedures and discuss it in Executive Session in April.

// There being no further business, the Board adjourned at 9:10 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 Oct. 16, 1984

Approved: October 23, 1984
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, March 22, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; John Ribble; Mary Thonen and Paul Hammack.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

//Mr. Hyland moved that the Board go into executive session to discuss legal matters.

Page 382, March 22, 1983, Scheduled 10:00 A.M. case heard at 11:10 A.M.:

10:00 A.M. FAIRFAX COUNTY POLICE ASSOCIATION, INC., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrators decision that the activities of the Fairfax County Police Association at 11651 Popes Head Road do not constitute a public use, Springfield Dist., R-C, 67-4((1))22C, 7.6603 acres, A-83-S-001.

At the request of the appellant's, the application was deferred to May 3, 1983 at 10:15 A.M.

Page 382, March 22, 1983, Scheduled 10:40 A.M. case heard at 11:15 A.M.:

10:40 A.M. OLDE SALEM LTD., AN OHIO LIMITED PARTNERSHIP, appl. under Sect. 3-203 of the Ord. for recreation facilities, including two (2) swimming pools and bath houses, and two (2) tennis courts, Culmore Subd., R-20, Mason Dist., 61-2((10))1 and 61-2((13))1, 22.8 acres, SP 83-M-005.

William Shoup reviewed the staff report for the Board. He stated that the applicant proposed to construct a swimming pool in both sections of the development, and two tennis courts. Mr. Shoup stated that there was some staff concern regarding water quality, visual impacts, and parking. These issues were addressed in the development conditions contained in the staff report.

Steve Stancill, an attorney with Lawson, Walsh, Colucci & Malinchak, in Arlington, represented the applicant. He stated that this property was Old Salem Village Condominiums, formerly the Culmore Apartments. He stated that the staff report indicated that the Comprehensive Plan will not be violated by this proposal, and that it satisfies the Zoning standards. Mr. Stancill stated that the applicant was in agreement with the conditions set forth in the staff report.

Judy Basham, Director of the Community Services Department of Northern Virginia Family Service, spoke regarding the application. She stated that her agency had been working with the tenant association in Culmore since 1981. The tenants in the Olde Salem Village Apartments knew nothing about this hearing until they saw the sign. Ms. Basham asked that the Board defer the hearing to an evening meeting in April to give the residents to come and speak after they had studied the proposal. Chairman Smith indicated that the entire area would eventually be turned into condominiums.

Ms. Monroe, a resident of Olde Salem Village, spoke with regard to the application. She represented the Culmore Tenants Association. She stated that most of her neighbors did not speak or read in English, and she felt that the normal legal notification requirements for a public hearing were not sufficient.

Maury Flood, Executive Director of Catholics for Housing, Inc., also asked the Board to defer the hearing on this application. He wanted time to schedule a special executive meeting and get feedback from the members. He stated that after reviewing the staff report, he only had a problem with the parking requirements. He felt that more parking spaces should be provided.

During rebuttal, Art Walsh, an attorney with Lawson, Walsh, Colucci & Malinchak, stated that this particular applicant had a vested right to convert the apartments to condominiums by having obtained the proper building permits. The timing of this conversion is still a little uncertain, so that is why the tenants have not received their 90 day notices yet. Mr. Walsh stated that it seemed to him that the Board should look at the General Standards for Special Use permits and the Standards for Group 4 Uses. He stated that the applicant had worked hard with the staff on this application. The applicant felt that a lot of parking around these uses was inappropriate because they wanted to encourage people to walk to the uses. He stated that this use was in harmony with the Comprehensive Plan. To deny this application would not preclude this project from being converted to condominiums.

Mr. Hyland stated that he supported everything that Mr. Walsh had said, however, he wanted to know how Mr. Walsh felt about a deferral. Mr. Walsh responded that if the entire tenants association came to oppose the application, he didn't see what grounds they would use other than trying to delay the condominium conversion.

Mr. Hyland made a motion to defer the application to April 19, 1983, to give those persons an opportunity to come and testify. The motion failed for lack of a second.

R E S O L U T I O N

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Mr. Hammack made the following motion:

WHEREAS, Application No. SP 83-M-005 by OLDE SALEM LTD., AN OHIO LIMITED PARTNERSHIP under Section 3-203 of the Fairfax County Zoning Ordinance for recreation facilities, including two (2) swimming pools and bath houses, and two (2) tennis courts, tax map reference 61-2((10))1 and 61-2((13))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 March 22, 1983; 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-20.
3. That the area of the lot is 22.8 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 on the application and is not transferable to other land.
2. This approval is granted for the uses indicated on the plans submitted with this application except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. In consideration of local wet soil conditions, the pool shall be engineered and constructed to ensure pool stability, including the installation of an adequate number of hydrostatic relief valves.
5. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during draining or cleaning operations, so that pool waters can be adequately treated.
6. Transitional screening may be modified provided the proposed uses are screened from adjoining areas in accordance with a landscaping plan to be coordinated with and approved by the County Arborist Office. Such a landscaping plan shall consider:
 - o For the tennis courts, either Leyland Cypress, 8 feet on center or White Pines, 10 feet on center.
 - o In the vicinity of the pools, plantings of combinations of Black Pine, Burford Holly and Ligustrum can be used.
7. The tennis courts shall not be artificially illuminated.
8. Hours of operation for the pools shall be 10:00 A.M. to 8:00 P.M.
9. Hours of operation for the tennis courts shall be from 7:00 A.M. to dark.
10. After hour parties for each swimming pool shall be governed by the following:
 - o Limited to six (6) per season.
 - o Limited to Friday, Saturday and pre-holiday evenings.
 - o Shall not extend beyond 12:00 midnight.
 - o Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
 - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
11. One (1) parking space for each swimming pool and one (1) parking space for each tennis court shall be provided.
12. One handicapped parking space shall be provided.

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

Under Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of granting of the Special Permit. A request for extension must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 7 - 0.

Page 384, March 22, 1983, Scheduled 11:00 A.M. case heard at 11:40 A.M.:

11:00 A.M. JAMES F. STEFFEY, appl. under Sect. 3-803 of the Ord. for a home professional office (Real Estate & Manufacturer's Representative), located 2911 Sutton Rd., Sutton Green Subd., R-8, Providence Dist., 48-1((1))pt. 98, 7,404 sq. ft., SP 83-P-006.

Chairman Smith announced that the notices were not in order. The applicant had already been informed by the clerk, and had remailed the notices to reflect a hearing date of March 29, 1983. It was the consensus of the Board to defer the application to that date to be heard at 11:30 A.M.

Page 384, March 22, 1983, Scheduled 11:20 A.M. case heard at 11:40 A.M.:

11:20 A.M. JOHN L. PROBST, appl. under Sect. 18-401 of the Ord. to allow construction of addition to existing dwelling 15.9 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-507), located 7113 Itte Ln., Beverly Park Subd., R-5, Lee Dist., 90-3((10))14, 3,000 sq. ft., VC 83-L-011.

William Shoup reviewed the staff report for the Board. He stated that the existing dwelling was constructed in accordance with previous applicable provisions of the Zoning Ordinance. This property was previously zoned R-GC which did not prescribe any minimum yard requirements.

John Probst presented his application. He stated that the house was constructed in 1975-76 under Zoning requirements that did not require the present minimum yard requirements. He stated that the addition would not extend beyond the existing house dimensions. The house had no basement or attic, and therefore had no storage areas. Approval of this variance would provide a storage and work area easily accessible from the present living quarters.

There was no one to speak in support or opposition.

Page 384, March 22, 1983
JOHN L. PROBST

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC 83-L-011 by JOHN L. PROBST under Section 18-401 of the Zoning Ordinance to allow construction of addition to existing dwelling 15.9 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-507) on property located at 7113 Itte Lane, tax map reference 90-3((10))14, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 22, 1983; 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-5.
3. The area of the lot is 3,000 sq. ft.

4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow and has an unusual condition in the location of the existing buildings on the subject property. The proposed addition will place the addition no closer to the lot line than the existing dwelling. The location of the house is unique and is not a general condition in that 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 and the specific structure indicated on the plat included with this application, and is not transferable to other land or to other structures on the same land.

2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

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

Mr. DiGiullian seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

Page 385, March 22, 1983, Scheduled 11:30 A.M. case heard at 11:55 A.M.:

11:30 A.M. ROBERT TRUMBLE/DR. INDER JIT BHAMBRI & DR. VIRENDRA P. SIROHI, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, proposed lot C-3B having width of 12 ft., (200 ft. min. lot width req. by Sect. 3-E06), Peacock Station, R-E, Dranesville Dist., 19-2((9))C-3, 5.0 acres, V-82-D-224. (DEFERRED FROM 2/22/83 FOR NOTICES) (ON MARCH 1, 1983 THE BZA ISSUED THEIR INTENT TO DEFER UNTIL MARCH 29, 1983 AT 11:30 A.M. AT THE REQUEST OF THE APPLICANT)

At the applicant's request, this case was deferred to March 29, 1983 at 12:00 Noon.

Page 385, March 22, 1983, Scheduled 11:45 A.M. cases heard at 12:00 P.M.:

11:45 A.M. OAKTON SWIM & RACQUET CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend S-82-C-067 for community swim & tennis club to permit deletion of Condition #14 requiring a dustless surface parking lot for a max. 48 spaces, located 11600 Waples Mill Rd., Waples Mill Estates, R-1, Centreville Dist., 46-2((1))pt. 20; 6.75214 acres, SPA 82-C-067-1. (DEFERRED FROM 3/1/83 FOR REPORT ON SOILS ANALYSIS AND REPORT ON WHAT AUTHORITY THE BZA HAS IN GRANTING A VARIANCE TO THE DUSTLESS SURFACE.)

11:45 A.M. OAKTON SWIM & RACQUET CLUB, INC., appl. under Sect. 18-401 of the Ord. to allow gravel parking lot for community swim and tennis club (dustless surface req. by Sect. 11-102), located 11600 Waples Mill Estates, R-1, Centreville Dist., 46-2((1))pt. 20; 6.75214 acres, VC 83-C-001. (DEFERRED FROM 3/1/83 FOR REPORT ON SOILS ANALYSIS AND REPORT ON WHAT AUTHORITY THE BZA HAS IN GRANTING A VARIANCE TO THE DUSTLESS SURFACE.)

Jane Kelsey presented a soils report to the Board. DEM recommended that if crushed stone was utilized as a parking surface, such treatment should be considered temporary and subject to reexamination in three years.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. SPA 82-C-067-1 by OAKTON SWIM & RACQUET CLUB, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-82-C-067 for community swim & tennis club to permit deletion of Condition #14 requiring a dustless surface parking lot for a max. 48 spaces, located at 11600 Waples Mill Road, tax map reference 46-2((1))pt. 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 March 22, 1983; 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 6.75214 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.

The original conditions as listed below are still in effect with a change in wording in condition #14.

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. The membership in the club shall be limited to 500.
7. Transitional screening and a barrier shall be waived and in lieu thereof shall be the following:

The area between the tennis courts and the adjacent properties shall be planted in evergreens as indicated on the certified plat submitted with the application.

The areas along all other property lines shall remain in its natural wooded state as shown on the plats. Supplemental screening shall be required at the discretion of the Director. At such time as the active recreation area is developed, the applicant shall provide transitional screening as approved by the Director along the common boundary line with lots 91, 92, 88, 87, 72, and 86.

8. The tennis court lights shall be either of a low design which projects light only on the tennis courts, or shall be shielded so as to prevent glare on adjacent properties. An automatic shut-off shall be installed to prevent use except during approved hours of operation.
9. In consideration of local soil conditions, the pool shall be engineered and constructed to ensure pool stability, including the installation of an adequate number of hydrostatic relief valves.
10. A water discharge system shall be provided in accordance with plans approved by the Health Department, and the Health Department shall be notified before any pool waters are discharged during any draining or cleaning operation.
11. Stormwater management measures and best management practices shall be provided as deemed appropriate by the Director.

12. If a public address system or loudspeaker is installed, it shall be oriented toward the north to northwest, and its use shall be limited to swim meets, special parties, and emergencies. Its volume shall be modulated to comply with the requirements of the Noise Ordinance.

13. Hours of operation shall be between 9 A.M. and 9 P.M. for the swimming pool, except that competitive teams from the swim club be allowed to practice as early as 7 A.M., and between 7 A.M. and 10 P.M. for the tennis courts. After hours parties shall be governed by the following:

- *limited to six (6) per season
- *limited to Friday, Saturday and pre-holiday evenings
- *shall not extend beyond 12:00 midnight
- *shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
- *requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after hour party.

14. A dustless surface parking lot shall be provided for 48 spaces. Additional spaces may be allowed provided a variance to the dustless surface requirement is obtained.

15. Residents of the surrounding Waples Mill Estates Subdivision will be granted priority for membership.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Hyland)

R E S O L U T I O N

In Application No. VC-83-C-001 by OAKTON SWIM & RACQUET CLUB, INC. under Section 18-401 of the Zoning Ordinance to allow gravel parking lot for community swim and tennis club (dustless surface req. by Sect. 11-102) on property located at 11600 Waples Mill Estates, tax map reference 46-2(1)pt. 20, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 22, 1983; 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 6.75214 acres.
4. The hardship is to satisfy environmental conditions.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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:

Due to the potential for a perched water table in the area of the pool, a soil report was submitted to the Design Review Office on March 2, 1983 for Oakton Swim and Racquet Club. The soil engineer has recommended installing a Hydrostatic Relief Valve in the pool to relieve this problem. The County Soil Scientist and the Department of Environmental Management have reviewed this report and concur in its recommendations.

On March 16, 1983 a second soil report was submitted. This report evaluates the parking lot area and makes recommendations for engineered fill and 9" course of crushed stone to insure the stability of the parking facility.

In the event that crushed stone is utilized as a parking surface, such treatment should be considered temporary and subject to reexamination in 3 years for a determination to whether paving will be required.

1. This approval is granted to the applicant only and is not transferable without further action of this Board. The variance is granted for the parking lot shown on the plat included with this application.

2. Sixty (60) days prior to the three (3) year expiration date, the applicant shall file for a renewal of the variance, and such application shall be processed in accordance with the procedures set forth in Sect. 8-013 of the Zoning Ordinance.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

Page 388, March 22, 1983, AFTER AGENDA ITEMS:

V-251-79/JACK CHOCOLA: The Board was in receipt of a letter requesting an extension of the referenced variance application. It was the consensus of the Board to grant a six month extension.

Page 388, March 22, 1983, AFTER AGENDA ITEMS:

S-81-D-016 & V-81-D-048/CANTERWOOD HOMEOWNER ASSOCIATION: The Board was in receipt of a letter requesting an extension of the captioned permits. It was the consensus of the Board to grant a six month extension. The new expiration date with the extension approval was November 19, 1983.

// There being no further business, the Board adjourned at 1:15 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on November 5, 1984 APPROVED: November 8, 1984
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, March 29, 1983. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (departing at 1:00 P.M.); Gerald Hyland (departing at 12:00 Noon); Ann Day; Paul Hammack; John Ribble and Mary Thonen (arriving at 10:30 A.M.).

The Chairman called the meeting to order at 10:20 A.M. and Mrs. Day led the prayer.

Page March 29, 1983, After Agenda Items

APPROVAL OF MINUTES: Mr. Hyland moved that the Board approve the Minutes of July 21, 1981 as submitted. Mr. DiGiulian seconded the motion and it passed by a vote of 6 to 0 (Mrs. Thonen being absent).

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Page 389, March 29, 1983, Scheduled case of

10:00 KEVIN G. & NANCY V. HENNESSY, appl. under Sect. 18-401 of the Ord. to allow A.M. construction of porch addition to dwelling to 12.2 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), located 3210 Miller Heights Rd., Mill Run Crossing Subd., R-1(C), Providence Dist., 47-1((9))31, 23,962 sq. ft., VC 83-P-008.

Ms. Jane Kelsey presented the staff report. Mr. Hyland noted that there were two significant differences for this lot versus the other lots in the subdivision which were not contained in the staff report. First, the other lots had septic fields located at the rear and the subject property had a septic field in the front. This caused the structure to be pushed further to the rear of the property. He questioned staff's position that the applicant enjoyed a reasonable use of the property and, therefore, did not satisfy the standards for the granting of the variance. Ms. Kelsey explained that the applicant could build a concrete slab without a variance. Mrs. Day indicated that the Board had granted several variances for decks in the past for people who had sliding glass doors at the second level. It was ridiculous to tell the applicant not to use his french doors.

Mr. Kevin Hennessy of 3210 Miller Heights Road agreed with the Board that the property was placed in its unique situation as a result of a decision by the builder and the County. He was not aware of the reason for moving the house farther back on the lot. The house could have been moved up 20 ft.. In addition, the house was situated askew on the property. If the house had been placed correctly with the angle of the lot, a variance would not have been necessary. Mr. Hennessy explained that there was parkland all around the back of his lot. There was only one abutting neighbor which was not visible. Mr. Hennessy presented the Board with a signed statement from the abutting property owners of lot 32 and lot 30, Mr. Jones and Mr. Merrick. They understood the request for the variance and were not opposed. Mr. Hennessy stated that he had not heard from the Fairfax Co. Park Authority. Mr. Hennessy stated that the back was designed for a deck as the land sloped off 10 to 12 ft. There was a basement on ground level.

In response to questions from the Board, Mr. Hennessy stated that the only development to the parkland would be the construction of a woodchip nature trail. Chairman Smith indicated that the applicant could build a 8 ft. deck without a variance and still accommodate the french doors. Mr. Hennessy stated that it would have to be completely unenclosed and unroofed. Ms. Kelsey informed the Board that the applicant was proposing a screened porch underneath the deck. Mr. Hennessy stated that by building in accordance with the restrictions, he would not have a reasonable enjoyment of the back yard area. There was a creek and a floodplain at the back and the enclosure would prevent the bugs from disturbing their enjoyment.

Mr. Hennessy stated that the deck would come out 14 ft. An 8 ft. deck would not serve his purpose. He indicated that his request would not intrude on anyone. Mr. Hennessy stated that other variances had been granted for his subdivision. Chairman Smith indicated that the other variances were only for decks and not enclosed porches. Mrs. Day noted that the applicant had 1/2 acre but could only use 1/3 of it. She stated that he could not use the front yard.

There was no one else to speak in support and no one to speak in opposition.

Page 389, March 29, 1983
KEVIN G. & NANCY V. HENNESSY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC 83-P-008 by KEVIN G. & NANCY V. HENNESSY under Section 18-401 of the Zoning Ordinance to allow construction of porch addition to dwelling to 12.2 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), on property located at 3210 Miller Heights Rd., tax map reference 47-1((9))31, County of Fairfax, Virginia, Mr. Hammack 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 March 29, 1983; 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 23,962 sq. ft.
4. That the applicant's property has an unusual topographic condition which resulted in the siting of the septic field in the front of the property covering the better part of the entire front half of the property and, as a consequence, it resulted in the residence being placed in the far southwest corner of the property very close to the existing lot lines. And, further, that the front of the property has a drainage easement going across it which probably resulted in the building being set further back. The property is unlevel and the topographic conditions are such that there is an unusual condition in the location of the existing building in the rear southwest corner. The house has french doors on the first floor which is 10 to 12 ft. from the surface level at the rear of the house. The only two dwellings that are adjacent to the property will not be affected in any way and the subject property is adjacent to County park land. The County has not objected to the requested variance and according to testimony of the applicant has no real development plans other than the future addition of a nature trail.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Page 390, March 29, 1983, Scheduled case of

10:10 ELIZABETH ANN FRETZ, appl. under Sect. 18-401 of the Ord. to allow subdivision
 A.M. into 2 lots, proposed lot 16B having a width of 23.40 ft. and proposed lot 16C
 having a width of 22.55 ft. (100 ft. min. lot width req. by Sect. 3-206), located
 at 3163 Woodland Ln., Woodland Park Subd., R-2, Mt. Vernon Dist., 102-3((4))16A,
 65,191 sq. ft., VC 83-V-009.

The Board was in receipt of a letter from Mr. George A. Fonda, adjacent neighbor to the applicant, requesting a deferral of the variance as he was out of town until April 11, 1983. Ms. Fretz and her engineer were present and prepared to proceed with the hearing. It was the consensus of the Board that if Mr. Fonda had a problem with the variance, he should have discussed it in his letter. Accordingly, it was the consensus of the Board to deny Mr. Fonda's request and proceed with the hearing as scheduled.

Ms. Kelsey presented the staff report. She indicated that the BZA had approved a variance to the minimum lot width in 1977 of which this property had been included. Now the applicant was attempting to develop the 65,191 sq. ft. parcel. In order to develop it, a variance was necessary to the minimum lot width for each of the proposed lots. The density was in conformance with the Master Plan. There were some environmental constraints but they had been addressed in the development conditions proposed by staff. Staff had concerns that the larger of the three proposed lots would be subdivided at some future time. Accordingly, the applicant submitted a revised plat reducing the larger parcel to below one acre and increasing the smaller lot.

Mr. Kenneth White, the engineer for the applicant, explained in response to questions from the Board, that there was too much floodplain to develop the property in a cluster development. He indicated that the applicant had a buyer for the property of lot 16-A. She was trying to create the additional building lot but the deal fell through. Mr. White stated that the original lots were developed. There was only 1.6 acres remaining. Ms. Kelsey informed the Board that the applicant would need 7 acres for a cluster development in the R-2 zoning district. The Board indicated that a plan would make a better arrangement than piecemeal development.

Mr. DiGiulian inquired as to the topographic situation. Mr. White explained that there were two good building sites on lot 16-B. There was a good building site on the western side of lot 16C. He indicated that they had not planned to disturb the lower end of the floodplain on lot 16C. Mr. White indicated that the position of the proposed property lines was dictated by the need for two building sites.

Ms. Elizabeth Fretz informed the Board that the reason the property was not subdivided originally was because she had a buyer for 1 1/2 acres. The buyer wanted to build a home with a pool. The process took so long that he bought elsewhere. Ms. Fretz stated that she wanted to hold onto her property for herself. She stated that there was a builder who was interested in purchasing the rear of her property. Ms. Fretz stated that it was impossible to build a cluster subdivision. She indicated she had been told to tear down her home and build houses all around the property. Ms. Fretz did not want to have to sell her home and move out of the county. Ms. Fretz stated that she was unaware of any objection and would have discussed her plans in detail with Mr. Fonda if contacted. She stated that her property was all woods but she could not afford to have parkland for the neighbors. Mrs. Fretz stated that she had owned the property for 32 years.

Mr. William Seymour spoke in support of the variance. He indicated that the property had a natural ravine which flowed into the floodplain. The applicant would not be able to use 50 ft. He stated that the property could accommodate a very nice residence as the land was high at the center. He had no objection to the development as proposed.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. VC 83-V-009 by ELIZABETH ANN FRETZ under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, proposed lot 16B having a width of 23.40 ft. and proposed lot 16C having a width of 22.55 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 3163 Woodland Lane, tax map reference 102-3((4))16A, 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 29, 1983; 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 65,191 sq. ft.
4. That the applicants' proposed subdivision is in conformance with the Master Plan and the property is exceptionally irregular in shape and has topographic problems including 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 variance is approved for the subdivision of this lot into two lots as shown on the plat included with this application and is not transferable to other land.
2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen

R E S O L U T I O N

at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

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

4. No fill, grading, or development shall be permitted within the 100-year floodplain of Little Hunting Creek.

5. An engineering soils report shall be prepared before any construction is undertaken so that soil conditions can be taken into account in construction plans.

Mrs. Thonen seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 392, March 29, 1983, Scheduled case of

10:20 ST. ANDREWS EPISCOPAL CHURCH, appl. under Sect. 3-103 of the Ord. to amend
A.M. S-81-S-044 for church & related facilities to permit addition to building, an
additional parking lot, and a child care center, located 6509 Sydenstricker Rd.,
& R-1, Springfield Dist., 88-2(1)5, 7.8135 acres, SPA 81-S-044-1.

10:20 ST. ANDREWS EPISCOPAL CHURCH, appl. under Sect. 18-401 of the Ord. to allow gravel
A.M. surface to additional parking lot for church and child care center (dustless
surface req. by Sect. 11-102), located 6509 Sydenstricker Rd., R-1, Springfield
Dist., 88-2(1)5, VC 83-S-010.

Ms. Jane Kelsey presented the staff report. Mr. Hyland indicated that he did not have Appendix 8 which was the Health Department report which had a bearing on the hours of operation for the child care center. The development conditions indicated the hours to be from 8 A.M. until 2 P.M. He inquired as to how the shifts would operate to accommodate the proposed 99 children. Ms. Kelsey stated that the normal morning shift was from 9 A.M. to 12 P.M. She indicated that the greater hours would allow for flexibility for scheduling. Mr. Hyland inquired as to why the hours had been changed in the development conditions. Ms. Kelsey explained that the staff had changed the hours in order to accommodate the future use of the child care center.

Ms. Kelsey informed the Board that Mr. Gressick from the Office of Transportation was present to address condition no. 11 regarding road improvements. The applicant had some concern regarding the road improvement and dedication and did not want to be tied down to it. Mr. Gressick informed the Board that Sydenstricker Road was planned to be widened to four lanes. Because there had been several rezonings in the area, Mr. Gressick stated that DEM would have to make the recommendation. Generally, DEM required dedication along an arterial road for a day care center and commercial uses on residential property. Mr. Gressick stated that condition no. 11 could be read to say that the County could require a six lane highway. Mr. Gressick stated that if the applicant was uncomfortable with the language, he could appeal it. In response to questions from the Board, Mr. Gressick stated that there were not any plans to widen the road at this time. The Board indicated that it could be 10 to 15 years before road construction took place.

Mr. DiGiulian indicated that as there was not a master plan with the exact vertical and horizontal alignment planned, it would be better to require dedication and some type of contribution at the time the VDH&T actually constructed the road. Whatever was built prior to that time would have to be torn out. Mr. DiGiulian stated that if the BZA put a condition about construction in the resolution, then DEM would require the applicant to construct it. Mr. Gressick stated that he did not believe it would require construction of anything but any road improvements should be subject to DEM approval. Mr. Gressick stated that DEM would probably only require an agreement to construct at such time as the adjacent property was developed. Mr. DiGiulian stated that he wanted to see condition no. 11 revised as it presently stated that road improvements shall be provided. He suggested that any road improvements be subject to DEM at the time of site plan review.

Mr. James Maloney, an attorney, represented the church. Mr. Maloney stated that the applicants were willing to dedicate for future road widening and would enter into an agreement to do so. He stated they would work with Oscar Hendrickson through the site plan review process, however, Mr. Maloney did not want the church to have to do whatever Mr. Hendrickson said. The church was reserving its right to appeal as to the language in the staff report. Mr. Maloney stated that he did not want the BZA to impose a condition as he preferred the matter to be tied to the Site Plan Ordinance.

Mr. Maloney requested the Board to revise the wording in development condition no. 10 to allow the applicant an alternative to reduce the noise level to 65 dpa. The staff indicated they did not have a problem with the request to allow the applicant other means to achieve that level. Mr. Maloney stated that the church might already meet the decibel levels as it was located 10 ft. above the roadway.

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Mr. Maloney informed the Board that there was community support and he presented letters from some of the surrounding property owners.

With respect to the request for the variance, Mr. Maloney stated that the property was an irregularly shaped lot. The church wanted to put the permanent parking on the property next to Mr. Graham. They were asking for a temporary variance to allow the development at a future time. The church wanted to put in gravel at the present time and continue the gravel for three years.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. SPA 81-S-044-1 by ST. ANDREWS EPISCOPAL CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit addition to building, an additional parking lot, and a child care center, located at 6509 Sydenstricker Road, tax map reference 88-2((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 March 29, 1983; 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 7.8135 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 on the application and is not transferable to other land.
2. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The hours of operation for the child care center shall be from 8:00 A.M. to 2:00 P.M.
5. The maximum enrollment for the child care center shall be ninety-nine (99).
6. The transitional screening and barrier requirement shall be modified to allow the existing trees to remain where possible and supplemental screening provided as determined by the Director of the Department of Environmental Management.
7. The parking lot lights shall be of the low design as provided in the existing lot.
8. The portion of the building in which the classrooms and nursery areas are located shall be acoustically treated to achieve ambient noise levels no higher than 45 dBA Ldn.
9. The portion of the play area not shielded from Old Keene Mill Road by the proposed building, shall be shielded by berms or acoustical fencing not less than six (6) feet in height which is architecturally solid and flush with the ground or take such other measures in order to achieve maximum exterior noise levels of 65 dBA Ldn as imposed by the Environment and Policy Division.
10. Right-of-way dedication shall be provided alongside Sydenstricker Road as determined by the Director of Environmental Management at the time of site plan review. Road improvements shall be provided alongside Sydenstricker Road as required by the Director of Environmental Management in accordance with the Site Plan Ordinance and subject to any appeal rights of the applicant.

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

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RESOLUTION

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Under Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of granting of the Special Permit. A request for extension must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mrs. Thonen seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

RESOLUTION

In Application No. VC 83-S-010 by ST. ANDREWS EPISCOPAL CHURCH under Section 18-401 of the Zoning Ordinance to allow gravel surface to additional parking lot for church and child care center (dustless surface required by Sect. 11-102), on property located at 6509 Sydenstricker Road, tax map reference 88-2(1)5, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 29, 1983; 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 7.8135 acres.
4. That the variance is approved on a temporary basis as the applicant is contemplating the purchase of additional adjoining land.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 to the applicant only and is not transferable without further action of this Board. The variance is granted for the parking lot and driveway shown on the plat included with this application.
2. The gravel parking lot and driveway shall be constructed in accordance with the construction standards for a gravel base as presented in the Public Facilities Manual.
- 2A. Regarding the southeast portion of the parking lot, that any unusual wetness condition be corrected in accordance with required standards.
3. This variance is approved for a period of three (3) years.
4. If the applicant desires a renewal, the application shall be filed for such renewal sixty (60) days prior to the expiration date. Such application shall be processed in accordance with the procedures set forth in Section 8-013 of the Zoning Ordinance.

Mr. Hyland seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Mr. Charles Simmons, Senior Warden of 6727 Bellemey Avenue in Springfield informed the Board that this was his first participation in the activities or agencies of Fairfax County. He just wanted to tell the Board members that he was very impressed by the thoroughness of the BZA in protecting the interests of all the people in Fairfax County. Chairman Smith thanked Mr. Simmons for his kind remarks.

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At 12:00 Noon, Mr. Hyland left the BZA meeting and did not return.

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Page 395, March 29, 1983, Scheduled case of

10:40 A.M. FAIRFAX YACHT CLUB, INC., appl. under Sect. 3-E03 of the Ord. to permit a private non-profit yacht club, located at 10721 Old Colchester Rd., R-E, Mt. Vernon Dist., 117-1(1)4, 4.7506 acres, SP 83-V-007. (BZA ISSUED INTENT TO DEFER TO MAY 3, 1983 AT 11:00 A.M.).

It was the consensus of the Board to defer the special permit application until May 3, 1983 at 11:00 A.M.

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Page 395, March 29, 1983, Scheduled case of

11:10 A.M. EDWARD R. CARR & ASSOCIATES, INC., appl. under Sect. 6-104 of the Ord. to permit continuation of Temporary Special Permit for subdivision sales office beyond its present term, located 10961 Adare Dr., Fairfax Club Estates, PDH-3, Annandale Dist., 77-1(12)36A, 13,390 sq. ft., SP 83-A-008.

Mr. William Shoup presented the staff report. Mr. Tom Davis of the Edward R. Carr Associates on Little River Turnpike in Annandale informed the Board that this was a request to extend the use of a sales office. The office had been in existence for several years now. The new sales office was for a temporary line of houses offered within the subdivision. Two hundred homes were being developed by Edward R. Carr. The lot for the model had been sold to EPIC under a lease back arrangement. The only objection to the sales office was to the off-street parking. However, the use had been in existence for several years and there were not any problems with parking. The street was 44 ft. wide and was adequate for 55 cars per day even with parking on both sides of the street. Mr. Davis indicated that not much traffic was generated. There were only 15 to 20 visitors over an entire day on a weekend. He did not feel that off-street parking should be a requirement of the special permit. Even with the economy picking up again, Mr. Davis did not feel that parking would be a problem.

In response to questions from the Board, Mr. Davis stated that the special permit had expired six months ago but they were still using the home as a sales office. The lease back arrangement was for as long as they would need it. Mr. Shoup stated that he had reviewed the files and had not observed any violation or complaint about the parking in the past. Mr. Shoup indicated that it would take a minimum of four parking spaces for the employees and a sufficient number for traffic coming to visit. He indicated that it had been worked out at the time of the site plan waiver and was based on the size of the subdivision and the number of lots to be sold. It was hard to designate an exact number as it was not in the Ordinance. The Board indicated that some provision had to be made with respect to parking. Mr. Shoup stated that there were two employees at each of the two sales offices.

There was no one else to speak in support and no one to speak in opposition.

Page 395, March 29, 1983

Board of Zoning Appeals

EDWARD R. CARR & ASSOCIATES, INC.

R E S O L U T I O N

Mr. Ribble made the following motion:

WHEREAS, Application No. SP 83-A-008 by EDWARD R. CARR & ASSOCIATES, INC. under Section 6-104 of the Fairfax County Zoning Ordinance to permit Temporary Special Permit for subdivision sales office beyond its present term, located at 10961 Adare Drive, tax map reference 77-1(12)36A, 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 29, 1983; and

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

1. That the applicant is the lessee.
2. That the present zoning is PDH-3.
3. That the area of the lot is 13,390 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:

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R E S O L U T I O N

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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 on the application and is not transferable to other land.
2. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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 an approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. Eight (8) temporary parking spaces shall be provided on site or on the adjacent lot 37A to accommodate four (4) employees and any visitors that might be anticipated by the applicant to be on site on a typical Sunday. The applicant shall submit a revised plat to the BZA showing the parking arrangement. Employees shall be required to park off-street in the temporary parking facilities.
5. Hours of operation shall be from 11:00 A.M. to 6:00 P.M., seven days a week.
6. This permit is granted for a period of two years from this date.

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

Under Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of granting of the Special Permit. A request for extension must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hyland being absent).

Page 396, March 29, 1983, Scheduled case of

11:30 A.M. JAMES F. STEFFEY, appl. under Sect. 3-803 of the Ord. for a home professional office (Real Estate & Manufacturer's Representative), located 2911 Sutton Rd., Sutton Green Subd., R-8, Providence Dist., 48-1((1))pt. 98, 7,404 sq. ft., SP 83-P-006. (DEFERRED FROM MARCH 22, 1983 FOR NOTICES).

Mr. William Shoup presented the staff report which recommended approval of SP 83-P-006 subject to the conditions set forth in the Development Conditions in Appendix I. Ms. Ann Hardock, an attorney with Boothe, Prichard & Dudley, 4103 Chain Bridge Road, Fairfax, represented Mr. Steffey. She stated that the application was for a special permit for a home professional office. To the south of the property was I-66. The use was in compliance with the Comprehensive Plan and was an ideal choice for a home professional office. She stated that this would be Mr. Steffey's principal residence. If he was permitted to use the dwelling, he would make the badly needed repairs and reburish the siding. Ms. Hardock stated that the applicant did not have any problems with the suggested development conditions. The hours of operation would be from 9:00 A.M. until 5:00 P.M., Monday through Friday. Adequate parking would be provided. She indicated that the noise problem would be addressed. Ms. Hardock stated that all of Mr. Steffey's business was done over the phone.

In response to questions from the Board, Ms. Hardock stated that the applicant was a manufacturer's representative and sold home sewage treatment systems over the phone. Chairman Smith inquired if this operation or business had any relation to the Steffey operation on Annandale Road. Ms. Hardock stated that was the father of the applicant and was a separate business.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 83-P-006 by JAMES F. STEFFEY under Section 3-803 of the Fairfax County Zoning Ordinance to permit a home professional office (Real Estate & Manufacturer's Representative), located at 2911 Sutton Road, tax map reference 48-1((1))pt. 98, 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 March 29, 1983; 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-8.
3. That the area of the lot is 98,704 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 on the application and is not transferable to other land.
2. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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 an approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property.
4. The Non-Residential Use Permit shall not be issued until the proposed subdivision has been recorded and the proposed access has been constructed.
5. The maximum number of employees shall be four (4), including the applicant.
6. The number of clients on the property shall be limited to one (1) at any one time with a total of five (5) per week.
7. The hours of operation shall be 9:00 A.M. to 5:00 P.M., Monday through Friday.
8. Six (6) parking spaces shall be provided. All parking associated with this use shall be restricted to the proposed lot which is the subject of this application.
9. There shall be no signs displayed on the property in conjunction with this use.
10. The property shall be open for inspection by County personnel during the hours of operation.
11. Compliance with proffered condition #8 of rezoning application number 81-P-116 shall be required prior to the establishment of this use and the issuance of a Non-Residential Use Permit. This proffered condition reads as follows:
During renovation which will commence at preliminary site plan approval or during construction, the existing structure will be retrofit with storm windows, insulation will be added in the attic areas and insulation will be added where possible to exterior walls especially on side where direct exposure to highway occurs.
12. A waiver of the transitional screening and barrier requirements may be permitted subject to adequate landscaping and planting being provided as determined by the Director of the Department of Environmental Management.
13. This permit is granted for a period of five (5) years from this date.

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

Under Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of granting of the Special Permit. A request for extension must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hyland being absent).

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Page 398, March 29, 1983, Scheduled case of

11:45 RIVERBEND GOLF & COUNTRY CLUB, INC., appl. under Sect. 3-E03 of the Ord. to amend
A.M. S.U.P. #5669 for country club, for approval of several existing additions and to permit enclosure of existing porch and construction of shelter over existing deck, located at 9901 Beach Mill Rd., Acreage Subd., R-#, Dranesville Dist., 8-1(1)22, 23 & 41 and 8-3(1)4, 151.321 acres, S-82-D-101. (DEFERRED FROM 1/25/83 FOR ADDITIONAL INFORMATION FROM ZONING ENFORCEMENT STAFF INSPECTION OF PROPERTY WITH REGARD TO TENNIS COURT LIGHTS AND SECURITY LIGHTS AFFECTING LOTS 7 & 16, AND DEFERRED FROM 2/15/83 & 3/15/83 FOR CORRECTION OF TENNIS COURT AND SECURITY LIGHTS TO THE SATISFACTION OF THE BOARD OF ZONING APPEALS).

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Ms. Jane Kelsey advised the Board that she had been informed by Mr. Ken Bryan that the shields had been installed on the tennis lights and were redirected. She stated that the earliest the staff could inspect the lights had been the previous evening. However, there were only two teenagers at the club who let the staff in but they did not know how to operate the lights. The inspector managed to turn two of the lights on in order to get a reading and it appeared to be in order. There was not any violation at the gate in addition to the street light. Ms. Kelsey stated that they visited with Mr. Elgin who did not have a problem with the gate light. Ms. Kelsey indicated that it appeared that the light problem had been reduced.

Ms. Kelsey stated that the staff would not be able to reevaluate the lights before April 19th. It was the consensus of the Board to defer the matter until April 19, 1983 at 9:00 P.M. The club was advised that they could use the lights since the shields were installed. They were further advised to instruct everyone on how to operate the lights.

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Page 398, March 29, 1983, Scheduled case of

12:00 ROBERT TRUMBLE/DR. INDER JIT BHAMBRI & DR. VIRENDRA P. SIROHI, appl. under Sect.
P.M. 18-401 of the Ord. to allow subdivision into two lots, proposed lot C-3B having width of 12 ft. (200 ft. min. lot width req. by Sect. 3-E06), Peacock Station, R-E, Dranesville Dist., 19-2(9)C-3, 5.0 acres, V-82-D-224. (DEFERRED FROM 2/22/83 FOR NOTICES AND FROM 3/22/83 AT THE REQUEST OF THE APPLICANT).

The Board was in receipt of a letter from the applicant seeking withdrawal of the application. Mr. DiGiulian moved that the Board allow the withdrawal without prejudice. Mr. Ribble seconded the motion. The motion passed by a vote of 6 to 0 (Mr. Hyland being absent).

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Page 398, March 29, 1983, After Agenda Items

Robert J. LaFerriere, VC 83-D-044: The Board was in receipt of a request from Mr. LaFerriere for an out-of-turn hearing on the variance application to allow construction of a barn for his horses. The hardship cited for the out-of-turn hearing was that he needed protection for his horses from the elements.

Mrs. Thonen moved that the Board deny the request for the out-of-turn hearing. Mr. Hammack seconded the motion and it passed by a unanimous vote of 6 to 0 (Mr. Hyland being absent).

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Page 398, March 29, 1983, After Agenda Items

Douglas Robinson, SP 83-S-021: The Board was in receipt of a request from Mr. Douglas Robinson seeking an out-of-turn hearing on his special permit application to allow construction of a deck in an R-C District. His hardship was that he was unaware of the change to the zoning and had already contracted with a builder and purchased materials. A delay in construction would mean that his builder would be involved in other projects and would not be available to build his deck.

It was the consensus of the Board to grant the request. The hearing was scheduled for Tuesday, May 10, 1983 at 10:00 A.M.

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Page 398, March 29, 1983, After Agenda Items

The Swim & Tennis Club at Fairfax Station, Inc.: The Board was in receipt of a request from Rosemary Szymczak for an amendment to the operating hours of the swim & tennis club. The club had listed hours as 6:00 A.M. to 10:00 P.M. but were now asking that the closing hour be 11:00 P.M. It was the consensus of the Board that the matter be deferred until April 12, 1983.

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Page 399, March 29, 1983, After Agenda Items

Andrea Fields, V-81-D-024: The Board was in receipt of a request for an extension of the variance granted to Andrea Fields. It was the consensus of the Board to grant a six month extension extending the expiration date until October 7, 1983.

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Page 399, March 29, 1983, After Agenda Items

Kiddie County Day Care, Ltd., S 82-S-046: The Board was in receipt of a memorandum from Jane Kelsey regarding review and approval of a modification to the transitional screening for the special permit issued to Kiddie Country Day Care, Ltd.

For review purposes, Ms. Kelsey informed the Board that the special permit had been the subject of a public hearing on August 5, 1982. The motion to approve the application resulted in a 3 to 2 vote which was not deemed a vote of approval by the BZA. However, based on a subsequent court hearing, it was determined that the application was approved subject to the conditions that were specified on August 5, 1982.

On December 7, 1982, the BZA had approved a revised site plan in accordance with condition no. 3. Condition no. 6 related to the transitional screening and barrier requirement. The County staff felt that a path should be provided to the tot lot area because of the severe grades. The path would allow access to the tot lot area without disturbance to the other classroom areas. Since the path was not shown on the revised plat, the staff believed the BZA should approve such a modification. The proposal had been reviewed and approved by both Mr. Wayne Powers, the contiguous property owner on lot 18 and by Mr. Phil Garman, Landscape Architect for DEM.

Mr. DiGiulian moved that the Board approve the modification as outlined in the memorandum by staff. Mr. Hammack seconded the motion and it passed by a vote of 6 to 0 (Mr. Hyland being absent).

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Page 399, March 29, 1983, After Agenda Items

Providence Presbyterian Church, S 82-A-039: The Board was in receipt of a request from James W. Whitehead of Dewberry & Davis for approval of minor engineering changes for the Providence Presbyterian Church. The changes involved an approved site plan from DEM indicating a relocation of an existing light in the gravel parking lot as well as the designation of six other lights throughout the parking lot. The site plan reviewed by the BZA at the time of the public hearing did not indicate the lighting.) In addition, the church was seeking approval of a gate which was installed on the church's access to prevent the public from using the church property as a public thoroughfare. (The gate was not shown on the site plan at the time of the public hearing).

Ms. Kelsey discussed the matter of the lights with the Board. She indicated that even though the lights were not a structure, it could impact adjacent property owners. Ms. Kelsey inquired of the Board as to what it considered to be a minor engineering change. Chairman Smith explained that the position in the past had been that a reduction in the size or a building was a minor engineering change. Relocation of a roadway or entrance or construction of any additions would require a new application.

It was the consensus of the Board that the modifications could not be construed as "minor engineering details" and could not be approved by the Board without the benefit of a public hearing process. Accordingly, the Clerk was directed to inform the church to file an amendment to its existing Special Permit.

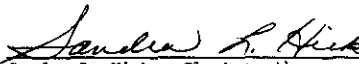
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Page 399, March 29, 1983, After Agenda Items

Madiera School: The Board was in receipt of a request from the Madiera Schook seeking an out-of-turn hearing for an amendment to its special permit. It was the consensus of the Board to deny the request.

// There being no further business, the Board adjourned at 1:45 P.M.

By


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


Daniel Smith, Chairman

Submitted to the Board on November 5, 1984

Approved: November 8, 1984
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, April 12, 1983. The Following Board Members were present: Daniel Smith, Chairman; Ann Day; John Ribble; and Mary Thonen. Gerald Hyland arrived at 10:55 A.M. John DiGiulian and Paul Hammack were absent.

The Chairman opened the meeting at 10:25 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. THOMAS E. COZZO, appl. under Sect. 18-401 of the Ord. to allow subdivision into seven (7) lots, proposed lots 4 & 5 each having width of 6.01 ft., proposed lots 3 & 6 each having width of 63.63 ft., and proposed corner lot 1 having widths of 98.54 ft. and 104.84 ft. (80 ft. min. interior lot width, and 105 ft. min. corner lot width req. by Sect. 3-306), located 7329 Shreve Rd., Highland Forest Subd., R-3, Providence Dist., 40-3((1))47, 2.73 acres, VC 83-P-012.

Chairman Smith announced that the Board had a request from the applicant to withdraw the application. Mr. Ribble made a motion that the applicant be allowed to withdraw without prejudice. Mrs. Thonen seconded the motion. The motion passed by a unanimous vote.

Page 400, April 12, 1983, Scheduled 10:15 A.M. case heard at 10:26 A.M.:

10:15 A.M. E. I. DUPONT DE NEMOURS AND COMPANY/ANTHONY R. AUDIA, TRUSTEE, appl. under Sect. 18-401 of the Ord. to allow subdivision into five (5) lots, proposed lots 3, 4, & 5 each having width of 8.5 ft. (80 ft. min. lot width req. by Sect. 3-306), located 6601 Old Chesterbrook Rd., R-3, Dranesville Dist., 30-4((1))59, 1.94 acres, VC 83-D-013.

William Shoup reviewed the staff report for the Board which stated that it was staff's judgment that this application did not satisfy the Standards for Variances in Section 18-404 of the Ordinance. Mr. Shoup stated that the applicant was asking for a 71.5 ft. variance for each of the three lots. These pipestem lots do not meet the criteria used by the Land Use Planning Division of Comprehensive Planning. Mr. Shoup emphasized that the establishment of pipestem lots along the east property line would affect the use of lots 56, 58, and 60 which are developed, by turning their rear yards into front yards.

Marc Bettius, a lawyer from the firm of Bettius, Rosenberger and Carter, represented the applicants. He stated that this application was compatible with the neighborhood. The three lots that are supposedly affected by this application are served themselves by a 20 foot outlet road. Mr. Bettius stated that because of the property's unusual shape and exceptional depth, development of this property would make it necessary to construct a public street. The construction of a public street would create odd shaped lots which would conform, but would be much smaller than what was proposed. Also, many more trees would have to be removed. Mr. Bettius stated that he had discussed this variance application with the owners of lots 56, 58, and 60. They had no objection if some extra plantings were put in for screening. He stated that this is one case where with neighborhood consent, the Board could preserve a quality on this particular piece of ground which would serve the residents living there and the adjoining property owners. Mr. Bettius asked the Board to impose the additional conditions agreed upon with the adjoining neighbors. He stated that if this application was denied, it would create an incompatibility in the neighborhood. The applicant had had this property under contract for a year, and it was subject to the granting of a variance.

Mrs. Perlick, 6617 Old Chesterbrook Road, the owner of lot 52 directly next door to the property in question, spoke in opposition. She stated that her house set back about 75 feet back from Old Chesterbrook Road. Mrs. Perlick and her husband objected to that size lot being developed with five houses. Also, their house would be looking at the back of all those houses. She stated that Mr. Bettius had not talked to her about this proposal, although he had indicated that everyone in the neighborhood was in complete agreement.

During rebuttal, Mr. Bettius stated that he did not understand staff's point of view on the pipestem. He had a letter signed by the owners of lots 56, 58, and 60 stating they were in agreement if more screening was provided.

There was no one else to speak in support or opposition.

Page 400, April 12, 1983 Board of Zoning Appeals
E. I. DUPONT DE NEMOURS AND COMPANY/ANTHONY R. AUDIA, TRUSTEE
R E S O L U T I O N

In Application No. VC-83-D-013 by E. I. DUPONT DE NEMOURS AND COMPANY/ANTHONY R. AUDIA, TRUSTEE under Section 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed lots 3, 4, & 5 each having width of 8.5 ft. (80 ft. min. lot width req. by Sect. 3-306) on property located at 6601 Old Chesterbrook Road, tax map reference 30-4((1))59, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 12, 1983; 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 1.94 acres.
4. 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. The granting of this variance will not create an unsafe condition with respect to both other properties and public streets. To force compliance with setbacks and requirements would cause undue hardship on the owner.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 variance is approved for the subdivision of this lot as shown on the plat included with this application and is not transferable to other land.
2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. The applicants shall dedicate for public street purposes sufficient right-of-way along the full frontage of the site as determined by the Director, Department of Environmental Management.
4. Road improvements shall be provided as determined by the Director, Department of Environmental Management.
5. An engineering soils report shall be submitted to the Department of Environmental Management and reviewed by the County Soil Scientist prior to subdivision plat approval.
6. The six (6) monarch white oak trees and as many other trees as possible shall be preserved. Plans for such preservation shall be approved by the County Arborist.
7. Landscape vegetation, particularly evergreen shrubs and trees, shall be provided for screening and privacy purposes around each dwelling.
8. The back lot lines shall be screened.
9. The Letter of Agreement dated April 7, 1983 with property owners Jon and Linda Carper, Stephen Dismant, and Justine Davis. This letter hereby confirms our meeting of April 5, 1983 whereby I agreed to plant pine trees (8' to 10' high approximately every ten feet) between the proposed common driveway and your property lines, and to asphalt the common driveways to the proposed houses. In consideration of my doing the foregoing, you have agreed and do hereby agree to support the variance I seek on the above referenced property. This agreement will be made part of the deed and will be passed along with the property. This undertaking on my part is of course contingent upon my securing such variance. If the foregoing terms of our understanding are accurate, understood and agreeable to each of you; I ask that each of you sign your names below as a manifestation of your acceptance and agreement to same.
Signed by Anthony Audia and the above mentioned property owners on April 7, 1983.

Mr. Ribble seconded the motion.

The motion * FAILED by a vote of 3 - 1 (Mr. Smith) (Mr. Hyland abstained) (Mr. Hammack and Mr. DiGiulian being absent)

Page 401, April 12, 1983, Scheduled 10:30 A.M. case heard at 11:10 A.M.:

10:30 A.M. MR. & MRS. TRIPAT M. SINGH, appl. under Sect. 18-406 of the Ord. to allow dwelling and detached garage to remain 9.8 ft. and 7.3 ft. respectively, from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 2793 Fariba Ct., Oak Manor Subd., R-4, Centreville Dist., 48-1(23)15, 10,394 sq. ft., VC 83-C-014.

William Shoup reviewed the staff report for the Board. He stated that a review of the information submitted with the application and records on file in the Zoning office suggests that this application meets all of the standards set forth in Section 18-406 of the Zoning Ordinance.

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Tripat Singh presented his application. He stated that he had purchased the property from Afco International Corporation, the developer of the subdivision. He was provided with an occupancy permit, and therefore assumed that the house had been erected in accordance with the Zoning Ordinance and approved by the proper authorities. Upon receipt of a violation letter from the Zoning office, he had discussed the matter with Afco International Corporation. Apparently the error had occurred when the superintendent tried to provide a better turn-around access to the garage. Consequently, the structure was pushed to the rear. Mr. Singh stated that due to the fact that the error was unintentional and only a corner of the structure was protruding into the minimum side yard, he requested that the variance be approved.

There was no one to speak in support or opposition.

R E S O L U T I O N

WHEREAS, Application No. VC 83-C-014 by MR. & MRS. TRIPAT M. SINGH under Section 18-406 of the Fairfax County Zoning Ordinance to allow dwelling and detached garage to remain 9.8 ft. and 7.3 ft. respectively, from side lot line (10 ft. min. side yard req. by Sect. 3-407), on property located at 2793 Fariba Court, tax map reference 48-1(23)15, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution;

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on April 12, 1983; AND,

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.
2. That non-compliance was no fault of the applicant, but an error by Afco International Corporation. Said corporation presented to buyer/applicant a residential use permit at the time of settlement. Only a corner of the residence extends into the side yard of 7.3 ft. The applicants property is a very unusual shape. The rear yard narrows to a point.

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

1. 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.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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 structure indicated on the plat included with this application, and is not transferable to other land or to other structures on the same land.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. Hammack and Mr. DiGiulian being absent)

10:45 A.M. FOX MILL WOODS SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-81-C-093 for community recreation facilities to permit continuation of the use of tennis court lights, Fox Mill Woods Subd., R-2, Centreville dist., 26-3(10)P2, 5.116 acres, SPA 81-C-093-1.

William Shoup reviewed the staff report for the Board which recommended approval of the special use permit subject to the development conditions listed in the report. He stated that the lighted tennis court lights were granted in a previous permit, #S-81-C-093. Condition #9 of that permit granted the use of the lighted courts for a one year period, and required the applicant to refile an amended application for continued use. A review of the Zoning office files indicated that there had been no complaints regarding the use of tennis court lights. Mr. Shoup stated that the applicant was in compliance with special permit S-81-C-093.

Allen Friedman, 11706 Riders Lane, represented the Fox Mill Woods Swim Club. He handed the Board members a few more letters of support to add to the file, and some pamphlets regarding the type of lights being used. He stated that the lighted courts had been in operation for six months with no complaints.

Bev Jordan, 2630 Black Fir Court, spoke in support. She stated that she lived close to the property and had no complaints regarding the lights. They had not caused any problem for her home or family.

There was no else to speak in support or opposition.

R E S O L U T I O N

Mr. Ribble made the following motion:

WHEREAS, Application No. SPA 81-C-093-1 by FOX MILL WOODS SWIM CLUB, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-81-C-093 for community recreation facilities to permit continuation of the use of tennis courts lights, tax map reference 26-3(10)P2, 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 12, 1983; 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-2.
3. That the area of the lot is 5.116 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 on the application and is not transferable to other land.
2. The approval is granted for the tennis court lights as indicated on the plans submitted with this application. Any additional structure 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 an approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This permit is subject to all other conditions of S-106-76 not altered by this resolution.
5. The hours of operation for the tennis courts and tennis court lights shall continue to be from 8:00 A.M. to 10:00 P.M., May through October, and 8:00 A.M. to 8:00 P.M., November through April.
6. The use of the tennis court lights shall be regulated by a key control system and an automatic shutoff device to insure the lights are automatically cut off at 10:00 P.M.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. Hammack and Mr. DiGiulian being absent)

11:10 A.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, appl. under Sect. 3-103 of the Ord. to permit a building addition, existing storage shed and satellite earth station addition to existing church facilities, located 1325 Scotts Run Rd., R-1, Dranesville Dist., 30-1((9))3, 5.3929 acres, SP 83-D-009.

William Shoup reviewed the staff report for the Board, which recommended approval of the special permit application subject to the development conditions shown in the report.

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He stated that the subject church was constructed prior to the December 4, 1972 Zoning Ordinance amendment, therefore, the church was not under special permit. He also indicated that the existing storage shed constructed in 1980 had a building permit, but the church was not required at that time to get special permit approval.

James Lestian, the architect for the project, represented the church. He stated that the proposed building additions would house two ecclesiastical offices with a work room and conference room. It would be primarily be used one or two evenings a week and on Sundays. The area around the addition would be landscaped. Mr. Lestian stated that the antenna would be located in a court area, surrounded on three sides by the church building and on one side by tall bushes. The antenna was located so that it was not in direct view of any of the neighbors. The proposed satellite antenna would receive broadcasts from the church broadcasting system located in Salt Lake City, Utah. Mr. Lestian stated that the antenna would be used only as a receiver and would not be used to receive any commercial transmissions.

Earl Richey, 6510 Old Chesterbrook Road, McLean, spoke with regard to the application. The Board members had questioned the fact that the owner of the subject property was listed as Julian C. Lowe. Mr. Richey explained that this was a lay church and periodically the leadership changes. At the time of the original application, Mr. Lowe was the head of the congregation. Since that time there have been other changes, and Mr. Richey was the present head of the congregation.

Dr. Cecil Jacobson, 7505 Box Elder Court, spoke regarding the application. He stated that he was not speaking against the application, but only wished to call attention to a problem. He felt that there was a traffic problem in the area of church, and he felt that a traffic light should be installed or a policeman to assist the traffic flow.

Robert Bodine, 6210 Greeley Blvd., Springfield, spoke with regard to the application. He stated that he wanted to get his two bits in every time he saw the government trying to lay another unnecessary regulation on someone. He referred to Appendix 1 of the staff report, condition #5, which said the satellite earth station shall be used only to receive church-related transmissions. He felt that it should be changed to read "...to receive signal". Mr. Bodine was of the opinion that the church could use the satellite to watch anything they wished. In response, Mr. Shoup stated that the intent of staff in applying that condition was to ensure that what was received and viewed on the property would not create any impact. There was always a potential that some major event could attract a large number of people. Mr. Shoup stated that it was not the intent of the church to do that, but it was felt that there should be a condition to safeguard the neighborhood.

There was no one else to speak in support or opposition to the application.

Page 404, April 12, 1983 Board of Zoning Appeals
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. SP 83-D-009 by CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS under Section 3-103 of the Fairfax County Zoning Ordinance to permit a building addition, existing storage shed and satellite earth station addition to existing church facilities, located at 1325 Scotts Run Road, tax map reference 30-1(9)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 April 12, 1983; 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 5.3929 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 on the application and is not transferable to other land.
- 2. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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 an approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
 4. The transitional screening and barrier requirements may be modified, provided the existing screening and fencing is retained along all property lines. Additional screening and landscaping may be required at the determination of the Director of the Department of Environmental Management at the time of site plan review.
 5. The satellite earth station shall be used only to receive church-related transmissions.

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

Under Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of granting of the Special Permit. A request for extension must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. Hammack and Mr. DiGiulian being absent)

Page 405, April 12, 1983, Scheduled 11:30 A.M. case heard at 11:50 A.M.:

11:30 A.M. HAROUTIUM A. TCHOLAKIAN, appl. under Sect. 3-103 of the Ord. for a home professional office (free-lance photography), located 9320 Leesburg Pike, Kennore Subd., R-1, Dranesville Dist., 19-4((2))7 & 8, 46,944 sq. ft., SP 83-D-010.

William Shoup reviewed the staff report for the Board, which recommended denial of the application because it did not satisfy the submission requirements for special permit uses. Mr. Shoup stated that the property was presently accessed via a driveway from a service road parallel to Leesburg Pike. Under the Transportation Analysis in the staff report it was noted that there is future consideration of improvements to Leesburg Pike, and it would be widened to six lanes. The service drive would most likely be used in the expansion and would no longer be used for access to this property. Mr. Shoup stated that a review of the applicant's lease revealed that there is a provision excluding the applicant's use of the property on which the proposed parking space/turnaround area is located. Staff requested the applicant to submit documentation that he had permission to use the property on which the proposed parking space is located, but the applicant refused to comply, and indicated he would request BZA approval without having to provide the additional space. Mr. Shoup stated that this parking space/turnaround area is essential because of the proposed expansion of Leesburg Pike.

Haroutium Tcholakian presented his application. He stated that he had leased the subject property since August 1982, with a ten year lease. He stated that he was a freelance photographer and that he and his wife would be operating the studio/office with no other employees. It would be seldom that a prospective client would visit the property, because he basically photographed on location. Mr. Tcholakian submitted an alternate solution to the parking space/turnaround area to the Board. He indicated that he was most interested in obtaining permission for a sign, since he operated under a fictitious name as Wolftrap Photography International. The house was not very visible from the street, and it was difficult to locate since there was only one entrance to the house. A sign would help alleviate the problem of friends and prospective clients from getting lost. In response to a question from the Board, Mr. Tcholakian stated that he expected to gross \$150,00 to \$200,000 a year income from his home.

Speakers in opposition include Robert Bodine, 6210 Greeley Blvd, Springfield; William Bower, an adjacent property owner; Joseph O'Donnell, 1266 Lyon Street; and Eugene Calfgut, 1272 Lyon Street. They were concerned that the quiet residential neighborhood atmosphere would be ruined if a home professional office was permitted. The speakers indicated that there were already many commercial operations in the area such as beauty parlors and real estate offices. They were concerned about any signs being erected in their residential neighborhood, and any traffic impact from clients visiting the photography studio.

During rebuttal, Mr. Tcholakian stated that he would be able to live with a limit of six clients a year, since most of his business was done outside of the home, but he was not able to do without the sign. He stated that a sign was vital to his business.

There was no one else to speak in support or opposition to the request.

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R E S O L U T I O N

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Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 83-D-010 by HAROUTIUM A. TCHOLAKIAN under Section 3-103 of the Fairfax County Zoning Ordinance for a home professional office (free lance photography), located at 9320 Leesburg Pike, tax map reference 19-4((2))7 & 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 April 12, 1983; 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 46,944 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 on the application and is not transferable to other land.
2. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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 an approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. Transitional screening may be modified provided the existing screening remains and is supplemented to adequately screen the parking space. The amount and type of screening shall be determined by the Director of the Department of Environmental Management at the time of site plan approval.
5. One parking space or turnaround area shall be provided in the location shown on the plat submitted with this application.
6. There shall be no employees other than the applicant and his wife associated with this use.
7. No more than one client vehicle at any one time shall be permitted on the property.
8. Hours of operation shall be 9:00 A.M. to 5:00 P.M., Monday through Friday.
9. There will not be any photographic chemicals used on site.
10. No sign shall be permitted.
11. This permit shall expire in one year. (Sixty days prior to the one year expiration date, the applicant shall file for a renewal of the special permit, and such application shall be processed in accordance with the procedures set forth in the Zoning Ordinance.)
12. There shall be no more than ten (10) clients allowed on the premises during the one year period.

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

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. Hammack and Mr. DiGiulian being absent)

11:45 A.M. THE SWIM AND TENNIS CLUB AT FAIRFAX STATION, INC., appl. under SEct. 3-C03 of the Ord. for a community swimming pool and tennis club, located Arrington Dr., Fairfax Station Subd., R-C, Springfield Dist., 77-3((6))438A, 439A, 540 & 541, 3.33 acres, SP 83-S-012.

11:45 A.M. FAIRFAX STATION ASSOCIATES, VESTED EQUITIES, INC. AND THE SWIM AND TENNIS CLUB AT FAIRFAX STATION, INC., appl. under Sect. 18-401 of the Ord. to allow community pool and tennis club with gravel parking lot (dustless surface req. by Sect. 11-102), located Arrington Dr., Fairfax Station Subd., R-C, Springfield Dist., 77-3((6))438A, 439A, 540 & 541, 3.33 acres, VC 83-S-018.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the application subject to the development conditions listed in the report. She noted that the primary concern expressed by the staff was the potential noise impact which would be generated by the proposed Springfield Bypass. The staff suggested that the proposed uses be relocated on the site with the parking area to be adjacent to the proposed bypass. It was also suggested that if the tot lot which was adjacent to the parking area could not be relocated, fencing should be provided to separate those conflicting uses.

Bob Kemper, 6108 Henry House Court, a member of the swim club Board of Directors, presented the application. He stated that the club would only be utilized by families living in the immediate area of the club, and there was a lot of community support for the construction of these facilities. He stated that the applicant would comply with all the suggested development conditions listed in the staff report.

There was no one else to speak with regard to the applications.

Page 407, April 12, 1983

Board of Zoning Appeals

THE SWIM & TENNIS CLUB AT FAIRFAX STATION, INC.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. SP 83-S-012 by THE SWIM AND TENNIS CLUB AT FAIRFAX STATION, INC. under Section 3-C03 of the Fairfax County Zoning Ordinance for a community swimming pool and tennis club, located at Arrington Drive, tax map reference 77-3((6))438A, 439A, 540 & 541, 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 12, 1983; 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-C.
3. That the area of the lot is 3.33 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 on the application and is not transferable to other land.
2. The approval is granted for the uses indicated on the plans submitted with this application except as qualified below. Any additional structure 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 an approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The hours of operation for the facility shall be:
 SWIMMING POOL: 10:00 A.M. to 9:00 P.M., with swim team practice to begin at 7:00 A.M., excluding Saturdays and Sundays from Memorial Day to Labor Day

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SWIM MEETS: Four swim meets a year beginning at 9 A.M.

TENNIS COURTS: 7:00 A.M. to 10:00 P.M.

5. During the hours of swim team practice prior to 10:00 A.M., no loudspeakers, bullhorns, whistles, or any other such noise-making device shall be used. (This will be exempt from the four swim club meets during the year.) After 9:00 P.M. at the pool, the same noise-making devices shall not be used. The clean-up crew shall complete the required duties as quietly and as quickly as possible in consideration of the area residents.
6. The tennis courts may be lighted, provided the height of the poles does not exceed 22 feet, the lights are the low-intensity design which directs the light directly onto the courts, and shields are installed, if necessary, to prevent the light from projecting beyond the courts.
7. The use of the tennis court lights shall be regulated by an automatic cut-off device installed to insure that the lights are automatically cut off at 10:00 P.M.
8. Interior parking lot landscaping shall be provided as required by Section 13-106 of the Zoning Ordinance.
9. Any discharges from the pool shall be treated to meet applicable state and federal water quality standards and criteria, as specified by the Virginia State Water Control Board and/or the Fairfax County Health Department. The County Health Department shall be notified prior to any pool water discharge during draining or cleaning operations.
10. Since the site falls within the Water Supply Protection Overlay District, the use shall meet all applicable requirements concerning stormwater management contained in Part 8 of Article 7 of the Zoning Ordinance and Section 1-20A of the Public Facilities Manual.
11. There shall be forty-eight parking spaces plus two bicycle racks. Each bicycle rack would have ten spaces to encourage the use of bicycling to the pool.
12. The tot lot shall be protected from the parking lot by a fence.
13. There shall be eleven (11) poles, ten (10) around the perimeter and one in the center for each tennis court.
14. After-hour pool parties for each swimming pool shall be governed by the following:
 - Limited to six (6) per season.
 - Limited to Friday, Saturday and pre-holiday evenings.
 - Shall not extend beyond 12:00 midnight.
 - Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
 - Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after hour party.

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

Under Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of the Special Permit. A request for additional time must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. Hammack and Mr. DiGiulian being absent)

Page 408, April 12, 1983
FAIRFAX STATION ASSOCIATES, VESTED EQUITIES INC. AND
THE SWIM & TENNIS CLUB AT FAIRFAX STATION

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC-83-S-018 by FAIRFAX STATION ASSOCIATES, VESTED EQUITIES, INC. AND THE SWIM AND TENNIS CLUB AT FAIRFAX STATION, INC. under Section 18-401 of the Zoning Ordinance to allow community pool and tennis club with gravel parking lot (dustless surface req. by Sect. 11-102) on property located at Arrington Drive, tax map reference 77-3(6)438A, 439A, 540, & 541, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 12, 1983; 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-C.
3. The area of the lot is 3.33 acres.
4. That the applicants' 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 to the applicant only and is not transferable without further action of this Board. The variance is granted for the parking lot shown on the plat included with this application.
2. This approval is contingent upon a soils analysis being furnished by the applicant, the analysis to be reviewed and approved by the Department of Environmental Management.
3. If the soils analysis indicates that the soils are suitable for a gravel parking lot, said lot may be surfaced with gravel for a period of two (2) years, unless an inspection at any time during that period reveals that the parking lot is in a dusty or muddy condition.
4. Sixty (60) days prior to the two (2) year expiration date, the applicant shall file for a renewal of the variance, and such application shall be processed in accordance with the procedures set forth in Section 8-013 of the Zoning Ordinance.

Based on the provisions set forth in Section 18-407 of the Zoning Ordinance, the approval of this variance shall automatically expire, without notice, eighteen (18) months from the date of approval unless construction has commenced, or unless an extension is approved by the BZA based on the occurrence of conditions unforeseen at the time of approval of this variance. A request for an extension shall be filed in writing and should be filed with the Zoning Administrator thirty (30) days prior to the expiration date and the variance shall remain valid until the request for extension is acted upon by the BZA.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. Hammack and Mr. DiGiulian being absent)

//The Board approved the BZA minutes, as presented, for July 28 and July 30, 1981.

Page 409, April 12, 1983, AFTER AGENDA ITEMS:

V-81-D-164/ARTHUR & EVELYN METZGER: The Board was in receipt of a request for an extension of the captioned variance permit. It was the consensus of the Board to grant a six month extension.

Page 409, April 12, 1983, AFTER AGENDA ITEMS:

V-81-D-187/WILLIAM E. CONRAD, JR.: The Board was in receipt of a request for an extension of the captioned variance permit. It was the consensus of the Board to grant a six month extension.

Page 409, April 12, 1983, AFTER AGENDA ITEMS:

SP 83-D-022 & VC 83-D-041/DRANESVILLE UNITED METHODIST CHURCH: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned applications. It was the consensus of the Board to deny the request.

Page 409, April 12, 1983, AFTER AGENDA ITEMS:

VC 83-L-051/RICHARD & MARY ANN CHRISTIAN: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned variance application. It was the consensus of the Board to grant the request and schedule the application for May 24, 1983 at the end of the agenda.

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Page 410, April 12, 1983, AFTER AGENDA ITEMS:

VC 83-V-046/BRUCE G. DUNCAN: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned variance application. It was the consensus of the Board to grant the request and schedule the application for May 24, 1983.

Page 410, April 12, 1983, AFTER AGENDA ITEMS:

VC 83-S-028/RYLAND GROUP, INC.: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned variance application. It was the consensus of the Board to grant the request and schedule the application for April 26, 1983 at 11:15 A.M.

Page 410, April 12, 1983, AFTER AGENDA ITEMS:

S-82-A-039/PROVIDENCE PRESBYTERIAN CHURCH: The Board was in receipt of a letter regarding curbs around the islands in the parking area for the church, parking strips, wheel stops, and speed bumps. The Board determined that the Site Plan Review Office had authority over the parking area construction.

// There being no further business, the Board adjourned at 2:00 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on November 5, 1984 APPROVED: November 8, 1984
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, April 19, 1983. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland (departing at 8:45 P.M.); Ann Day; Paul Hammack; John Ribble; and Mary Thonen. (Mr. John DiGiulian being absent).

The Chairman opened the meeting at 8:05 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8 o'clock case of:

8:00 TRP, INC., appl. under Sect. 4-803 of the Ord. for bowling alleys, located
P.M. 8558 Richmond Hwy., Lee Dist., C-8, 101-3(1)37, 3.8044 acres, S-82-L-106.
(DEFERRED FROM 2/22/83 FOR NOTICES).

Mr. William Shoup presented the staff report which recommended approval of S-82-L-106 subject to the revised conditions set forth in Attachment 1 of the addendum to the development conditions. The Board questioned the accessory uses of a restaurant and an arcade in addition to the bowling center. An attorney for the opposition had questioned whether the legal notice was complete as it did not include a description of the accessory uses. Mr. Shoup stated that the notice met the provisions of the Code. The accessory uses were subordinate to the bowling alley and should not attract a clientele over and above the bowling alley. The Board questioned the arcade but was informed it was only ten machines. Some members questioned the type of alcoholic beverages to be served but were informed by the Chairman that was a matter to be handled by the ABC Board who issued the liquor licenses. He stated that the BZA could not deny the applicant the right to sell liquor.

Mr. George Shapiro, an attorney at law, represented TRP, Inc. Mr. Tom Potts of TRP, Inc. and Mr. Frank McQuery, the general contractor, were also present at the hearing. Mr. Shapiro's law office was located at 117 N. Fairfax Street, Alexandria, Virginia 22314. Mr. Shapiro stated that the application was for a bowling alley. Mr. Potts would be the owner and operator and it would not be a chain center. Because Mr. Potts would be investing a lot of his money in the project, the bowling alley would be run in the proper fashion and would be a family run operation. Mr. Shapiro stated that the control center would be located in a central location so as to provide supervision of the arcade and the bowling center. The project was for a 32 lane center and the equipment would be ultra-modern and sound insulated. The center would be located on 3.8 acres. The property was flat and had natural drainage. It had natural screening with a lot of trees and shrubs around the property and they planned to leave as much of the natural buffer as possible.

The property was the site of an old motel which was run down and overgrown and rat infested. Mr. Shapiro showed the Board a rendering of what the proposed bowling center would look like. The building would be 28,000 sq. ft. and 24 ft. high. There would be landscaping on the front of the building which would face an easterly direction.

In response to questions from the Board, Mr. Shapiro stated that there would not be any noise problem as all equipment was ultra-modern and the building would muffle the noise. To prevent noise from people coming in and going out, the applicant was proposing a double door configuration. It would save energy and help with the noise. The Board questioned the closing time of 1 A.M. every night. Mr. Shapiro stated that the applicant had wanted a 2 A.M. closing but 1 A.M. was a compromise. He indicated that a great deal of use revolved around the leagues during the winter which ran until 12:30 or 1 A.M. The leagues were an economic necessity of the bowling center.

Mr. Shapiro stated that there was a great need for bowling centers. The existing centers were full. Mr. Shapiro indicated that Mr. Potts would not be in the business unless there was a need for it. In response to questions from the Board, Mr. McQuery indicated that the parking was 161 ft. away from the 15 ft. outlet road. Mr. Shapiro stated that there were two single family homes which abutted one side of the site. The properties were owned by the Normans and the Nelsons. He indicated that they had met with these families to discuss their concerns. The applicant had agreed not to install the 4 ft. but instead to provide a 6 ft. fence around the entire eastern and northern lot line. Mr. Shapiro indicated that the applicant was agreeable to leaving a 100 ft. buffer on the western property line as suggested by Mrs. Thonen.

Mr. Ira Saul spoke in opposition to the special permit. He resided across Rt. 1 from the use and did not believe that the application had been properly advertised. Mr. Saul stated that the tenants of the Washington Square were not informed about the accessory machines or the restaurant or the alcoholic beverages. Mr. Saul indicated that the parents were not fond of the fact that the bowling alley would be selling beer. Mr. Saul asked the Board to defer the application as the tenants had not had adequate time to put together a case. He asked for at least a 30 day deferral.

Mr. Hyland requested that the matter be deferred for thirty days. He indicated that he had received a call and was going to have to leave the meeting. He stated that he wanted to review the case and was concerned about the notice. However, he felt that the notice was

sufficient as far as the Code. Mr. Hammack seconded the motion for deferral. Mr. Hyland suggested that the Board take all of the testimony in the matter and defer decision. Mr. Saul stated that he wanted an engineer to look at the property and assess it and analyze the combined uses as it was a serious matter.

Chairman Smith inquired as to when Mr. Saul first found out about the application and was informed that Mr. Stein and Mr. Foxman were made aware of it on March 28th. The information was forwarded to him two weeks later. Mr. Saul indicated that he only had the past week to go to the office and found out that it was not just a bowling alley.

Mr. Shapiro stated that he called Mr. Saul to determine his concerns as the notice had been received on the 29th of March. He stated that he answered questions and did not feel it was fair to prejudice the project. The vote on the motion to defer decision failed by a vote of 1 to 4 (Mr. Hyland). Chairman Smith announced that the Board would continue with the hearing.

Mr. Saul informed the Board that the residents of the area were opposed to the bowling center as they felt it would be most repugnant to the surrounding area. It was felt that the area would be better served with a convenience store. The parents of young children were upset about the arcade games coming into the residential area. There was concern regarding noise from car doors slamming & the traffic congestion late at night. Mr. Saul indicated that there was a bowling alley at Fort Belvoir.

Mr. Saul stated that the Skyview had objected to the entrance for the bowling center being contiguous to them. He indicated that they would not object to the entrance facing Rt. 1. He asked that the entrance be switched to the south side to avoid the problem of headlights shining into windows.

Mr. Richard McQuery of 6360 Evans Lane in Alexandria informed the Board that the residents in his area had not had an opportunity to determine about the placement of the driveway. He preferred the traffic driveway as originally proposed rather than having it on the west side of the property.

Mr. John Banko, a resident of Fairfax County and Vice-President of the General Bowling Corp. stated that he had been in the business for 12 years of operating bowling centers. He challenged the statement regarding the necessity of 6 parking spaces per lane. He also indicated that a 32 lane bowling center would not average 900 persons per day but more accurately 400 to 500 persons per day. Mr. Banko was in opposition to the proposed center and stated that bowling was experiencing a recession.

The next speaker in opposition was Ms. Suzanne Behealer, Resident Manager of the Skyview Apartments. She resided at 8500 Skyview Drive, Apt. T-3. Ms. Behealer presented the Board with a petition signed by residents of the apartments. The bowling center would be adjacent to the apartments and it was felt it would interfere with privacy of the residents. The residents were concerned with the noise factor and for their children. The residents did not want the entrance on the side looking into the apartments. There were not enough trees to buffer any noise. In addition, the residents were concerned about the video games inside the bowling center.

Mrs. Linda Ryver, a resident of the apartments, also spoke in opposition. She had children at the Woodlawn Elementary School. She was concerned that the video games were too near the elementary school and too much of a temptation before, during and after school hours.

Mr. Mac Arnold, an attorney in Fairfax, represented the Skyview Apartment Complex. Mr. Arnold directed the Board's attention to Appendix 4 of the staff report which identified the parcel as being planned for R-5. However, the property was zoned C-8 so the staff recognized that the owners had a right to some type of commercial zoning. He further directed the Board's attention to the plan where it discussed the type of consideration to be taken by the BZA in granting special permits. It stated that Fairfax County should devise effective means for insuring that all future construction and use along the Rt. Corridor comply with current and future screening, buffering and noise Ordinances. Additional plantings should be performed between incompatible uses. Mr. Arnold disagreed with the staff recommendation that the applicant did not have to provide the additional screening.

Even though the property was zoned C-8, the bowling center use was not allowed by right which was why it was going through the public hearing process. Mr. Arnold directed the Board's attention to the Ordinance where it discussed why special permits were required. Certain uses could have an undue impact or be incompatible with other uses in the same zoning district. The BZA had to evaluate the impact and make appropriate requirements. Mr. Arnold felt there should be additional requirements as the bowling center was incompatible with the surrounding uses. There was an apartment complex across Rt. 1 and one directly adjacent to the bowling center for the entire property line. Behind the property were two single family detached dwellings. On the other side was an elementary school for a portion of the property line. Mr. Arnold stated that the bowling center was an intense use with bowling and the sale of beer and wine and the ten video games. Cars going in and out until 1 A.M. would create substantial noise.

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Mr. Arnold reviewed the buffering to be provided for the bowling center. The Ordinance required a 35 ft. setback with a barrier. Between the barrier and the property, the Ordinance required landscaping. The applicant was requesting that it be waived. The Ordinance required a 25 ft. buffer from the side line with a barrier and landscaping in between. The applicant was proposing to place the fence on the property line and place the parking spaces back 15 ft. from the fence. Mr. Arnold did not feel it was adequate screening.

Mr. Arnold asked the Board to limit the hours of the bowling center until 11 P.M. because of the tremendous effect it would have on the lives of the surrounding residents. He further asked that the building entrance be turned to face Rt. 1 so that carlights and horns would not disturb the apartment residents. He also felt that by having the entrance at the front, it would facilitate a better traffic flow. Mr. Arnold requested the Board to have the applicant provide additional buffer along the side property line. He asked that a 6 ft. high ornamental block or brick wall be set back 25 ft. along the line adjacent to the apartments and 35 ft. from the single family detached dwellings. He further asked that the screening be provided in accordance with Article 14 between the wall and the property line.

In response to questions from the Board, Mr. Arnold stated that the residents did not desire a stockade fence as they broke down. A chain link fence with inserts was unattractive.

The next speaker in opposition was Jim Neilson of 8428 Osmond Drive. He lived at the bottom of the property and represented the homeowners directly behind the property. Mr. Neilson stated that the property owners had signed a waiver that if the applicant built a 6 ft. chain link fence, they would not oppose the bowling center. Mr. Neilson stated that the grade school was located next to the applicant's property. There was a lot of violence along the Rt. 1 corridor. Mr. Neilson felt that the bowling center would add to the problems. Nothing else in the area would remain open until 1 A.M. Mr. Neilson felt that a 6 ft. fence with wooden slats would be appropriate screening for the back properties.

During rebuttal, Mr. Shoup informed the Board that with respect to the transitional screening requirement, the staff had felt that the 15 ft. buffer from the parking lot in conjunction with the outlot road would provide adequate buffer. Screening existed along the property line but the staff had conditioned approval on the applicant providing low evergreen screening along the area to eliminate light shining from car headlights.

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. S-82-L-106 by TRP, INC. under Section 4-803 of the Fairfax County Zoning Ordinance to permit bowling alleys, located at 8558 Richmond Highway, tax map reference 101-3(1)37, 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 19, 1983; 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-8.
3. That the area of the lot is 3.8044 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 on the application and is not transferable to other land.
2. The approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.

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R E S O L U T I O N

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3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The existing trees and vegetation along the property lines shall be retained.
5. A 100 ft. buffer of existing trees and vegetation shall be required along the lot line to the north and modified transitional screening shall be required along the lot line to the east and south as determined by the Director of the Department of Environmental Management.
6. Parking shall be provided in accordance with the provisions of Article 11 of the Zoning Ordinance.
7. Parking lot landscaping and screening shall be provided in accordance with Article 13 of the Zoning Ordinance as determined by the Director of the Department of Environmental Management. Low, dense, evergreen plantings shall be used to ensure that vehicle headlights are adequately screened from the apartment dwellings to the east.
8. A 6 ft. high chain link fence interlaced with redwood slats shall be erected in place of the existing 42 in. high chain link fence subject to the approval of the Director, Department of Environmental Management.
9. A standard service drive shall be constructed across the site frontage and be dedicated for public street purposes.
10. The curb line across the frontage of the site shall match the curb line of the adjacent development to the northeast.
11. The maximum number of employees shall be 16.
12. The hours of operation shall be 8:00 A.M. to 1:00 A.M., seven days a week.
13. The number of amusement machines permitted as an accessory use shall be limited to a maximum of ten (10). No one under the age of eighteen (18) shall be permitted to use the amusement machines, during the hours that schools are in session.

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

Under Sect. 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of the Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Hyland being absent).

Page 414, April 19, 1983, Scheduled case of

8:15 CALVARY MEMORIAL PARK, INC. T/A FAIRFAX MEMORIAL PARK, appl. under Sect. 3-103 P.M. of the Ord. to amend S-81-A-022 for cemetery to permit addition of mausoleum to existing facilities, located 4401 Burke Station Rd., R-1, Annandale Dist., 69-1((1))1 & 12, 128.13856 acres, SPA 81-A-022-1.

Mr. Grayson Hanes of Hazel, Beckhorn & Hanes at 4084 University Drive represented the cemetery. Mr. Hanes requested the Board to defer the special permit application to allow him time to meet with citizens of an adjoining subdivision in attendance at the hearing who were opposed to the request. In addition, two Board members were absent and Mr. Hanes felt it would be beneficial to defer the hearing than to hear part of the application and defer decision. It was the consensus of the Board members present to honor Mr. Hanes' request. The special permit was deferred until May 3, 1983 at 10:20 A.M.

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Page 414, April 19, 1983, Scheduled case of

8:30 JAMES R. DAVIDSON, appl. under Sect. 5-403 of the Ord. for a veterinary hospital, P.M. located 8496-E Tyco Rd., I-4, Dranesville Dist., 29-1((10))1, 7.48082 acres, SP 83-D-011.

Ms. Jane Kelsey presented the staff report. In response to questions from the Board, Ms. Kelsey indicated that the hours of operation would be from 8 A.M. until 6 P.M., Monday through Friday and from 8 A.M. until 4 P.M. on Saturdays.

Mr. William Hansbarger of 10523 Main Street in Fairfax represented the applicant. He explained that the applicant was seeking to relocate within the same area where he had been serving clientele for the past 28 years. Mr. Hansbarger informed the Board that the doctor was purchasing a condo office space. Accordingly, he was entitled to a certain amount of parking spaces but none were specifically assigned. Mr. Hansbarger stated that

when the County approved the entire condominium project, only 341 parking spaces were required. The developer had provided 359 parking spaces so Mr. Hansbarger assured the BZA there would be adequate parking.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. SP 83-D-011 by JAMES R. DAVIDSON, under Section 5-403 of the Fairfax County Zoning Ordinance to permit veterinary hospital, located at 8496-E Tyco Road, tax map reference 29-1((10))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 April 19, 1983; 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-4.
3. That the area of the unit is 1,650 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 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 on the application and is not transferable to other land.
2. The approval is granted for Unit No. I as indicated on the plans submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such an approval. Any changes, other than minor engineering details without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The total number of employees shall be five (5) with no more than three (3) on site at any one time to include the veterinarian.
5. There shall be no more than three (3) client's vehicles on site at any one time.
6. Construction plans shall be approved by the Health Department to assure that the unit will be adequately sound-proofed and constructed to prevent the emission of odor or noise which would be detrimental to other properties in the area.
7. There shall be a minimum of six (6) parking spaces provided for this use.
8. A parking tabulation shall be provided if such is deemed to be necessary by the Director of Department of Environmental Management.
9. Just for information although the property is an industrial area, it has been pointed out in testimony by Mr. Hansbarger that the hours of operation would be from 8 A.M. to 6 P.M. Monday through Friday and 8 A.M. to 4 P.M. on Saturdays and emergencies at any hour.

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

Under Sect. 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of the Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

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RESOLUTION

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mrs. Thonen) (Messrs. DiGiulian and Hyland being absent).

Page 416, April 19, 1983, Scheduled case of

8:45 P.M. BRUCE JAMES NETSCHERT, appl. under Sect. 3-C03 of the Ord. for a veterinary hospital, located at 6801 Clifton Road, R-C, Springfield Dist., 75-2((1))12, 1.3859 acres, S-82-S-104. (DEFERRED FROM 2/22/83 FOR A LEGAL OPINION FROM THE COUNTY ATTORNEY AND FROM 3/1/83 TO ALLOW APPLICANT AN OPPORTUNITY TO AMEND PLAT SO THAT NO PORTION OF THE VETERINARY HOSPITAL WOULD BE LOCATED IN ANY PART OF THE STRUCTURE THAT IS WITHIN THE SETBACK AREA OF THE R-C ZONE). BZA ISSUED INTENT TO DEFER TO MAY 17, 1983 at 8:00 P.M.

The special permit application was deferred until May 17, 1983 at 8:00 P.M. at the request of the applicant.

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Page 416, April 19, 1983, Scheduled case of

9:00 P.M. RIVERBEND GOLF & COUNTRY CLUB, INC., appl. under Sect. 3-E03 of the Ord. to amend S.U.P. #5669 for country club, for approval of several existing additions and to permit enclosure of existing porch and construction of shelter over existing deck, located at 9901 Beach Mill Rd., R-E, Dranesville Dist., 8-1((1))22, 23 & 41 and 8-3((1))4, 151.321 acres, S-82-D-101. (DEFERRED FROM 1/25/83 FOR ADDITIONAL INFORMATION FROM ZONING ENFORCEMENT STAFF INSPECTION OF PROPERTY WITH REGARD TO TENNIS COURT LIGHTS AND SECURITY LIGHTS AFFECTING LOTS 7 & 16, AND DEFERRED FROM 2/15/83, 3/15/83 AND 3/29/83 FOR CORRECTION OF TENNIS COURT AND SECURITY LIGHTS TO THE SATISFACTION OF THE BOARD OF ZONING APPEALS).

Ms. Jane Kelsey informed the Board that the zoning staff had made an inspection of the site the previous Thursday. She reported that the nuisance glare from Mrs. Collins and Mr. Elgin's property had been redirected and shielded. Mrs. Collins was pleased that there were no longer any shadows on her walls from the tennis court lights. There was still some light but it was not objectionable. Ms. Kelsey stated that the light situation on Mr. Elgin's property had been markedly improved.

Page 416, April 19, 1983

RIVERBEND GOLF & COUNTRY CLUB, INC.

RESOLUTION

Mr. Ribble made the following motion:

WHEREAS, Application No. S-82-D-101 by RIVERBEND GOLD & COUNTRY CLUB, INC. under Section 3-E03 of the Fairfax County Zoning Ordinance to amend S.U.P. #5669 for country club, for approval of several existing additions and to permit enclosure of existing porch and construction of shelter over existing deck, located at 9901 Beach Mill Road, tax map reference 8-1((1))22, 23 & 41 & 8-3((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 February 15, 1983 and reviewed on April 19, 1983 for compliance with condition no. 12; 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-E.
3. That the area of the lot is 151.321 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 on the application and is not transferable to other land.

RESOLUTION

2. The applicant shall comply with all conditions of the special permit and the requirements of all applicable State and County Codes. The portion of this special permit relating to the proposed construction shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to expiration.
3. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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 an 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 State and County. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NEW 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. The membership in the Club shall be limited to 600 members.
7. The club shall provide 163 parking spaces.
8. The existing evergreen trees between the tennis courts and the Club View Ridge Sub-division shall be retained. Additional landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of the Department of Environmental Management.
9. The hours of operation for the club shall be as follows:
- | | |
|-----------------------|-------------------------|
| Club House Facilities | 11:00 A.M. to 1:00 A.M. |
| Swimming Pool | 7:30 A.M. to 10:00 P.M. |
| Tennis Courts | 7:30 A.M. to 11:00 P.M. |
| Golf Course | 7:30 A.M. to Dusk |
10. The lights at the tennis court shall continue to be controlled by an automatic shut-off device.
11. There shall be no further construction or paving in the area of the floodplain. In addition, vegetation shall be planted immediately to the southeast of the existing paved area to promote filtration of stormwater runoff prior to its entry into the swale. The type and amount of vegetation shall be determined by the Director of the Department of Environmental Management.
12. * The matter regarding the lights will be held in abeyance by the BZA until the situation on the lights have been corrected to the satisfaction of this Board. The BZA shall defer the matter of the lights for a period of thirty (30) days to allow for a report from staff as to the correction of the lights and a final decision shall be made on March 15, 1983 at 8:45 P.M.

*The BZA reviewed the report from staff regarding the shielding of the lights on April 19, 1983 and determined that the problem of the lights was no longer objectionable to Mr. Elgin or Mrs. Collins. Accordingly, the BZA moved that the lights be accepted with the shields and that the plat submitted with the special permit be accepted in its entirety.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Hyland being absent).

Page 417, April 19, 1983, After Agenda Items

Providence Presbyterian Church: The Board was in receipt of a request from Providence Presbyterian Church for an out-of-turn hearing on its special permit application for installation of a trailer for classroom purposes; installation of lighting in the rear parking lot and approval of an existing gate installed at the end of a dead-end cul-de-sac to curtail traffic during weekdays from short-cutting the church's property to Rt. 236. It was the consensus of the Board to approve the request and the special permit was scheduled for June 21, 1983.

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Page 417, April 19, 1983, After Agenda Items

Korean Presbyterian Church of Washington, S-81-S-002: The Board was in receipt of a request from Taek Yong Kim, Pastor of the Korean Presbyterian Church of Washington for another extension of the special permit. The BZA had previously granted an extension of the special permit for a period of 90 days provided that within the 90 days the church obtained a non-rup and complied with the conditions of the permit. Staff was to inspect property to insure compliance. The extension is due to expire May 10, 1983. It was the consensus of the Board to allow another 90 day extension to allow the church to complete the site work necessary for the attainment of the non-residential use permit.

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Page 418, April 19, 1983, After Agenda Items

Doris Wood, VC 83-D-045: The Board was in receipt of a request for an out-of-turn hearing on the variance application of Doris Wood. The variance application was presently scheduled for June 7th which the applicant felt caused her a calamitous delay in construction. It was the consensus of the Board to deny the request.

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Page 418, April 19, 1983, After Agenda Items

Policy Regarding Minor Engineering Changes: It was the consensus of the Board that any discrepancy in a site plan from a previously approved BZA plat be reviewed by the Zoning Administrator for a determination as to whether it was a "minor engineering" change. It was the Board's desire that all minor engineering changes be administratively reviewed rather than brought to the BZA as after agenda items. It was the Zoning Administrator's determination that the discrepancy was more than a minor engineering change, the applicant should be advised to file an amended application for review by the BZA at a public hearing.

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Page 418, April 19, 1983, After Agenda Items

Genevieve Delfosse: The Board was in receipt of a request from Ms. Genevieve Delfosse for approval of a minor engineering change to her construction plans which were subject of a variance in December 1982. The change she was requesting was part of the new construction but did not extend into the required setback area. Plats were submitted showing the requested change. It was the consensus of the Board to have the Zoning Administrator review the plats and make the determination as to whether it was a minor engineering change.

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Page 418, April 19, 1983, After Agenda Items

Road Aggregates, Inc. V-70-79: The Board was in receipt of a request from Kenneth White for an extension of the variance granted to Road Aggregates, Inc., V-70-79. Six previous six month extensions had been granted. Mr. Ribble moved that the Board grant another six month extension. Mr. Hammack seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hyland being absent).

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Page 418, April 19, 1983, After Agenda Items

North Arlington Development, N.V., Inc., S-81-C-067: The Board was in receipt of a request from Mr. John Ewing of Paciulli, Simmons & Associates for a twelve month extension of S-81-C-067 for a community paddle tennis facility due to expire May 3, 1983. Mrs. Thonen moved that the Board grant a six month extension. Mr. Hammack seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith) (Messrs. DiGiulian and Hyland being absent).

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Page 418, April 19, 1983, After Agenda Items

The staff requested the BZA to hold an Executive Session prior to the BZA meeting of April 26th. The purpose of the session would be to discuss the special permit application of Mrs. LaLima for a home beauty shop.

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Page 418, April 19, 1983, BZA Survey

Mr. Ribble noted that the BZA put in more hours and heard more cases than any other BZA in the area. He indicated that Mrs. Day had helped put together a questionnaire concerning other BZAs in the area, how often they met, the number of cases they hear, and how they were compensated. Mr. Ribble moved that the Clerk write a letter to accompany the questionnaire and send it to the surrounding jurisdictions. Mrs. Day seconded the motion. The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Hyland being absent).

// There being no further business, the Board adjourned at 11:05 P.M.

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

Submitted to the Board on Oct. 30, 1984 Approved: Nov. 8, 1984
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, April 26, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; John Ribble; Paul Hammack and Gerald Hyland. Mary Thonen was absent.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

//Ms. Kelsey reviewed a new amendment adopted by the Board of Supervisors the previous day which revised the variance standards. It also included a section that moved the variance provision for errors into the special permit category. These amendments would become effective May 2, 1983.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. WILHELM & DORIS BOEKER, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, proposed lot B-1 having width of 20 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11707 Pine Tree Drive, Fairfax Farms Subd., R-1, Providence Dist., 46-4((2))70, 2.59 acres, VC 83-P-015.

William Shoup reviewed the staff report for the Board which noted that the proposed subdivision would not be in harmony with the character of the area, and would affect the use of adjacent lot 71 by creating a front yard requirement on a portion of that property. Staff was of the opinion that the applicant would enjoy reasonable use of the property absent a variance.

Wilhelm Boeker, 11708 Pine Tree Drive, presented the application. He stated that he had owned this property since 1961. He wanted to subdivide his 2.59 acres into two lots and construct a house on the rear of the property for his son. He stated that he owned lot 70A which was contiguous to the property in question, and that he planned to build a house on it in the future. Chairman Smith asked the applicant what the hardship was, but the applicant was unable to respond.

There was no one to speak in support or opposition.

Page 419, April 26, 1983
WILHELM & DORIS BOEKER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC-83-P-015 by WILHELM & DORIS BOEKER under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot B-1 having width of 20 ft. (150 ft. min. lot width req. by Sect 3-106) on property located at 11707 Pine Tree Drive, tax map reference 46-4((2))70, 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 26, 1983; 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 2.59 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. Hammock seconded the motion.

The motion passed by a vote of 6 - 0. (Mrs. Thonen being absent)

10:15 A.M. CLAYTON I. LEGG, appl. under Sect. 18-401 of the Ord. to allow construction of a carport addition to dwelling to 0.8 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), located 5319 Queensberry Ave., Ravensworth Subd., R-3, Annandale Dist., 79-2((3))(15)26, 11,464 sq. ft., VC 83-A-016.

William Shoup reviewed the staff report for the Board. Dick Bier, an architect, represented the applicant. He stated that the applicant had purchased the property in 1978 before the Zoning requirements were changed. The dimensions of the carport had been determined by the location of the chimney, and the size of the two automobiles. Also, garden equipment would be stored there. Mr. Bier stated that the carport could not be located in the rear yard because the grade was too steep, and the lot sloped sharply up in the rear. To locate the carport on the south side of the house would require an additional curb cut.

There was no one to speak in support or opposition.

Page 420, April 26, 1983
CLAYTON I. LEGG

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Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC-83-A-016 by CLAYTON I. LEGG under Section 18-401 of the Zoning Ordinance to allow construction of a carport addition to dwelling to 0.8 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), on property located at 5319 Queensberry Avenue, tax map reference 79-2((3))(15)26, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 26, 1983; 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 11,464 sq. ft.
4. That the applicants' property has exceptional topographic problems, in that it slopes up in the rear toward Ravensworth Industrial Park. There is no other location the carport could be constructed and still have reasonable use of the 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 structure indicated on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit for the proposed carport shall be obtained prior to any construction.

*4. This application is granted for a carport that is 13.6 ft. in width. The carport can be built within 5.2 ft. of the side lot line.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1. (Mr. Smith) (Mrs. Thonen being absent)

10:30 A.M. ST. LUKE'S UNITED METHODIST CHILD CARE CENTER, appl. under Sect. 3-403 of the Ord. to amend S-80-D-059 for child care center to permit increase in number of children from 30 to 45 and change ages to 2 1/2 to 10, located 7628 Leesburg Pike, R-4, Dranesville Dist., 39-2((1))57A, 4.0012 acres, SPA 80-D-059-1.

William Shoup reviewed the staff report for the Board which noted that the proposed increase in enrollment and in the maximum age of students would not present any adverse impacts. It was staff's judgment that if the development conditions listed in the staff report were implemented, this use would be in general conformance with all applicable standards for this special permit use.

Pat Czokra represented the applicant. She stated that the increase in enrollment was to meet the needs of the area, which had changed since the child care center had begun. The Center serves the surrounding communities in Northern Virginia. Ms. Czokra stated that the Health Department had already approved the increase.

There was no one to speak in support or opposition.

Page 421, April 26, 1983

Board of Zoning Appeals

ST. LUKE'S UNITED METHODIST CHILD CARE CENTER
R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. SPA 80-D-059-1 by ST. LUKE'S UNITED METHODIST CHILD CARE CENTER under Section 3-403 of the Fairfax County Zoning Ordinance to amend S-80-D-059 for child care center to permit increase in number of children from 30 to 45 and change the ages from 2 1/2 - 5 to 2 1/2 - 10, located at 7628 Leesburg Pike, tax map reference 39-2((1))57A, 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 26, 1983; 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. That the area of the lot is 4.0012 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 on the application and is not transferable to other land.
2. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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 an approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. Landscaping and screening may be modified as determined by the Director, Department of Environmental Management.
5. The maximum number of students shall be forty-five (45).
6. The age of the students shall not be less than two and one-half (2 1/2) years and not older than ten (10) years.
7. The hours of operation shall be 7:00 A.M. to 6:30 P.M., Monday through Friday.
8. The current staff of seven (7) shall remain.

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

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Under Sect. 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of the Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 - 0. (Mrs. Thonen being absent)

Page 422, April 26, 1983, Scheduled 10:45 A.M. case heard at 11:00 A.M.:

10:45 A.M. WILLIAM H. CLEARY, appl. under Sect. 18-406 of the Ord. to allow living space and deck addition to dwelling to remain 7.1 ft. and 7.4 ft. respectively, from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 1965 Virginia Ave., Franklin Park Subd., R-2, Dranesville Dist., 41-1((13))69, 70, & 71; 37,500 sq. ft., VC 83-D-017.

William Shoup reviewed the staff report for the Board which noted that no building permit was obtained prior to the construction of the addition and the deck.

Steve Cleary, 1965 Virginia Avenue, presented the application. He stated that in the summer of 1979 he and his father and brothers began to replace an enclosed porch which was badly in need of repair. They did not think they needed a building permit that a commercial construction project would require, because they were homeowners doing their own work. The nearby property owners were consulted and had no objections. The addition followed the line of the existing structure, which was built in the 1920's, for aesthetic reasons and ease of construction. The property had been purchased in 1975. During questioning from the Board members, Steve Cleary replied that the error had been discovered by a Real Estate agent who was handling the sale of the property. He stated that his brothers were in the commercial construction business for the City of Falls Church, but were not aware of setback requirements in residential areas.

Dan Cleary, 419 South Yeonas Drive, Vienna, spoke in support of the application. He stated that during the construction of the enclosed porch, there was no discussion of getting a building permit, because they felt they didn't need one.

Julie Holsizer from Mr. Vernon Realty, spoke regarding the application. She stated that the house had been on the market for several months before she was informed by the homeowners that they had not obtained any permits for the construction work they had done. Ms. Holsizer stated that she had told them they needed to obtain these before the house could be sold. Ms. Holsizer stated that the owners of the house were not able to be present at the hearing because they had already moved to Colorado.

There was no one to speak in support or opposition.

Page 422, April 26, 1983
WILLIAM H. CLEARY

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. VC 83-D-017 by WILLIAM H. CLEARY under Section 18-406 of the Fairfax County Zoning Ordinance to allow living space and deck addition to dwelling to remain 7.1 ft. and 7.4 ft. respectively, from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 1965 Virginia Avenue, tax map reference 41-1((13))69, 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 April 26, 1983; AND,

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.
2. That non-compliance was no fault of the applicant.

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

1. 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.

2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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 plat included with this application and is not transferable to other land or to other structures on the same land.
2. The applicant shall obtain all necessary permits to establish that the addition and deck were constructed in compliance with all applicable codes. Such permits shall be obtained within two (2) months.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 2. (Mr. Smith and Mrs. Day) (Mrs. Thonen being absent)

//The Board recessed for five minutes and returned to take up the scheduled agenda at 11:40 A.M.

Page 423, April 26, 1983, Scheduled 11:00 A.M. case heard at 11:40 A.M.:

11:00 A.M. YUN S. LALIMA, appl. under Sect. 3-403 of the Ord. to amend S-98-77 for beauty parlor as home occupation to permit continuation of the use without term, located 7300 Fairchild Dr., Hybla Valley Subd., R-4, Lee Dist., 92-4((3))(6)1, 12,684 sq. ft., SPA 77-L-098-1.

William Shoup reviewed the staff report for the Board which recommended denial of the application. Currently, the use was not permitted in the R-4 District, and it was staff's judgment that the application was not in keeping with the purpose and intent of the Zoning Ordinance. The existing special permit was due to expire on June 7, 1983.

Jane Gwinn reviewed the new Zoning Ordinance amendment adopted by the Board of Supervisors the previous day. She stated that there had been provisions made to address an existing special permit use that is no longer allowed by the current provisions. Provisions were added to state that an amendment could be considered by the BZA to allow a change in the name, but no amendment could be accepted that would allow the use to be enlarged or expanded, or continue beyond any time limitations specified in the existing special permit. Ms. Gwinn stated that the Board of Supervisors had determined the uses that would no longer be allowed to operate in certain Districts. This would terminate all these uses in the future when the permit expired, because there was no grandfather clause in the amendment.

Earl Bungardner, 8727 Faulkstone Lane, the applicant's brother-in-law, presented the application. He stated that Mrs. Lalima's husband was deceased, and that he was helping her with the application process. He stated that Mrs. Lalima was not asking her for any extended hours or expansion of the shop. She only wanted to continue the current operation as it was. Most of the business was neighbors who walked to the shop. There was no parking problem, although the next door neighbors had offered the use of their driveway. Mr. Bungardner stated that she was so limited in her clients, that she barely made minimum wage every year. He asked the Board to consider the fact that she had operated for twelve years without any violations or complaints. He felt that it was unfair that Mrs. Lalima was being deprived of her means of support by the Zoning Ordinance amendment. He stated that she was the only parent of two daughters, and she wanted to spend as much time as possible with them.

There was no one to speak in support or opposition.

Mr. Hyland questioned when this use was deemed to be impermissible. Mr. Shoup replied that it was August 14, 1978, with the new Zoning Ordinance. The Board determined that they had granted the last permit in 1977, with the Zoning Administrator empowered to grant three one-year extensions. Mr. Hyland questioned how the Zoning Administrator could have continued to grant these extensions if there was no authority to permit that use. Mr. Hammack asked if the applicant had been advised that this use was no longer permitted. Mr. Shoup stated that the applicant had not been notified. Mr. Hammack was concerned that when the laws were changed people should be given notice of this change, so that they would not have their businesses injured.

Mr. Hyland stated that for twelve years Mrs. Lalima has operated her business with no complaints. And now, some five years after the Ordinance has changed, she is told for the first time that she is not allowed operate her business anymore. He stated that this was an incredible situation, and he was sympathetic with her plight.

The Board members asked the staff to contact the County Attorney's Office and ask if someone was available to discuss this matter.

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//The Board went into Executive session at 12:45 P.M. with Karen Harwood, Assistant County Attorney, and returned at 1:20 P.M. to continue with the Yun S. LaLima special permit application.

R E S O L U T I O N

Mr. Ribble made the following motion:

WHEREAS, Application No. SPA 77-L-098-1 by YUN S. LALIMA under Section 3-403 of the Fairfax County Zoning Ordinance to amend S-98-77 for beauty parlor as home occupation to permit continuation of the use without term, located at 7300 Fairchild Drive, tax map reference 92-4((3))(6)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 April 26, 1983; 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. That the area of the lot is 12,684 sq. ft.
4. That this particular use since August of 1978 has not been permitted.

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.

Mrs. Day seconded the motion.

The motion passed by a vote of 6 - 0. (Mrs. Thonen being absent)

Page 424, April 26, 1983, Scheduled 11:15 A.M. case heard at 1:30 P.M.:

11:15 A.M. RYLAND GROUP, INC., appl. under Sect. 18-406 of the Ord. to allow dwelling to remain 8.6 ft. from the side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6912 Bethnal Court, Franklin Mews Subd., R-3, Springfield Dist., 90-1((14))7, 12,392 sq. ft., VC 83-S-028.

William Shoup reviewed the staff report for the Board. He pointed out that the woodshed, which was the portion of the house extending into the minimum required side yard, was not shown on the original plans that were submitted for Building Permit approval.

Jack Rinker, with the firm of Rinker-Detwiller, represented the applicant. He stated that when the plans were prepared for the structure, they showed just the house and not the woodshed. After construction had commenced, the house was sold, and the purchasers requested that the woodshed be added onto the house. The salesman agreed to provide the woodshed as a part of the purchase agreement. After some time, when the owners sold this home and were at settlement, it was discovered that the woodshed was in violation.

There was no one to speak in support of the application.

Douglas Kaeton, the owner of the 10 acre parcel directly to the west of the subject property, spoke in opposition. He stated that since 1978, he had received many letters regarding changes and specifications on this piece of property. He stated that the woodshed was not a part of the architectural significance of the property and did not meet the standards under the code. He stated that the removal of the woodshed would not create an unreasonable hardship on the owner of the property. Mr. Kaeton stated that this was a low portion of ground which created drainage problems. At the time the property was originally developed, part of the site plan that he had agreed to was a minimum of 12 foot side yards because of the drainage concerns. In his judgment, there was no consistent drainage pattern channeling water from these lots to the holding pond, preventing water runoff onto his property. He felt that he had relied on the original site plan, and each time he received a letter in the mail from the developers of this property it was always some Zoning requirement that needed to be waived, addressed, or changed. Mr. Kaeton felt that this was an on-going adjustment to their site plan.

During rebuttal, Mr. Rinker stated that this definitely was a mistake, but that the woodshed could be removed and relocated to comply with the setback requirements. He felt that the woodshed had nothing to do with the drainage problems Mr. Kaeton had mentioned.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. VC 83-S-028 by RYLAND GROUP, INC. under Section 18-406 of the Fairfax County Zoning Ordinance to allow dwelling to remain 8.6 ft. from the side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 6912 Bethnal Court, tax map reference 90-1(14)7, 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 April 26, 1983; AND,

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.

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

1. That the granting of this variance will impair the intent and purpose of the Zoning Ordinance, and it would be detrimental to the use and enjoyment of other property in the immediate vicinity.

2. It is up to the applicant to move the wood shed from its present location. There is no objection to the right rear corner of the house being 14.7 ft. from the property line.

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

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Hammack & DiGiulian and Mrs. Thonen being absent)

Page 425, April 26, 1983, AFTER AGENDA ITEMS:

//The Board approved the BZA Minutes for August 4, 1981, as presented.

Page 425, April 26, 1983, AFTER AGENDA ITEMS:

V-82-D-205/JOSE RODRIGUES: The Board was in receipt of a letter of complaint from Mr. & Mrs. Lazar, 1169 Ballantrae Lane, McLean, neighbors of the above referenced applicant. The Lazars were asking the BZA to resolve the problems of tennis court lights shining on their property and into their home. It was the consensus of the Board that staff should view the property during the evening and obtain an evaluation as to whether or not condition #3 in the resolution form for V-82-D-205 has been violated. The BZA directed that this information should be reported back to them as soon as possible. The Board determined that this should not be considered a provision of the Ordinance, but as a condition of the variance application. The Board members indicated that if the tennis court lights are shining off the property, it is in violation of the permit.

Page 425, April 26, 1983, AFTER AGENDA ITEMS:

VC 83-P-067/CECIL FRUITT, JR., TRUSTEE: The Board was in receipt of a letter requesting an out-of-turn hearing on the above referenced variance application. It was the consensus of the Board to schedule the application in turn.

Page 425, April 26, 1983, AFTER AGENDA ITEMS:

SP 83-M-015/ISLAMIC COMMUNITY CENTER OF NORTHERN VIRGINIA: The Board was in receipt of a memo from Jane Gwinn regarding the captioned special permit. The Board of Supervisors had requested that the BZA reschedule the public hearing on this special permit to an evening meeting. The Board directed the clerk to see what nights the Board room was available so they could schedule a special evening meeting to accommodate this request.

Page 425, April 26, 1983, AFTER AGENDA ITEMS:

A 83-S-001/FAIRFAX COUNTY POLICE ASSOCIATION: The Board was in receipt of a memo from Jane Gwinn regarding the captioned appeal application. The agent for the appellant's had requested a deferral from the scheduled time of May 3, 1983 at 10:00 A.M. until the pending law suits regarding the rezoning of the Occoguan Basin area to the R-C District have been resolved. The appellant's property was within the rezoned area and the agent felt that

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Page 426, April 26, 1983, AFTER AGENDA ITEMS:
FAIRFAX COUNTY POLICE ASSOCIATION
(continued)

this appeal would be affected by the Court's ruling on these cases. Ms. Gwinn stated that the Zoning Administrator had no problem with the deferral request, however, it should be with the understanding that the appellant notify staff and the Board at such time as a final determination is made regarding whether to withdraw or pursue the appeal. It was the consensus of the Board to defer the matter consistent with Ms. Gwinns suggestion.

// There being no further business, the Board adjourned at 2:15 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on NOV. 13, 1984

APPROVED: NOV. 20, 1984
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, May 3, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; John Ribble; Paul Hammack and Gerald Hyland. Mary Thonen was absent.

The Chairman opened the meeting at 10:30 A.M. and Mrs. Day led the prayer.

The Chairman called the schedule 10 o'clock case of:

10:00 A.M. CHRISTIAN FELLOWSHIP CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-196-77 for church and related facilities to permit addition of land area and construction of additional parking lot with 171 spaces, redesign existing parking lot to increase total parking to 361 spaces and add parking lot lights, located 10237 Leesburg Pike, Dranesville Dist., R-1, 18-2((7))A, B, & C, 7.5472 acres, S-82-D-066. (DEFERRED FROM OCTOBER 28, 1982 AT THE REQUEST OF THE APPLICANT.)

Jane Kelsey reviewed the staff report for the Board which recommended approval of the application subject to the development conditions listed in the report. She indicated that in the fall of 1982, the church's bond went into default. There were several site deficiencies which needed correction. These deficiencies related to the failure of the builder to install proper drainage, and parking lot landscaping and screening in accordance with the approved site plan. Ms. Kelsey stated that the applicant was currently correcting these deficiencies. The Board was in receipt of a memo from Arthur Rose, DEM, regarding this application. He had reviewed the application and suggested that no action be taken by the BZA until such time as the existing church facility completes construction under the original special permit, and in accordance with the approved site plan or revision. The memo stated that major discrepancies exist with the original construction of the church facilities that would preclude his office from providing a reasonable analysis on the subject application.

Ms. Kelsey indicated that the application was originally deferred to allow the church time to correct some of the mentioned deficiencies. Since that time, the applicant had requested a revised site plan to show the changes and layout of the parking area. There were no water detention facilities constructed and the church is now proposing to put the facilities in another area which is off-site of the special permit area. In addition, upon a site inspection, several other problems were found. Therefore, Ms. Kelsey requested that the Board again defer the application. She indicated that the church had a problem with a deferral because they need to provide additional parking. People are now parking along Leesburg Pike and blocking the access driveway of an adjacent property owner.

Bill Hicks, an attorney at 6205 Old Keene Mill Road, Springfield, represented the applicant. James Ahlemann, 744 Florence Place, Herndon, the pastor of the church, was also present. Rev. Ahlemann stated that the parking area in front of the church was part of the original permit, but it had taken some time to construct it. The gravel had been put down in the winter months to prepare the area for paving in warmer weather. Rev. Ahlemann stated that the church had placed their trust in a construction manager when they first constructed the building. They thought they were in compliance until they heard about the bond being in default. Rev. Ahlemann stated that when these deficiencies were brought to the attention of the congregation, they attempted to resolve the problems. He stated that during a meeting with Design Review, they said that it appeared that a storm water detention pond could be placed on parcel G. The Office of Design Review indicated to the church that this would serve the same purpose as the original special permit condition, and it wouldn't be necessary to use storm water pipe and tear up all the existing parking areas. Rev. Ahlemann stated that the new plan had been submitted to Design Review several months ago, and they still had it. The church had not yet received final approval of the revision.

Bill Hicks stated that one of the reasons the storm water detention facility had not been constructed, is that the construction manager had led the church to believe that there was an agreement with the County that it would not be necessary. He stated that the County had preliminarily told the church that the storm water retention pond would be acceptable.

Mr. Hicks asked the Board not to defer the hearing. He said they could just add another condition stating that the church should be in compliance with the site plan. Chairman Smith felt that the Board should have a copy of the site plan before them to make any decision. He stated that the existing special permit was not valid because the church had not completed the facilities as originally outlined, or obtained an occupancy permit.

Charles Steinmetz, 1304 Tulip Poplar Lane, an abutting property owner, spoke regarding the application. He stated that he didn't see that the Board had done anything to ensure that the deficiencies on lot A & B would be completed. He chose not to make any comments regarding the deferral request.

Mr. Hammack stated that this application had been deferred from November, and he felt that nothing had been done since that time to correct any problems. He made a motion that the application be deferred for a period of 30 days. Mr. DiGiulian seconded the motion. The applicant was in agreement with the deferral. The special permit application was deferred to June 14, 1984 at 10:00 A.M.

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Page 428, May 3, 1983, Scheduled 10:15 A.M. case heard at 11:10 A.M.

10:15 A.M. FAIRFAX COUNTY POLICE ASSOCIATION, INC., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrators decision that the activities of the Fairfax County Police Association at 11651 Popes Head Road do not constitute a public use, Springfield Dist., R-C, 67-4(1)22C, 7.6603 acres, A-83-S-001. (DEFERRED FROM 3/22/83 AT THE REQUEST OF THE APPLICANT AND THE ZONING ADMINISTRATOR)

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In accordance with the discussion at their meeting of April 26, 1983, the Board of Zoning Appeals deferred the above referenced case indefinitely with the understanding that the appellant notify staff and the Board at such time as a final determination is made regarding whether to withdraw or pursue the appeal.

Page 428, May 3, 1983, Scheduled 10:20 A.M. case heard at 11:12 A.M.

10:20 A.M. CALVARY MEMORIAL PARK, INC. T/A FAIRFAX MEMORIAL PARK, appl. under Sect. 3-103 of the Ord. to amend S-81-A-022 for cemetery to permit addition of mausoleum to existing facilities, located 4401 Burke Station Rd., R-1, Annandale Dist., 69-1(1)1 & 12, 128.13856 acres, SPA 81-A-022-1. (DEFERRED FROM 4/19/83 AT THE REQUEST OF THE APPLICANT)

Jane Kelsey reviewed the staff report for the Board, which recommended approval of the special permit subject to the conditions set forth in the report. The proposed mausoleum was to be constructed on the north portion of lot 1, and would be located 1,000 feet from Burke Station Road and 250 feet south of the Sommerset subdivision. This land was originally two cemeteries which were adjacent to each other.

Grayson Hanes, 4084 University Drive, Fairfax, an attorney, represented the applicant. He stated that he had asked the Board to defer this application two weeks ago in order to explain to more citizens what was being proposed. He felt that the citizens now realized that there would not be much impact from this request. Mr. Hanes stated that this property had been acquired in 1956, before any of the homes surrounding the property were built. He stated that this is the first mausoleum the cemetery intends to construct. There will be 220 crypts and the total elevation of the mausoleum will be about 13 feet above ground level. There are only about five property owners that will be able to see the structure, and they are located in the Sommerset subdivision. He stated that the applicant was trying to remedy this by landscaping. Also, there will be screening along the property line. In addition to that, there is a drainage swale where a willow tree grove will be planted to completely screen the mausoleum from adjoining property owners. Mr. Hanes stated that the applicant had gone to a great extent to ensure that this would not have any adverse impact on property owners in the area. He was in agreement with all the conditions listed in the staff report except condition # 7 which he asked to be modified.

There was no one to speak in support or opposition to the request.

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Board of Zoning Appeals

CALVARY MEMORIAL PARK, INC. T/A FAIRFAX MEMORIAL PARK
R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. SPA 81-A-022-1 by CALVARY MEMORIAL PARK, INC. T/A FAIRFAX MEMORIAL PARK under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-81-A-022 for cemetery to permit addition of mausoleum to existing facilities, located at 4401 Burke Station Road, tax map reference 69-1(1)1 & 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 May 3, 1983; 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 128.13856 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 on the application and is not transferable to other land.
2. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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 an approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. Transitional screening and the requirement for a barrier may be modified provided the mausoleum is adequately screened from the adjacent residences by dense plantings, the size and type to be determined by the Director of the Department of Environmental Management.
5. There shall be no chapel within this mausoleum, nor shall there be any chimes or bells.
6. The number of burials in the mausoleum shall be limited to one at a time.
7. There shall be a 100 foot setback from Burke Station and Braddock Roads which shall not be used for any burial purposes.

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

Under Sect. 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 - 0. (Mrs. Thonen being absent)

Page 429, May 3, 1983, Scheduled 11:00 A.M. case heard at 11:30 A.M.:

11:00 A.M. FAIRFAX YACHT CLUB, INC., appl. under Sect. 3-E03 of the Ord. to permit a private non-profit yacht club, located at 10721 Old Colchester Road, R-E, Mt. Vernon Dist., 117-1((1))4; 4.7506 acres, SP-83-V-007.
(DEFERRED FROM 3/29/83 AT THE REQUEST OF THE APPLICANT.)

Jane Kelsey reviewed the staff report for the Board, which recommended approval of the special permit application subject to the development conditions listed in the report. She stated that the property was to be used by club members only with no public service facilities, and there would be no on-site dry dock storage, gas pumps or ramps. Ms. Kelsey indicated that a wetlands permit had been approved by the Virginia Marine Resource Commission, but had not yet been issued.

Jack Connor, 10505 Judicial Drive, an attorney, represented the applicant. He handed the Board 18 letters of support and a copy of an archaeological report that was submitted to the Virginia Historic Preservation Office for approval. He stated that the plans had been changed to reflect the concerns the Preservation Office had. The report notes that all of the concerns had been addressed. He stated that the archaeological sites on the property would be preserved, and access would be given to any archaeologists people that would like to come in. Mr. Connor indicated that the location of the rip-rap would be as directed by the Virginia Marine Resource Commission.

Robert Bodine, 6210 Greeley Blvd., Springfield, spoke regarding the application. He stated that seven or eight years ago when he was on the Fairfax County Environmental Quality Advisory Council, he had worked with the Mansion House Yacht Club which turned out to be a beautiful place. Mr. Bodine indicated that he had trespassed on the Fairfax Yacht Club property twice to see what they were doing. He felt that the rendering of the wetlands did not match the land being considered. He stated that it wouldn't do any good to put the rip-rap off the wetlands if the dock was placed over the wetlands, and he asked the Board to add a condition that said "the dock shall not cast shade on the wetlands as defined by the Marine Resources Commission." Mr. Bodine went on to discuss many other items unrelated to the application being considered.

Mr. Connor stated that he felt sure the Marine Resources Commission had taken the dock into account, and that they were better equipped to make that decision. In response to questions from the Board members, Mr. Connor stated that there would be 255 membership certificates issued, but that members could be accompanied by guests. The number of boats did not correspond to the number of members, because the applicant felt that not all the members would be using the facility at the same time. Mr. Hammack asked about condition #4 which limited the hours of operation. Mr. Connor stated that they clubhouse and all facilities would be closed up at 12:00 P.M. Mr. Hammack asked if this prohibited boatowners from staying on their boats overnight, and asked staff to clarify this condition.

Mr. Connor stated that there would be no repair done on the property and there were no facilities for it. If people wanted to do work of that nature, they would have to go to a commercial boatyard.

There was no one else to speak regarding the application.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. SP 83-V-007 by FAIRFAX YACHT CLUB, INC. under Section 3-E03 of the Fairfax County Zoning Ordinance to permit a private non-profit yacht club, located at 10721 Old Colchester Road, tax map reference 117-1(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 May 3, 1983; 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-E.
3. That the area of the lot is 4.7506 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:

*A copy of the articles of incorporation have been submitted to the staff for the file. Any amendments to the articles of incorporation shall be submitted for the record.

1. This approval is granted to the applicant only and is not transferable without further action of this Board, is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the uses indicated on the plans submitted with this application except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The hours of operation shall be from 6:00 A.M. to 12:00 midnight, for the club, seven (7) days a week. Boat owners shall be allowed to spend the night on their boats occasionally, but not on a permanent basis.
5. The total number of members shall be two-hundred and fifty five (255) and there shall be no associate members.
6. The total number of parking spaces shall be ninety-four (94).
7. The number of boat slips shall be restricted to one-hundred and seventy-five (175).
8. The maximum number of employees shall be ten (10).
9. There shall be no on-site dry-dock boat storage, no gasoline pumps, no boat ramps nor any other public service facility.
10. No clearing shall be allowed within fifty (50) feet of the shore property line except for a minimal area around the proposed building which may be located twenty-five (25) feet from the shore property line and the three (3) walkways across the marshland to the piers.
11. Conditions of all State and Federal permits shall be met.
12. No fill or grading shall be allowed within the 100 year floodplain.

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13. Any exterior lighting and parking lot lights shall be the low 18 to 22 foot high design which directs the light directly downward.
14. The existing trees and vegetation may be substituted for the required Transitional Screening 1 along the northern, southern, and western lot lines provided supplemental screening is provided if it is deemed necessary by the Director of Environmental Management. A forty (40) foot area along the eastern property line adjacent to the parking lot shall be provided and the existing trees and vegetation shall be supplemented with additional low evergreen plantings to screen the vehicle lights from the adjacent potential development. The barrier along this property line may be waived until such time as the adjacent property is developed. The requirement for a barrier along the other property lines may be modified.
15. At such time as easements or rights-of-way adequate for the proposed use are available to provide direct access to the subject site from Old Colchester Road, or at the end of five (5) years, whichever occurs first, this application shall be reviewed by the Staff to include the Office of Transportation, and the BZA, to determine the location and design of a direct site access to Old Colchester Road.
16. A ten (10) foot wide strip of existing vegetation shall be preserved adjacent to the access easement until such time as this access may be relocated. If the adjacent property develops prior to the relocation of the access road, the vegetation shall remain and be supplemented by additional screening at the discretion of the Director of DEM.
17. Boardwalks and steps on piles shall be used to provide access from the proposed building down the steep bank and across the marsh to the piers.

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

Under Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of the Special Permit. A request for additional time must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0. (Mrs. Thonen being absent)

Page 431, May 3, 1983, Scheduled 11:20 A.M. case heard at 12:08 P.M.:

11:20 A.M. HOWARD C. HOGG AND AKIKO HOGG, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots, proposed lots 2 and 3 having width of 6 ft. and proposed lot 1 having width of 113 ft. (150 ft. min. lot width req. by Sect. 3-106), located 937 Belleview Rd., R-1, Dranesville Dist., 20-1((1))17 & 18, 4.869146 acres, VC 83-D-019.

Marc Bettius, who represented the applicants, requested a deferral of the application. He stated that after reading the staff report and having some discussions with DEM, he felt that this subdivision was a little too ambitious. Mr. Bettius stated that he was going to amend the application and reduce the request to three lots. This would eliminate many of the staff objections to this application.

Charles Peters, 8408 Martingale Drive, was in opposition to the application, but did not object to the deferral request.

It was the consensus of the Board to defer the application to June 21, 1983 at 8:15 P.M.

//The Board recessed for lunch at 12:10 P.M. and returned at 1:30 P.M. to take up the scheduled agenda.

Page 431, May 3, 1983, Scheduled 11:30 A.M. case heard at 1:30 P.M.:

11:30 A.M. ARTHUR W. KROP, JR. & BERNICE KROP, appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, one of which has width of 156.75 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 910 Utterback Store Rd., R-E, Dranesville Dist., 7-3((1))30, 6.004 acres, VC 83-D-020.

Jane Kelsey reviewed the staff report for the Board which indicated that there did not seem to be any physical hardship which would prevent the applicant's reasonable use of the land absent a variance. This lot was subdivided prior to 1945 before the adoption of the Subdivision Ordinance. The applicant purchased the subject parcel on August 26, 1976.

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ARTHUR W. KROP, JR. & BERNICE KROP
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James Conroy, an attorney in Fairfax, represented the applicants. He noted that at the time this property was purchased, it was with the intent of subdividing it and making full use of the six acres. The land had then been rezoned. Mr. Conroy stated that this subdivision would conform to existing land use in the area. He stated that the lot had been acquired in good faith and was exceptionally narrow. He felt that it was exceptionally narrow because it did not meet the 200 foot minimum required width.

There was no one to speak in support or opposition.

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ARTHUR W. KROP, JR. & BERNICE KROP

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC 83-D-020 by ARTHUR W. KROP, JR. & BERNICE KROP under Section 18-401 of the Zoning Ordinance to allow subdivision into three lots, one of which has width of 156.75 ft. (200 ft. min. lot width req. by Sect. 3-E06), on property located at 910 Utterback Store Road, tax map reference 7-3(1)30, County of Fairfax, Virginia, Mr. Hylan moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 3, 1983; 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 6.004 acres.
4. That the applicants' property is exceptionally irregular in shape, as noted on the plat. There has been no opposition expressed from any of the contiguous property owners. It has been noted that the proposed subdivision of this lot in comparison with the property located to the West of Utterback Store Road is approximately double the size of the lots along Utterback Store Road, and a review of the surrounding area shows that most other properties in that vicinity are in fact much larger in area than the proposed subdivision lots will be.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 variance is approved for the subdivision of this lot as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A soil report shall be provided prior to the issuance of any building permit on the lots as deemed necessary by the Director of Environmental Management.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 1. (Mr. Smith) (Mrs. Thonen being absent)

Page 432, May 3, 1983, Scheduled 11:40 A.M. case heard at 1:50 P.M.:

11:40 A.M. WALTER C. BEST, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 6.1 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 6024 Trailside Dr., Springfield Estates Subd., R-4, Lee Dist., 80-4((5))(19)7, 10,471 sq. ft., VC 83-L-021.

Jane Kelsey reviewed the staff report for the Board. Walter Best, 6024 Trailside Drive, presented the application. He stated that his lot was at the center a the curvature of a

cul-de-sac, which resulted in a pie-shaped lot. He was planning to construct a brick, two-story addition with a two car garage on the basement level and a family room above. He stated that only the front portion of the proposed addition would be located in the required minimum side yard.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC 83-L-021 by WALTER C. BEST under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 6.1 ft. from side lot line, on property located at 6024 Trailside Drive, tax map reference 80-4((5))(19)7, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 3, 1983; 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 10,471 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, and very narrow on the front lot line and has an unusual condition in the location of the existing building on the subject property. Only one corner, that being the northwest corner, will violate the set back requirements. The subject property had an exceptional shape at the time of the effective date of the 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 on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1. (Mr. Smith) (Mrs. Thonen being absent)

Page 433, May 3, 1983, Scheduled 11:50 A.M. case heard at 2:05 P.M.:

11:50 A.M. JON M. LIEN, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 14.4 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 5423 Rilian Ct., Woodhurst Subd., R-3, Annandale Dist., 78-2((21))54; 8,697 sq. ft., VC 83-A-022.

Jane Kelsey reviewed the staff report for the Board. Jon Lien, 5423 Rilian Court, presented his application. Mr. Lien stated that the house was constructed with a sliding glass door on the main floor located within the kitchen. In order to utilize these doors, he wished to construct a wooden deck. He stated that the deck was offered as an option when he purchased the house.

Thomas Kettler, 10505 Montrose Avenue, the project supervisor for the house, spoke in support. He stated that this was the only house in the subdivision constructed with

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JON M. LIEN
(continued)

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walkout sliding glass doors. He stated that Mr. Lien wanted the deck built at the time he purchased the house, but applied for a variance to construct a larger deck than what was allowed. By right Mr. Lien could build a deck 10 x 12 feet, but wanted one 12 x 18 feet.

There was no one to speak in support or opposition.

Page 434, May 3, 1983
JON M. LIEN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC 83-A-022 by JON M. LIEN under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 14.4 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), on property located at 5423 Rilian Court, tax map reference 78-2((21))54, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 3, 1983; 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 8,697 sq. ft.
4. That the applicants' property has exceptional shallowness in that the site plan shows that it has a good deal less depth to it with reference to its frontage on the street by virtue of the fact that it's a pipestem lot. In addition, it is an undersized 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 on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1. (Mr. Smith) (Mrs. Thonen being absent)

Page 434, May 3, 1983, Scheduled 12:00 P.M. cases heard at 2:25 P.M.:

12:00 P.M. THE EMERSON GALLERY, appl. under Sect. 3-403 of the Ord. for an art and craft gallery, located 6728 Whittier Ave., Bryn Mawr Subd., R-4, Dranesville Dist., 30-2((9))25 & 26, 15,000 sq. ft., SP 83-D-014.

12:00 P.M. CLARENCE A. ASHLEY, III AND THE EMERSON GALLERY, appl. under Sect. 18-401 of the Ord. to allow art and craft gallery in building located 18.6 ft. from front lot line, with a 20.3 ft. high accessory building located 14.5 ft. from rear lot line and with a proposed parking lot with crushed stone surface (25 ft. min. front yard req. by Sect. 3-407; 20.3 ft. min. rear yard for accessory bldg. req. by Sect. 10-104; dustless surface for parking lot req. by Sect. 11-102), located 6728 Whittier Avenue, Bryn Mawr Subd., R-4, Dranesville Dist., 30-2((9))25 & 26, 15,000 sq. ft., VC 83-D-023.

Jane Kelsey reviewed the staff report for the Board. She stated that this was a Group 7, Older Structures in the R-4 District, special permit use. This area was planned for residential use at 8-12 dwelling units per acre. However, this permit was conditioned with

a corresponding time limit to assure that when the area was ready for development this use would not prohibit or delay the development at the planned density use. Staff recommended approval of this application in conformance with the development conditions listed in the staff report.

Mary Spooner, 346 Springvale Road, Great Falls, presented the applications. She stated that she was a member of the Board of Directors of the Emerson Gallery. The Emerson Gallery had operated in the McLean area since 1962. It was an all volunteer, non-profit gallery. She stated that this gallery had been located in seven different locations. The building currently being occupied was scheduled to be demolished early this year.

There was no one to speak in support or opposition.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. SP 83-D-014 by THE EMERSON GALLERY under Section 3-403 of the Fairfax County Zoning Ordinance for an art and craft gallery, located at 6728 Whittier Avenue, tax map reference 30-2((9))25 & 26, 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 3, 1983; and

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

1. That the applicant is the contract/lessee.
2. That the present zoning is R-4.
3. That the area of the lot is 15,000 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 on the application and is not transferable to other land.
2. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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 an approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the subject property.
4. Transitional screening and barrier requirements may be modified provided the existing trees remain in all areas except the proposed parking lot and additional screening is provided around the parking lot as may be determined by the Director of the Department of Environmental Management at the time of site plan review.
5. The applicant shall obtain a Non-Residential Use Permit (Non-Rup) within six (6) months from the date of approval of this special permit unless additional time is requested and approved by the Zoning Administrator due to circumstances beyond the control of the applicant. This special permit is approved for a period of two (2) years from the date of issuance of the Non-Residential Use Permit.

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

Under Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is approved by the Board of Zoning Appeals because of the occurrence

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of conditions unforeseen at the time of granting of the Special Permit. A request for additional time must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0. (Mrs. Thonen being absent)

Page 436, May 3, 1983 Board of Zoning Appeals
CLARENCE A. ASHLEY, III AND THE EMERSON GALLERY
R E S O L U T I O N

In Application No. VC 83-D-023 by CLARENCE A. ASHLEY, III AND THE EMERSON GALLERY under Section 18-401 of the Zoning Ordinance to allow art and craft gallery in building located 18.6 ft. from front lot line, with a 20.3 ft. high accessory building located 14.5 ft. from rear lot line and with a proposed parking lot with crushed stone surface (25 ft. min. front yard req. by Sect. 3-407; 20.3 ft. min. rear yard for accessory bldg. req. by Sect. 10-104; dustless surface for parking lot req. by Sect. 11-102), on property located at 6728 Whittier Avenue, tax map reference 30-2((9))25 & 26, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 3, 1983; and

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

1. That the applicant is the contract/lessee.
2. The present zoning is R-4.
3. The area of the lot is 15,000 sq. ft.
4. That the building is in the Central Business District of McLean. It's an older neighborhood and the house has quite some age to it. The use of the non-profit gallery requires a variance because it is temporary, to allow the gravel driveway for a period of not longer than two years. The traffic would be light and the dustless surface would not generate any problem. This variance is to allow the art and craft gallery in a building located 18.6 ft. from the front lot line with a 20.3 high accessory building located 14.5 ft. from the rear lot line. Due to the fact that these are old buildings which antedate the present 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.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 - 0. (Mrs. Thonen being absent)

Page 436, May 3, 1983, Scheduled 12:30 P.M. case heard at 2:40 P.M.:

12:30 P.M. GEORGE F. KETTLE, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 9 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3803 Bent Branch Rd., Barcroft Woods Subd., R-2, Mason Dist., 60-4((20))100, 22,174 sq. ft., VC 83-M-024.

Jane Kelsey reviewed the staff report for the Board. Ken Sanders, an attorney in Fairfax, represented the applicant. He stated that this application was identical to an application the Board approved in July 1978. The application expired, therefore, the applicant refiled. He stated that this was a brick addition to the existing brick building, and would be an expansion of the dining room area. Mr. Sanders stated that the lot was only 90 feet wide and irregular in shape.

Robert Bodine, 6210 Creeley Blvd., Springfield, spoke with regard to the application. He stated that he felt this was a fairly wide lot, and he did not see where the applicant had a hardship.

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During rebuttal, Mr. Sanders stated that the former neighbors had objected the BZA's decision on the previously approved variance, and had appealed the decision to the circuit court. The court upheld the BZA's decision. Mr. Sanders stated he did not know what Mr. Bodines interest in the subject matter was.

There was no one else to speak with regard to the application.

R E S O L U T I O N

In Application No. VC 83-M-024 by GEORGE F. KETTLE under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 3803 Bent Branch Road, tax map reference 60-4((20))100, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 3, 1983; 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 22,174 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, in two respects. One, it is narrow and two, the lot itself is unusual in its configuration. The subject property had exceptional narrowness at the time of the effective date of the 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 on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for an extension should be justified in writing and should be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to construction.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 1. (Mr. Smith) (Mrs. Thonen being absent)

Page 437, May 3, 1983, Scheduled 12:40 P.M. case heard at 2:50 P.M.:

12:40 P.M. THE ISLAMIC COMMUNITY CENTER OF NORTHERN VIRGINIA, appl. under Sect. 3-203 of the Ord. for a church and related facilities, located 4925 Backlick Rd., R-2, Mason Dist., 71-4((1))19, 1.198 acres, SP 83-M-015.

Chairman Smith stated that there was a request to defer the hearing from some citizens unable to attend that day. The Board decided to proceed with the hearing with the understanding that it would be recessed to another hearing date to accept additional testimony.

Jane Kelsey reviewed the staff report for the Board. She stated that the subject property had previously been used as a dwelling. The applicant was the contract purchaser of lot 19. The existing dwelling would be converted to a church with a seating capacity of 60 persons. Ms. Kelsey stated that in order to minimize potential adverse impacts from this use, the residential character of the property should be preserved. Staff recommended approval of the special permit application in accordance with the development conditions set forth in the staff report.

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Harold Johnson, an attorney at 6622 Bostwick Street, Springfield, represented the applicant. He stated that the applicants had been before the Board previously with regard to another piece of property, but their application was denied because the property did not meet the bulk regulations required for the special permit use. Mr. Johnson stated that the organization presently used the Holmes Intermediate School for their Sunday services. He stated that in the next few years, the applicant intended to purchase land in Fairfax County and develop a mosque.

Abdul Almed, the President of the Islamic Community Center, 6010 Columbia Pike, Falls Church, spoke regarding the application. He stated that this was a religious organization and they were not affiliated with any political organization. He stated that this group observed many different holidays that did not fall on Sundays. Mr. Hammack asked Mr. Almed to make sure the staff received a list of all the major religious activities and the dates they would take place.

People speaking in opposition included: Margaret Payne, representing the Sunset Lane subdivision; Bob Beers, representing Supervisor Tom Davis; Jessie Austin, the owner of lot 20, adjacent to the subject property; and Mildred Frazier, 4953 Sunset Lane. Ms. Payne handed the Board members a petition signed by 120 people in opposition. They felt this house should stay residential, and were concerned that the septic field would not be able to accommodate the 60 people expected for religious services. Mr. Beers stated that Supervisor Davis had received many calls from people in the area that were 100% in opposition. The citizens felt that this use by itself would not have a great impact on the community. But when considered in conjunction with existing institutional uses in the immediate vicinity, it would be another step to take away from the character of the neighborhood. Other citizen concerns included increased traffic and parking space problems.

It was the consensus of the Board to recess the hearing to allow for additional testimony from citizens. The special permit application was deferred to May 17, 1983 at 9:00 P.M.

Page 438, May 3, 1983, AFTER AGENDA ITEMS:

//On April 26, 1983 the Board of Zoning Appeals denied special permit SPA 77-L-098-1, and application by Yun S. LaLima to continue the use of her home as a beauty parlor. The Board members expressed their concern that there are many other special permits that have been granted that will expire, and that there are persons operating small businesses that do not know that those businesses are no longer a permitted use in the district where they are operating. Mr. Hyland stated that it was his understanding that under the May 2, 1983 Zoning Ordinance amendment, if a person comes to the Zoning office to extend an existing permit or renew it, the Zoning Administrator will deny it. Mr. Hyland made a motion asking staff and the Zoning Administration office if there was any way to determine which of those businesses are not longer a permitted use, and to notify those persons now, rather than when their permits come up for renewal. Mr. DiGiulian seconded the motion. The vote was unanimous of the Board members present. (Mrs. Thonen being absent)

Page 438, May 3, 1983, AFTER AGENDA ITEMS:

//The Board discussed scheduling additional meetings in July to accommodate the many variance and special permit cases being filed. Mr. Hyland asked the Board to consider adding evening meetings instead of day meetings. The Board members asked the clerk to revise the BZA meeting schedule and give them a copy for review and consideration.

Page 438, May 3, 1983, AFTER AGENDA ITEMS:

VC 83-V-072/JAMES T. CLAXTON: The Board was in receipt of a letter requesting an out-of-turn hearing for the referenced variance application. It was the consensus of the Board to deny the request and schedule the application in turn.

Page 438, May 3, 1983, AFTER AGENDA ITEMS:

SPA 80-C-012-1/RESTON ROLLER RINK, INC.: The Board was in receipt of a letter requesting an out-of-turn hearing for the referenced special permit amendment. It was the consensus of the Board to deny the request and schedule the application in turn.

// There being no further business, the Board adjourned at 5:30 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on NOV. 20, 1984 APPROVED: NOV. 27, 1984
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, May 10, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Ann Day; John Ribble; and Mary Thonen. (Messrs. Gerald Hyland and Paul Hammack were absent).

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled 10 o'clock case of:

10:00 DOUGLAS E. ROBINSON, appl. under Sect. 3-C03 of the Ord. for modification to
A.M. to minimum yard requirements for deck addition to existing dwelling, located
4320 General Kearny Ct., R-C, Pleasant Valley Subd., Springfield Dist.,
33-4((2))120, 10,500 sq. ft., SP 83-S-021.

Mr. William Shoup presented the staff report which recommended approval of SP 83-S-021 subject to the conditions in Appendix I. Mr. Douglas Robinson of 4320 General Kearny Court informed the Board that he was requesting permission to put a deck 14 ft. from the side lot line. There were two sliding glass doors in the house, both of which would enter the proposed deck. Mr. Robinson stated that it would have been permissible to add the deck prior to the downzoning of the property to the R-C category.

There was no one else to speak in support and no one to speak in opposition.

Page 439, May 10, 1983
DOUGLAS E. ROBINSON

Board of Zoning Appeals

R E S O L U T I O N

Ms. Thonen made the following motion:

WHEREAS, Application No. SP 83-S-021 by DOUGLAS E. ROBINSON under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow deck addition to existing dwelling, located at 4320 General Kearny Court, tax map reference 33-4((2))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 May 10, 1983; and

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

1. That the property was the subject of final plat approval prior to July 26, 1982. The subdivision was recorded on August 11, 1978.
2. That the property was comprehensively rezoned to the R-C District on July 26, 1982.
3. The requested modification in the yard requirements will result in a yard not less than the minimum yard requirement of the zoning district that was applicable to the lot on July 25, 1982. Prior to July 26, 1982, the property was zoned R-2 Cluster. The R-2 District requires a side yard of 8 ft. with a total minimum of 24 feet for a cluster subdivision lot.
4. It appears that the resultant development will be harmonious with the existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

AND WHEREAS, the Board has reached the conclusion that the applicant has met the provisions for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE BE IT RESOLVED that the subject application is GRANTED in accordance with the following development conditions:

1. This approval is for the location and the specific structure indicated on the plat included with this application prepared by Paculli, Simmons & Associates, Ltd., and is not transferable to other land or to other structures on the same land.
2. A Building permit shall be obtained prior to the start of construction.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

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R E S O L U T I O N

(continued)

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Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Hyland & Hammack being absent).

Page 440, May 10, 1983, Scheduled case of

10:10 A.M. GLENN E. THOMPSON, JR., TRUSTEE, appl. under Sect. 18-401 of the Ord. to allow subdivision into seven (7) lots, proposed lot 2 having width of 28.42 ft. (80 ft. min. lot width req. by Sect. 3-306), located 7731 Idylwood Rd., R-3, Providence Dist., 39-4((1))221, 2.47 acres, VC 83-P-025.

The Board was in receipt of a letter from Mr. Glenn E. Thompson, Jr. requesting the variance application be withdrawn without prejudice. It was the unanimous consensus of the Board to allow the withdrawal without prejudice as requested.

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Page 440, May 10, 1983, After Agenda Items

Lawrence L. Ziemianski, D.D.S., S-80-D-035: The Board was in receipt of a letter from Dr. Ziemianski requesting a three month extension of the special permit granted on April 16, 1980 for a home professional office. Three previous extensions had been granted by the BZA. However, in his letter, Dr. Ziemianski indicated that he would be ready to proceed with permits after going to settlement on his Maryland property on May 6th. Mrs. Thonen moved that the Board grant the last and final extension for a period of three months. Mr. Ribble seconded the motion and it passed by a vote of 5 to 0 (Messrs. Hyland and Hammack being absent).

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Page 440, May 10, 1983, After Agenda Items

Seoul Presbyterian Church, S-81-S-021 and V-81-S-056: The Board was in receipt of a letter from Byung In Lee, J.D., Board of Trustees, requesting extensions of the special permit and variance granted to Seoul Presbyterian Church. One previous six month extension had been granted by the BZA. Mr. DiGiulian moved that the Board grant a final extension for a period of 90 days on both the special permit and the variance. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. Hyland and Hammack being absent).

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Page 440, May 10, 1983, After Agenda Item

TRP, INC., S-82-L-106: Mr. Phil Garman, Landscape Architect, of DEM requested clarification from the BZA regarding its resolution of April 19, 1983 granting approval for a bowling alley located at 8558 Richmond Highway, tax map reference 101-3((1))37, concerning modification of the transitional yard and screening requirements. Mr. William Shoup presented Mr. Garman's request and discussed the Board's intent. Following discussion, it was the unanimous consensus of the Board that it had been their intent originally to require a 100 ft. buffer along the lot line to the north and to modify the transitional yard requirement to 15 ft. along the east property line and 9 ft. along the south property line. In addition, in lieu of the barrier requirement, it was the intention of the BZA that a 6 ft. chain link fence be constructed in those areas where a barrier would be required and that the fence be interlaced with redwood slats only in those areas adjoining the parking lot as required by condition no. 8 of the resolution. The Board stated that it was not its intent to require a solid brick wall as a barrier between the apartment complex and the bowling alley and, in fact, had voted that issue down at the time of the public hearing on April 19th.

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Page 440, May 10, 1983, Scheduled case of

10:30 SUSAN E. BAYLISS/FLORENCE E. BAYLISS, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport 11.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 7717 Tauxemont Rd., Tauxemont Subd., R-2, Mt. Vernon Dist., 102-2((8))13, 22,002 sq. ft., VC 83-V-026.

Mr. William Shoup presented the staff report. Ms. Susan Elizabeth Bayliss of 7717 Tauxemont Road informed the Board that she wanted to enclose an existing carport which was located 11 ft. from the side lot line. It was to be used as an additional bedroom. The hardship for the variance was the irregular shape of the lot and the location of the house on the property. The property had converging lot lines making the variance necessary.

There was no one else to speak in support and no one to speak in opposition.

SUSAN E. BAYLISS/FLORENCE E. BAYLISS

R E S O L U T I O N

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In Application NO. VC 83-V-026 by SUSAN E. BAYLISS/FLORENCE E. BAYLISS under Section 18-401 of the Zoning Ordinance to allow enclosure of carport 11.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 7717 Tauremont Road, tax map reference 101-2((8))13, 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 10, 1983; and

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

1. That the owners of the property are the applicant.
2. The present zoning is R-2.
3. The area of the lot is 22,002 sq. ft.
4. That the applicants' 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 on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit for the proposed addition shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. Hyland and Hammack being absent)

Page 441, May 10, 1983, Scheduled case of

10:40 WILLIAM & DONNA FAWCETT, appl. under Sect. 18-401 of the Ord. to allow
 A.M. construction of dwelling 37 ft. from front lot line (50 ft. min. front yard
 req. by Sect. 3-E07), Gunston Manor, R-E, Mt. Vernon Dist., 119-4((2))(16)7-16,
 26,281 sq. ft., VC 83-V-027.

The Board was in receipt of a request from Mrs. Donna Fawcett regarding a withdrawal of the above-captioned variance without prejudice. Mr. DiGiulian moved that the Board allow the withdrawal without prejudice. Mr. Ribble seconded the motion it passed by a vote of 5 to 0 (Messrs. Hyland and Hammack being absent).

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Page 441, May 10, 1983, Recess

The Board recessed the meeting at 10:45 A.M. and reconvened at 11:05 A.M. to continue the scheduled agenda.

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11:00 JOHN E. LUTES, appl. under Sect. 18-401 of the Ord. to allow construction of
A.M. garage addition to dwelling to 9.0 ft. from side lot line (12 ft. min. side
yard req. by Sect. 3-307), located 8203 Dabney Ave., Keene Mill Manor, R-3,
Springfield Dist., 79-4((2))185, 11,813 sq. ft., VC 83-S-029.

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Mr. William Shoup presented the staff report. Mr. John E. Lutes of 8203 Dabney Avenue in Springfield informed the Board that he needed a variance in order to build a garage. He stated that this was the most logical place to build it. The back yard was 7 ft. higher than the front. Because of the slope, it would be hazardous to get around the house in bad weather. In addition, there was not enough room to back out of the garage and turnaround if it was in the back yard.

In response to questions from the Board, Mr. Lutes stated that there was a chimney on the same side of house as the proposed garage. The chimney stuck out about 16 inches. Mr. Lutes stated that he owned two vehicles, an Oldsmobile Cutlass and a VW bus. The Board questioned whether a 17 ft. wide garage would be adequate. Mr. Lutes responded that it would be extremely difficult to open car doors because of the chimney. Mr. Lutes stated that his neighbor's house was situated on a corner lot and would not face the proposed garage. Mr. Lutes explained that he tried to be conservative in his proposed construction plans but because of the chimney and the block walls, he felt he needed a 20 ft. garage. The actual width of the garage, after clearance of the walls, would be 18 ft.

There was no one else to speak in support and no one to speak in opposition.

Page 442, May 10, 1983
JOHN E. LUTES

Board of Zoning Appeals

RESOLUTION

In Application NO. VC 83-S-029 by JOHN E. LUTES under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to *9.0 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 8203 Dabney Avenue, tax map reference 79-4((2))185, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 10, 1983; 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 11,813 sq. ft.
4. That the applicant's property is small and narrow being 11,813 sq. ft. The applicant does have exceptional topographic problems making it difficult to build a garage in the rear because it slopes upward from the front to the rear..

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 a two car garage 18 ft. wide, 11 ft. from the side lot line necessitating a variance of 1 ft.) with the following limitations:

1. This approval is granted for the location and the specific structure indicated on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. Hyland and Hammack being absent)

11:10 W. DWIGHT & CELESTE E. LOVE, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of addition to existing attached garage to 4.2 ft. from side lot
line such that total side yards would be 16.7 ft. (8 ft. min., 20 ft. total
min. side yard req. by Sect. 3-307), and 16 ft. from edge of pipestem driveway
pavement (25 ft. req. by Sect. 2-416), located 12827 Longleaf Ln., Hiddenbrook
Subd., R-3(C), Dranesville Dist., 10-2((3))196, 8,429 sq. ft., VC 83-D-030.

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Mr. William Shoup presented the staff report. Mr. Shoup explained to the Board that the subject parcel was not a pipestem lot but was adjacent to a pipestem access. Behind the parcel was Loudoun County. Mr. W. Dwight Love of 12827 Longleaf Lane informed the Board that he had a small house on a small, irregularly shaped lot located on a cul-de-sac. His situation was made worse by the lack of adequate street parking. He stated that parking was prohibited on the pipestem. The cul-de-sac was broken by five driveways that served ten residences. Mr. Love explained that the widening of his garage would alleviate his parking problem.

In response to the Board's indication that it was possible to extend the driveway without a variance, Mr. Love stated that he had considered all alternatives. The house was constructed in 1977. The standard size garage in the area was 22 ft. wide. Mr. Love informed the Board that his land sloped off to the left to the property line. Mr. Love stated that his neighbors had a two car garage about 22 ft. wide. Mr. Love stated that his neighbor had not opposed his variance. In response to questions from the Board, Mr. Love indicated that his neighbor's garage had come with the house. He had not been offered the same option by the builder. Mr. Love stated that he had a large back yard with a fairly steep slope.

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

Page 443, May 10, 1983
W. DWIGHT & CELESTE E. LOVE

Board of Zoning Appeals

R E S O L U T I O N

In Application NO. VC 83-D-030 by W. DWIGHT & CELESTE E. LOVE under Section 18-401 of the Zoning Ordinance to allow construction of addition to existing attached garage to 4.2 ft. side lot line such that total side yards would be 16.7 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307) and 21.75 from edge of pipestem driveway pavement (25 ft. req. by Sect. 2-416), on property located at 12827 Longleaf Lane, tax map reference 10-2((3))196, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 10, 1983; and

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

1. That the owners of the property are the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 8,429 sq. ft.
4. That the applicants' property is exceptionally irregular in shape and has exceptional topographic conditions.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

R E S O L U T I O N

3. A Building Permit for the proposed addition shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion *FAILED by a vote of 3 to 2 (Mr. Smith & Mrs. Thonen)(Messrs. Hyland and Hammack being absent).

Page 444, May 10, 1983, Scheduled case of

11:20 A.M. WALTER LEWIS GLENN, JR., appl. under Sect. 18-401 of the Ord. to allow expansion and enclosure of existing carport into an attached garage 6.0 ft. from side lot line such that total side yards would be 22.5 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located 2326 Riviera Dr., Tanglewood Subd., R-2(C), Centreville Dist., 38-1((22))28, 10,783 sq. ft., VC 83-C-031.

Mr. William Shoup presented the staff report. Mr. Lewis Glenn of 2326 Riviera Drive informed the Board that he had a pie-shaped lot with a sloping rear yard. There were evergreens in the back to shield his neighbor's carport which would face the proposed garage. Mr. Glenn stated that he had the support of his neighbors in his requested variance.

Mrs. Day informed the Board that she had driven by the property. The applicant was correct in that the property sloped up in the back and the sides. There were thick, tall evergreens to screen the addition from the neighbors. Mrs. Day felt that the proposed addition would be in keeping with the neighborhood. In response to questions from the Board, Mr. Glenn stated that the garage would be 18 ft. wide.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application NO. VC 83-C-031 by WALTER LEWIS GLENN, JR. under Section 18-401 of the Zoning Ordinance to allow expansion and enclosure of existing carport into an attached garage 6.0 ft. from side lot line such that total side yards would be 22.5 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), on property located at 2326 Riviera Drive, tax map reference 38-1((22))28, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 10, 1983; 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 10,783 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 on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request

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for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

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

4. The existing evergreens along the south side of the property shall remain for the purpose of screening the garage from adjacent lot 27.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. Hyland and Hammack being absent)

Page 445, May 10, 1983, Scheduled case of

11:30 OAKTON TERRACE, INC., appl. under Sect. 3-2003 of the Ord. for a community
A.M. swimming pool, R-20, Providence Dist., 47-4((1))34A, 6.58478 acres, SP 83-P-016.

Mr. William Shoup presented the staff report which recommended approval of SP 83-M-016 subject to the conditions set forth in Appendix I. Mr. John Harris of Patton, Harris, Rust & Associates, 10523 Main Street in Fairfax, informed the Board that the special permit was for a pool for Oakton Terrace which consisted of 240 units. The pool would operate 7 days a week, from 10 A.M. until 9 P.M. It would occasionally be open at night for special activities of the condo association. The pool had been designed to accommodate 10% of the total population at any one time. Two lifeguards would be on duty. There would be very little traffic generated. A total of 9 parking spaces had been required. The farthest unit from the pool was 400 yards which was within walking distance. The bathhouse construction would be compatible with the condo units.

In response to the concern of the environmental analysis about pool drainage, Mr. Harris stated that the Health Department would be notified when the pool was drained. Mr. Ribble inquired about handicapped parking as it was not indicated in the staff report. Mrs. Day questioned whether the permit would be allowed to transfer over to the homeowners association.

In response to questions from the Board, Mr. Harris indicated that the pool would be lighted. The lights would be used at night for the pool operation and during clean-up activities. The pool would not be operated beyond 10 P.M. unless there were special activities according to Mr. Harris.

There was no one else to speak in support and no one to speak in opposition.

Page 445, May 10, 1983
OAKTON TERRACE, INC.

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. SP 83-P-016 by OAKTON TERRACE, INC., under Section 3-2003 of the Fairfax County Zoning Ordinance to permit community swimming pool, located on the east side of Bushman Drive, tax map reference 47-4((1))34A, 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 10, 1983; 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-20.
3. That the area of the lot is 6.58478 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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(continued)

1. This approval is granted to the applicant. However, upon conveyance of the swimming pool to the Oakton Condominium Unit Owners Association, Inc., this approval shall transfer to the Association. This approval is granted for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the uses indicated on the plans submitted with this application except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during draining or cleaning operations, so that pool waters can be adequately treated.
5. Transitional screening, as shown on the plat submitted with this application, shall be provided to the north and east of the pool site. Transitional screening may be modified along the south side of the site provided the proposed uses are screened from adjoining areas in accordance with a landscaping plan to be coordinated with and approved by the County Arborist Office.
6. A soil survey shall be completed prior to pool construction. If high water table soils are found in the immediate vicinity of the pool, then the pool shall be engineered and constructed to ensure pool stability, including the installation of an adequate number of hydrostatic relief valves.
7. Hours of operation for the pool shall be 10:00 A.M. to 9:00 P.M.
8. After-hour parties for the swimming pool shall be governed by the following:
 - o Limited to six (6) per season.
 - o Limited to Friday, Saturday and pre-holiday evenings.
 - o Shall not extend beyond 12:00 midnight.
 - o Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
 - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after hour party.
9. If lights for the pool are proposed such shall be in accordance with the following:
 - o The combined height of the light standards and fixtures shall not exceed twenty (2) feet.
 - o The lights shall be a low-intensity design which directs the light directly onto the facility.
 - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the pool area.
10. Nine (9) parking spaces shall be provided.
11. No vehicles or equipment associated with the pool construction shall use Cyrandall Valley Road as a means of access to and from the pool construction site.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of the Special Permit. A request for additional time must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Hyland and Hammack being absent).

Page 446, May 10, 1983, Scheduled case of

11:45 A.M. LASZLO N. TAUBER, TRUSTEE, appl. under Sect. 3-3003 of the Ord. for a community swimming pool and tennis court, located Lakeside Plaza Subd., R-30, Mason Dist., 61-4((4))15, 13.32394 acres, SP 83-M-017.

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Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. Mr. John Thorpe Richards of 117 S. Fairfax Street in Alexandria represented Mr. Tauber, the owner of the property. Mr. Richards stated approval had already been given for the tennis courts on the site plan. In order to have all of the activities together, the applicant was proposing to construct the pool next to the tennis courts. This involved moving the tennis courts to the east. The facilities would consist of one tennis court and the pool.

Mr. Richards stated that they were requesting modification to the screening requirement and would preserve the area along Columbia Pike. The project was a high rise of 348 units. The facilities would be within walking distance of the building. The pool would accommodate over 100 people. Two lifeguards would be provided. Two parking spaces would be set aside for the lifeguards. The hours of operation would be from 9 A.M. to 9 P.M. for the pool and daylight hours only for the tennis courts. There would not be any lighting for the pool. Mr. Richards did not feel there would be any traffic impact on the community because everything was within walking distance. With regard to the transitional screening, the tennis court would be lower than the screening. There would be a retaining wall so the tennis court would not be very visible.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

Mrs. Day made the following motion:

WHEREAS, Application No. SP 83-M-017 by LASZLO N. TAUBER, TRUSTEE, under Section 3-3003 of the Fairfax County Zoning Ordinance to permit community swimming pool and tennis court, located at Lakeside Plaza Subdivision, tax map reference 61-4((4))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 May 10, 1983; 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-30.
3. That the area of the lot is 13.329394 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. However, upon conveyance of the subject uses to the Lakeside Plaza Condominium Association, this approval shall transfer to the Association. This approval is granted for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the uses indicated on the plans submitted with this application except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during draining or cleaning operations, so that pool waters can be adequately treated.
5. Transitional screening may be modified along the east side of the site provided the proposed uses are screened from adjoining areas in accordance with a landscaping plan to be coordinated with and approved by the County Arborist Office.
6. The tennis courts shall not be artificially illuminated.
7. Hours of operation for the pool shall be 9:00 A.M. to 9:00 P.M.

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(continued)

8. Hours of operation for the tennis courts shall be from 7 A.M. until dark.
9. After-hour parties for the swimming pool shall be governed by the following:
- o Limited to six (6) per season.
 - o Limited to Friday, Saturday and pre-holiday evenings.
 - o Shall not extend beyond 12:00 midnight.
 - o Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
 - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after hour party.
10. Two (2) parking spaces shall be designated for swimming pool employees and two (2) parking spaces shall be designated for handicapped parking. Additional parking spaces may be required as determined by the Director of the Department of Environmental Management.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of the Special Permit. A request for additional time must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Hyland and Hammack being absent).

Page 448, May 10, 1983, Scheduled case of

12:10 P.M. POHICK EPISCOPAL CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-81-L-037 for church and related facilities to permit addition to parish hall, located 9201 Richmond Hwy., R-1, Mt. Vernon Dist., 108-3(1)27, 39.5 acres, SPA 81-L-037-1.

Ms. Jane Kelsey presented the staff report which recommended approval subject to the conditions set forth in Appendix I. Ms. Kelsey informed the Board that the staff report was incorrect when it stated there were 75 parking spaces. She indicated that the church was not agreeable to the removal of the parking spaces along Old Colchester Road. However, the decision had to be made by VDH&T. The church felt that condition no. 7 of the development conditions was too vague as there was no way of knowing what would be required. Mr. Ribble suggested alternate wording which was acceptable to the church.

Mr. Jim Cummings of 6621 Chestnut Avenue in New Carrollton, Md. of Cooper/Lackey Partnership, represented the church. He stated that the church had already dedicated 45 ft. from the centerline of the road. More dedication would encroach on a row of cedars which was the only protection of the historic building from the highway. Also, it would require the removal of trees and the brick wall. Dedication to 98 ft. would take the north wall off the church.

Mr. Gregory Brewer, a master planner at Fort Belvoir, presented the Board with a letter of support from Fort Belvoir. He stated that Pohick Church was one of their better neighbors. He stated that Fort Belvoir did conduct demolition exercises which had a noise impact on the church. This type of training exercise would be continued at Fort Belvoir and at times they might be conducted on Sundays. Mr. Brewer explained that Fort Belvoir trained both regular and reserve personnel. He stated that he hoped they would not interfere with the church.

The next speaker in support was Mr. John Arial of 10814 Belmo Boulevard in Lorton. He felt that the alternative language proposed by Mr. Ribble was acceptable. He stated that none of the church representatives had the authority to agree that the church would be in a financial position to improve the highway along Rt. 1.

There was no one else to speak in support and no one to speak in opposition.

RESOLUTION

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Mr. Ribble made the following motion:

WHEREAS, Application No. SP 83-L-037-1 by POHICK EPISCOPAL CHURCH, under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-81-L-037 for church and related facilities to permit addition to parish hall, located at 9201 Richmond Highway, tax map reference 108-3(1)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 May 10, 1983; 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 39.5 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:

1. This approval is granted to the applicant. However, upon conveyance of the swimming pool to the Oakton Condominium Unit Owners Association, Inc., this approval shall transfer to the Association. This approval is granted for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this special permit.
3. This approval 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.
4. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The existing vegetation shall be retained in a 25 foot buffer area between the proposed addition and Old Colchester Road.
6. Parking shall be provided in accordance with the provisions of Article 11 of the Zoning Ordinance.
7. Dedication along Old Colchester Road and dedication and construction of road improvements along Richmond Highway, if any, shall be addressed at the time of Site Plan approval.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Hyland and Hammack being absent).

12:30 P.M. TEMPE RODEF SHALOM, appl. under Sect. 3-103 of the Ord. to permit expansion of social hall at existing Temple and related facilities, located 2100 Westmoreland St., R-1, Dranesville Dist., 40-2((1))19, 4.51182 acres, SP 83-D-018.

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Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. Mr. Shoup noted that the property to the west and south of the temple were screened. Staff did not object to a modification to the screening for lot 18.

Mr. Jeff Rosenfeld, an attorney in Fairfax, and member of the Board of Directors for the temple informed the Board that the temple wished to expand its social hall. They wanted to accommodate more people and meet the needs of the temple. There would not be any adverse impact on the environment. Ample parking was provided. In response to questions from the Board, Mr. Rosenfeld indicated that the membership of the congregation would remain about the same. The temple seated 385 people. Parking was provided for 95 cars. The use of the sanctuary and the social hall would never overlap. The majority of the activities at the social hall would be for religious purposes, life cycle events or meetings.

There was no one else to speak in support and no one to speak in opposition.

Page 450, May 10, 1984
TEMPE RODEF SHALOM

Board of Zoning Appeals

R E S O L U T I O N

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 83-D-018 by TEMPE RODEF SHALOM, under Section 3-103 of the Fairfax County Zoning Ordinance to permit expansion of social hall at existing Temple and related facilities, located at 2100 Westmoreland Street, tax map reference 40-2((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 10, 1983; 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 4.51182 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 on the application and is not transferable to other land.
2. 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.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The transitional screening and barrier requirements may be modified, provided the existing screening and fencing is retained. Additional screening and landscaping may be required at the time of site plan review as determined by the Director of the Department of Environmental Management.

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

RESOLUTION

(continued)

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Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of the Special Permit. A request for additional time must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Hyland and Hammack being absent).

// There being no further business, the Board adjourned at 12:45 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 Nov. 20, 1984

Approved: Nov. 27, 1984
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 Night, May 17, 1983. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble and Mary Thonen.

The Chairman opened the meeting at 8:10 P.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled 8 o'clock case of:

8:00 BRUCE JAMES NETSCHERT, appl. under Sect. 3-C03 of the Ord. for a veterinary
P.M. hospital, located at 6801 Clifton Road, R-C, Springfield Dist., 75-2((1))12,
1.3859 acres, S-82-S-104. (DEFERRED FROM 2/22/83 FOR A LEGAL OPINION FROM THE
COUNTY ATTORNEY AND FROM 3/1/83 TO ALLOW APPLICANT AN OPPORTUNITY TO AMEND PLAT
SO THAT NO PORTION OF THE VETERINARY HOSPITAL WOULD BE LOCATED IN ANY PART OF THE
STRUCTURE THAT IS WITHIN THE SETBACK AREA OF THE R-C ZONE.) (DEFERRED FROM 4/19/83
AT THE REQUEST OF THE APPLICANT.)

Ms. Jane Kelsey informed the Board that a revised plat had been submitted which met the bulk regulations of the zoning district. Parking was off Old Clifton Road with a circular drive in front of the house. Access to the hospital would be from the lower level of the structure. The veterinary hospital would be located completely underneath the residential portion of the house. Ms. Kelsey noted that the affidavit had been amended to reflect that the applicant now owned the property. Ms. Kelsey stated that it had been requested that the condition in the staff report regarding the number of clients per day be deleted. Staff had suggested that the number of clients not be limited but that the number of veterinarians be limited to one and the hours of operation to be from 9 A.M. to 7 P.M., Monday through Saturday with emergency services as needed.

Mr. Lee Ruck, an attorney in Fairfax, represented Mr. Netschert. Mr. Ruck explained to the Board the redesign of the structure. As shown on the plat, there would not be any direct access from the proposed hospital to Clifton Road. Mr. Ruck indicated that the Netscherts were considering the possibility of an addition at a later date which would be used for residential purposes. Mr. Ruck informed the Board that the revised plat had been reviewed by many members of the community and he wanted to reaffirm their support. Chairman Smith advised Mr. Ruck that any addition to either the veterinary hospital or the residence would require an amendment to the special permit. Chairman Smith stated that the Board could not grant permission for additions to be constructed in the future.

Mr. William Donnelly, an attorney in Fairfax, represented Mr. Gerald Walsh, a contiguous property owner across Clifton Road and several other nearby property owners. Mr. Donnelly had not been aware that the hearing had been closed with respect to arguments regarding the veterinary hospital. It was the consensus of the Board to allow speakers two minutes each. Mr. Gerald Henney of Whiterock Road informed the Board that he resided 100 yards behind the proposed facility. He presented a chart of people who were opposed to the facility. These individuals were the ones most impacted. He indicated that many of the people in support of the facility lived some distance away.

Mr. Bruce Weichman was also in opposition to the request. He indicated that he had employed Mr. Thomas Reed, a noted real estate appraiser, who had stated that the facility would affect the value of the property if exposed to a veterinary hospital. Mr. Clarence S. Robey of 6800 Clifton Road was also in opposition to the request as the hospital would be directly in front of his house. He indicated that his wife was a semi-invalid. They felt that the animal hospital would detract from the value of their property. The Robeys were in the process of selling their property. Mrs. Phyllis Smith of 6627 Clifton Road informed the Board that she had lived in her home for 15 years. She informed the Board that there was another animal hospital nearby operated by Dr. Garrison. Mrs. Smith stated that her house sat 10 ft. back off of the road and there was an average of 1 to 2 terrible car crashes a year. Mr. John T. O'Brien of 12815 Knollbrook Drive informed the Board that his lot was 500 ft. from the proposed hospital. He was opposed to the granting of the special permit as he did not want to see any commercial business in the residential area. He stated that the area was rural. There were not any fast food restaurants, gas stations or animal hospitals. He felt that the interruption of business into the area would be a major turning point to development in the area. He was also concerned about noise levels of the barking of dogs. Mr. O'Brien stated that the area was developed into five acre lots. He felt that putting a business on a 1.3 acre tract was a detriment to the five acre character. If a house could not be built on less than five acres, he did not feel a business should be established on less than five acres.

Mr. Richard Moore, who resided 500 ft. from the proposed veterinary hospital, was also in opposition. He indicated that there were other veterinary hospitals in the area such as Dr. Mauser at Deepwood and Dr. Hall in Fairfax. He felt that the proposed use was inconsistent with the residential area.

Mr. Donnelly closed his opposition by informing the Board that even though Dr. Mauser was operating under a special permit, he owned ten acres of land. Mr. Donnelly did not feel that the Netscherts had met the burden of proof in complying with the standards under Section 8-006. He did not feel that the use was compatible with the Comprehensive Plan which called for development in five to ten acres. This site was 1.3 acres. Mr. Donnelly indicated that

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the situation might be different if the lot were larger. However, the site was a substandard lot in the middle of five acre development and was not appropriate for a veterinary hospital. Mr. Donnelly cited other veterinary hospitals in the area and the amount of land they were situated on. All had more land than the minimum required for the particular residential zone. Mr. Donnelly urged the Board to deny the application.

During rebuttal, Mr. Ruck informed the Board that Mr. Robey lived in Bethesda, Maryland and did not reside on the property. With respect to the Comprehensive Plan, the property was zoned R-C. It did state that there should be ancillary services permitted for the community. One of those ancillary services was a veterinary service. Many of the neighbors were in support of the application according to Mr. Ruck. The proposed structure had been designed as a residential building and would not be a commercial use. Such uses were approved for residential zones. In response to questions from the Board as to whether the lot size should be ignored, Mr. Ruck responded that the Board of Supervisors were well aware that there would be over 900 non-conforming lots when they downzoned the property to the R-C classification. The property was surrounded by roads. It was a parcel subdivided by VDH&T with the realignment of Clifton Road.

At the close of the public hearing, Mr. Hammack stated that this was a very close case. Both the support and opposition arguments had merit. However, he felt that the isolation of the lot and the ingress and egress off of Old Clifton Road along with the residential design of the structure satisfied the requirements set forth in the Code for the granting of a special permit. Accordingly, Mr. Hammack moved that the Board grant the special permit in accordance with the development conditions in Attachment I of the staff report and adding condition no. 13 dealing with the L-shaped addition. Mr. Hammack stated that the applicant would be permitted construction for the addition if construction was within five years and provided that the addition was within the dimensions shown on the revised site plan. Mrs. Thonen seconded the motion for the purposes of discussion. The vote on the motion failed by a vote of 3 to 4 (Mrs. Day, Messrs. DiGiulian, Hyland and Ribble).

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-82-S-104 by BRUCE JAMES NETSCHERT under Section 3-C03 of the Fairfax County Zoning Ordinance to permit veterinary hospital, located at 6801 Clifton Road, tax map reference 75-2(1)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 February 22, 1983; March 1, 1983; April 19, 1983; & May 17, 1983; 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-C.
3. That the area of the lot is 1.3859 acres.

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.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 2 (Messrs. Smith & Hammack).

8:30 P.M. BERTRAM AVIS, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 10 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6138 Beachway Dr., Lake Barcroft Subd., R-2, Mason Dist., 61-2((16))837, 15,450 sq. ft., VC 83-M-032.

Ms. Jane Kelsey presented the staff report. Mr. Bertram Avis of 6138 Beachway Drive in Falls Church informed the Board that he needed a variance in order to construct a garage addition to the side lot line. There was room for a 14 ft. garage but he wanted a double garage. Mr. Avis stated that he felt he met the nine standards for the granting of a variance. He had acquired the property in good faith. The property did have topographic conditions and had a steep slope at the rear which prevented the construction of a double garage at that location.

Mr. Avis stated that most of the lots in Lake Barcroft did not have the problem he did. He stated that his lot was in the old section which was zoned R-3. Later when the new section was built, the property was rezoned to the R-2 category. The proposed construction would have an all brick front to match the existing house. The trees would remain to offer a buffer and have privacy and seclusion. Mr. Avis informed the Board that the Architectural Review Committee had reviewed his proposal and given its approval. The proposed garage would conform with the existing structure and would not damage the value of the community. Mr. Avis stated that the house on the adjacent lot had a carport 12 ft. from the property line.

Other factors for consideration was that a precedent had been set with the granting of a variance to allow construction 10 ft. from the lot line. This was for a property only three houses from Mr. Avis' property. In addition, at 6216 Beachway Drive was a garage 10 ft. from the side lot line. The garage was to be constructed for security as a bicycle had been stolen from the Avis property. The addition would increase the tax assessment of the house. There was no one opposed to the variance.

Mrs. June Avis spoke in support of the variance. She stated that within 3 to 4 ft. of the property line were large trees. Their lot had a drainage problem. The proposed construction would not affect the drainage problem of the adjoining neighbors.

There was no one else to speak in support and no one to speak in opposition. There was a letter of opposition from Mrs. Grimsley-Wood which the Chairman read into the record.

R E S O L U T I O N

In Application No. VC 83-M-032 by BERTRAM AVIS under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 6138 Beachway Drive, tax map reference 61-2(16)837, 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 17, 1983; 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 15,450 sq. ft.
4. That the applicant's property has topographic problems of a steep slope in the rear yard.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 3 (Messrs. Smith, Hyland & Hammack).

8:40 P.M. LAWRENCE M. MOERSCH, appl. under Sect. 18-401 of the Ord. to allow construction of deck with screened porch addition to dwelling to 13 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 5503 Tranquil Ct., Elmwood Manor Subd. R-3, Lee Dist., 82-1((14))16, 11,607 sq. ft., VC 83-L-033.

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Ms. Jane Kelsey presented the staff report. Mr. Lawrence Moersch of 5503 Tranquil Court in Alexandria informed the Board that his house had been constructed 11 ft. further back on the lot than had been required which restricted his back yard. The rear yard was on a slope and was acceptable for a deck. Mr. Moersch stated that he had canvassed his neighbors that would be affected by the variance and they had signed the petition in support. Mrs. Thonen informed the applicant that she had driven the property and looked at other decks in the area. Many of the homes had decks on the back. She inquired if they were constructed under a variance. Mr. Moersch responded that the decks were within the zoning requirements. He stated that his lot was unusual in that his house had been placed too far back on the lot.

In response to questions from the Board, Mr. Moersch stated that his proposed deck would be constructed at ground level and as the property sloped away, it would be 3 to 4 ft. off of the ground. There was a storm easement across the back. Mr. Moersch stated that the water had never gotten high enough to affect his proposed porch addition. Mrs. Day inquired as to whether the applicant had obtained a hold harmless agreement. Mr. Moersch stated that it was not necessary since the deck supports were not within the easement.

There was no one else to speak in support and no one to speak in opposition.

Page 455, May 17, 1983
LAWRENCE M. MOERSCH

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC 83-L-033 by LAWRENCE M. MOERSCH under Section 18-401 of the Zoning Ordinance to allow construction of deck with screened porch addition to dwelling to 13 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 5503 Tranquil Ct., tax map reference 82-1((14))16, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 17, 1983; 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 11,607 sq. ft.
4. That the applicant's property has a topographic problem and an unusual condition in the location of the existing dwelling 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 plat included with this application, and is not transferable to other land or to other structures on the same land.
2. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to construction.
4. If any portion of the addition encroaches into the storm drainage of the sanitary sewer easement, approval of the Director of Public Works and the Department of Environmental Management shall be required. This approval may be subject to a Hold Harmless Agreement for that portion of the structure which encroaches into the public easements.

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Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Page 456, May 17, 1983, Scheduled case of

9:00 P.M. THE ISLAMIC COMMUNITY CENTER OF NORTHERN VIRGINIA, appl. under Sect. 3-203 of the Ord. for a church and related facilities, located 4925 Backlick Rd., R-2, Mason Dist., 71-4((1))19, 1.198 acres, SP 83-M-015. (DEFERRED FROM MAY 3, 1983 TO GIVE CITIZENS AN OPPORTUNITY TO ATTEND A NIGHT HEARING AND FOR FURTHER INFORMATION).

Chairman Smith announced that each side would have 30 minutes to present testimony. The Board had received written testimony from Supervisor Davis and Supervisor Moore. Mr. Charles College, President of the Wilberdale Civic Association, spoke in opposition to the proposed church. He questioned the accuracy of the staff report which recommended approval of the special permit. According to the report, the total family membership was ten consisting of 65 people. However, the church seating capacity totalled 65 people. Mr. College stated that the church would want to expand its membership. Only 15 parking spaces were provided. Mr. College was concerned that the staff report did not address Sunday traffic. He stated that traffic visibility was poor at this location. Even though the church desired the temporary use, it would permanently alter the character of the area as the structure would not be converted back to residential property.

Mr. David Russell of 4912 Van Master Court in Annandale of the Sunset Village Homeowners Association was also in opposition. To the south of the proposed church was the Bradlick Shopping Center. He stated that the area was very vulnerable as there was commercial property from the C-6 to the C-1 along that span of Backlick Road. The church would be an institutional use. The Comprehensive Plan had used that property as a buffer zone. With respect to the traffic, a number of trees would have to be removed which would take away from the residential property values of adjoining property.

Supervisor Tom Davis of the Mason District spoke in opposition to the proposed use as the parcel would not be suitable for residential purposes after the church use. Because of the parking requirements, he felt that the use would be out of harmony and cause a potential safety problem. Mr. Davis felt that the clustering of institutional uses was not right. He indicated that the church use was appropriate but it was not the proper parcel.

Mrs. Audrey Moore, Supervisor for the Annandale District, was also in opposition. She stated that it was difficult to be in opposition to a church but she had represented the Annandale area for 11 years. She was aware of the problems that did not show on maps. The people wanted to protect the residential character of the area. The biggest problem with the area was the horseshoe block with parcels 23 and 24 being vacant. She stated that the problem with the church use was that it was to be temporary. They would have to modify the property which would change the character of the area. She did not feel it was healthy for the overall area.

Mr. Harold Johnson, representing the Islamic Community Center of Northern Virginia, informed the Board that he heard four persons address problems that were not substantial. He stated that the applicant was complying with all requests to preserve the neighborhood. The facility would not be used for any other purpose other than a church. Mr. Johnson stated that many people in opposition were ignorant of the teaching of the Islamic faith. Traffic impact had been addressed in the staff report by the Office of Transportation. Mr. Johnson stated that the applicants could not be denied the use because of religious prejudice. The main traffic would be on Sunday with some traffic several days during the week.

Mr. Abdul Ahmad of 6010 Columbia Pike informed the Board that there were two major religious holidays in the Islamic faith. Mr. Ahmad stated that a lot of the activity at the proposed church would be families attending religious study.

Chairman Smith closed the public hearing. Mr. Ribble stated that this had been a very sensitive hearing and he was sympathetic with the applicant and the opposition.

Page 456, May 17, 1983
THE ISLAMIC COMMUNITY CENTER
OF NORTHERN VIRGINIA

Board of Zoning Appeals

R E S O L U T I O N

Mr. Ribble made the following motion:

WHEREAS, Application No. SP 83-M-015 by THE ISLAMIC COMMUNITY CENTER OF NORTHERN VIRGINIA under Section 3-203 of the Fairfax County Zoning Ordinance to permit church and related facilities, located at 4925 Backlick Road, tax map reference 71-4((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 3, 1983 and deferred until May 17, 1983 for additional testimony; and

R E S O L U T I O N

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.
3. That the area of the lot is 1.198 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 on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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 an approval. Any changes, other than minor engineering details, without this Board's approval shall constitute a violation of the conditions of this special permit.
3. A copy of this Special Permit and the Non-Residential Use Permit shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County during the hours of operation of the permitted use.
4. The transitional screening and barrier requirements may be modified, provided the existing trees and evergreens remain in all areas except that area where the parking and driveway are proposed. Low evergreen plantings shall be provided around the parking areas to screen this area from view of the roads and adjacent properties. Additional screening and landscaping may be required as determined by the Director of Environmental Management at the time of site plan review.
5. There shall be no exterior alterations to the structure. All activities connected with this use shall be conducted within the interior of the structure.
6. One freestanding sign shall be allowed provided the size of the sign is limited to twenty (20) square feet and shall not be illuminated. There shall be no building mounted sign.
7. If parking lot lights are installed, they shall be the low intensity type no higher than 18 to 20 feet which directs the lights downward so as not to project off site. There shall be no floodlights attached to the building.
8. There shall be no loudspeakers, chimes, bells or any other noise type device on the exterior of the building or emitting sound from the premises.
9. The membership shall be no more than 60.
10. The number of parking spaces shall be 15.
11. The hours of operation shall be from 10:30 A.M. until 1:30 P.M. on Sundays and any evening meetings necessary shall not last later than 10:00 P.M.
12. This permit is granted for a period of three years.

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

Under Section 8-014 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless an extension is granted by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of granting of the Special Permit. A request for additional time must be justified in writing, and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion *FAILED by a vote of 2 to 5 (Mrs. Day, Mrs. Thonen, Messrs. Smith, Hyland and Hammack).

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Page 458, May 17, 1983, Scheduled case of

9:15 P.M. EXXON COMPANY, U.S.A., appl. under Sect. 18-401 of the Ord. to allow construction of additions to existing service station building to 1 ft. and 11.2 ft., respectively, from rear lot line (20 ft. min. rear yard req. by Sect. 4-507), located 3403 Holly Road, C-5, Mason Dist., 59-2(4)17A, 15,863 sq. ft., VC 83-M-034.

At the request of the applicant, the Board deferred the above-captioned variance until June 21, 1983 at 8:30 P.M.

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Page 458, May 17, 1983, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for September 15, 1981. It was the unanimous consensus of the Board to approve the minutes as submitted.

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Page 458, May 17, 1983, After Agenda Items

St. Catherine of Siena Parish and Blessed Vietnamese Martyrs and St. Ambrose Church: The Board was in receipt of a request from Mr. Bill Enderle for an out-of-turn hearing on each of the special permit applications. It was the consensus of the Board to deny the request.

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Page 458, May 17, 1983, After Agenda Items

Edward R. Carr & Associates, Inc., SP 83-A-008: The Board was in receipt of a request from Thomas P. Davis of Edward R. Carr & Associates for BZA review of the temporary gravel parking lot for employees of the sales office as conditioned in the resolution granted on March 29, 1983. The Board reviewed the revised plat which indicated the location of the eight temporary parking spaces associated with the special permit. It was the consensus of the Board that the parking as shown on the revised plat complied with condition no. 4 of the Board's resolution of March 29, 1983.

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Page 458, May 17, 1983, After Agenda Items

Tyson's I & II, S-81-D-075: The Board was in receipt of a request from Mr. Edward F. Horn, project engineer of SPN, Inc. for an extension of the special permit granted for Tyson's I & II on December 8, 1981. It was the consensus of the Board to grant an extension of six months from the date of expiration.

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Page 458, May 17, 1983, After Agenda Items

John E. Lutes, VC 83-S-029: The Board was in receipt of a request from Mr. John E. Lutes for reconsideration of the variance which was granted in part on May 10, 1983. Mr. Lutes was asking the Board allow construction of a 20 ft. garage as requested in lieu of the 18 ft. Mrs. Thonen moved that the Board allow the rehearing based on the new evidence. Chairman Smith indicated that he was not aware of any new evidence. He suggested that the Board get some guidance from the County Attorney's Office on rehearings. It was the consensus of the Board to deny the request for rehearing.

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Page 458, May 17, 1983, After Agenda Items

Andrew Chapel Methodist Church: The Board was in receipt of a request from Mr. Geoffrey M. Coon of the Hughes Group Architects, Inc. regarding an out-of-turn hearing on the special permit application of the Andrew Chapel Methodist Church. It was the consensus of the Board to deny the request.

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Page 458, May 17, 1983, After Agenda Items

William F. Johnston, Jr.: The Board was in receipt of a request from Mr. Stephen W. Pournaras, attorney at law, regarding an out-of-turn hearing for the special permit application for a home professional office filed by Mr. William F. Johnston, Jr. It was the consensus of the Board to deny the request.

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BZA COMPENSATION: The Board was informed that the Board of Supervisors had raised the salaries of several boards and commissions effective July 1, 1983. The Board of Zoning Appeals' compensation was raised from \$50 per meeting to \$65 per meeting.

// There being no further business, the Board adjourned at 11:00 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 Nov. 20, 1984

Approved: Nov. 27, 1984
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, May 24, 1983. The following Board members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble and Mary Thonen. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled 10 o'clock case of:

10:00 SUBURBAN SAVINGS & LOAN ASSOCIATION, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrators' decision that the R-C District regulations as adopted by the Board of Supervisors on July 26, 1982, are applicable to lots 30B, 31A, 31B and 31C of Fountainhead Subdivision, R-C, Springfield Dist., 96-3((5))31B & 31C and 96-1((7))30B & 31A, 392,170 sq. ft., A-83-S-002.

The Board was in receipt of a request to defer the appeal until November 15, 1983 at 8:00 P.M. For testimony received at the hearing regarding the deferral, please refer to the verbatim transcript on file in the Clerk's Office.

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Page 460, May 24, 1983, Scheduled case of

10:30 DAVID I. & DEBORAH D. SILVERS, appl. under Sect. 18-401 of the Ord. to allow A.M. construction of screened porch addition to dwelling to 15.67 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located 13906 Poplar Tree Rd., Brookfield Subd., R-2(C), Springfield Dist., 44-4((3))66, 11,200 sq. ft., VC 83-S-035.

Mr. William Shoup presented the staff report. Mr. David Silvers of 13906 Poplar Tree Road in Chantilly informed the Board that he was requesting a variance of 2.9 ft. in order to build a screened porch at the rear of his house. He stated that his property backed up to a gas pipeline easement which had a lot of grass, puddles and insects. Mr. Silvers stated that the use of his property was infeasible at times. Since his property was adjacent to the easement, the proposed porch would not cause any hardship other than to lot 65. The porch would be at least 200 ft. from any other property but lot 65.

In response to questions from the Board as to the hardship for the variance, Mr. Silvers stated that his property had a chronic insect problem. Even though a 10'x12' porch could be constructed without a variance, Mr. Silvers stated that he needed the extra 2 ft. He had owned the property for over a year and it was located in a new, all cluster subdivision. It was not possible to build over on the northwest side of the property as the only trees the builder had left on the lot were in that location. Mr. Silvers did not wish to remove them for the construction of the porch. The proposed dimensions of the porch would be 12'x14'.

The Board discussed how this variance application fit the nine standards required for the granting of a variance and the fact that the applicant could build a sizable porch without a variance. Chairman Smith discussed how the Board had strict standards to follow for the granting of a variance. He suggested that if the Board was inclined to grant these situations that they convince the Board of Supervisors to adopt a special permit process for these circumstances.

There was no one else to speak in support and no one to speak in opposition.

Page 460, May 24, 1983

Board of Zoning Appeals

DAVID I. & DEBORAH D. SILVERS

R E S O L U T I O N

In Application No. VC 83-S-035 by DAVID I. & DEBORAH D. SILVERS under Section 18-401 of the Zoning Ordinance to allow construction of screened porch addition to dwelling to 22.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), on property located at 13906 Poplar Tree Road, tax map reference 44-4((3))66, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 24, 1983; and

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

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R E S O L U T I O N

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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 11,200 sq. ft.
4. That the applicants' property is exceptionally irregular in shape with a long, narrow pipestem driveway leading to an irregularly shaped lot. Situated on the southeast side of the property is a sanitary sewer easement and to the west is a gas line easement. There is an unusual condition in the location of the existing building being situated to the northeast side of the property. A variance was granted for the construction of the building which resulted in part of the applicant's problem in meeting the strict requirements of the 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 variance is approved for the location and the specific addition shown on the plat included with this application, and is not transferable to other land.
2. A Building Permit shall be obtained prior to the start of construction.
3. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 2 (Mr. Smith & Mrs. Thonen) (Mr. DiGiulian being absent).

Page 461, May 24, 1983, Scheduled case of

10:40 A.M. ROBERT R. GASTNER, appl. under Sect. 18-401 of the Ord. to allow construction of sunroom addition to dwelling to 22.4 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), located 11805 Wayland St., Fox Vale Subd., R-1, Centreville Dist., 46-1(16)3, 22,202 sq. ft., VC 83-C-037.

Mr. William Shoup presented the staff report. Mr. Robert Gastner of 11805 Wayland Street in Oakton informed the Board that he had selected this location for the addition in order to use an existing pad. Mr. Gastner stated that the location was restricted due to the entire lot being wooded for 150 ft. There was a huge insect infestation. His property adjoined common area and floodplain. Use of the common space was limited. Mr. Gastner stated that he had considered building a screened porch but wanted a sunroom. This was the only location for it without blocking any existing windows. If he constructed it on the south, it would cover the septic. The garage was at the north. Mr. Gastner stated that he was unsure about the restrictions for construction in the front. Mr. Gastner stated that he could not reduce the structure as this was the smallest size that would provide utility. The entire area was all wooded.

In response to questions from the Board, Mr. Gastner stated that the proposed addition would destroy the appearance of the house if it was constructed in the front. Mr. Gastner stated that the variance was less than 10 ft. H was not aware of any restrictive covenants. Only about 10 sq. ft. of the proposed structure would necessitate the variance as the addition would not run parallel to the lot line. The dimensions of the sunroom would be 17.10'x11'.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. VC 83-C-037 by ROBERT R. GASTNER under Section 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 22.4 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), on property located at 11805 Wayland Street, tax map reference 46-1(16)3, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

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 24, 1983; 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 22,202 sq. ft.
4. That the applicant has exceptional topographic problems slanting from the front of the house to the front lot line and has an unusual condition in the location of the existing building on the property, such building being constructed to the rear left section of the lot. The septic tank is approximately 6 ft. from the south side of the building and the septic field curves around to the front of the property. The request for the porch is the only feasible location the applicant has and would also enable the applicant to use the existing glass doors from the dining room area for access to the porch.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 variance is approved for the location and the specific addition shown on the plat included with this application, and is not transferable to other land.
2. A Building Permit shall be obtained prior to the start of construction.
3. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 to 2 (Mr. Smith & Mrs. Thonen) (Mr. DiGiulian being absent).

Page 462, May 24, 1983, Scheduled case of

10:50 FAIRFAX STATION ASSOCIATES, appl. under Sect. 3-C03 of the Ord. for modification
A.M. of minimum yard requirements for R-C lot, located 11512 Havenner Rd., Fairfax
Station Subd., R-C, Springfield Dist., 76-4(8)805, 28,931 sq. ft., SP 83-S-020.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix I. Mr. Frank McDermott, an attorney in Fairfax, represented the applicant. Mr. McDermott stated that the subdivision had been an R-1(C) subdivision. There were 450 to 500 homes in place or under construction at this time with an additional 100 homes in the recordation process. Mr. McDermott stated that this application met the criteria passed by the Board of Supervisors after the down-zoning. This was a lot approved to July 26, 1982 and the setbacks proposed were within the setbacks that were required under the R-1 Ordinance prior to July 26, 1982. Mr. McDermott stated that this lot of approximately 29,000 sq. ft. would be harmonious with the remainder of the subdivision.

There was no one else to speak in support and no one to speak in opposition.

Page 462, May 24, 1983
FAIRFAX STATION ASSOCIATES

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. SP 83-S-020 by FAIRFAX STATION ASSOCIATES under Section 3-003 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for R-C lot, to allow construction of dwelling 31 ft. from the front lot line and 12 ft. from the side lot line abutting lot 804 to the east, located at 11512 Havenner Road, tax map reference 76-4(8)805, 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 24, 1983; and

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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 subdivision plat approval was granted on March 28, 1982, as a R-1 District (cluster subdivision) prior to the Board's Own Motion rezoning action of July 26, 1982, which changed the zoning of this lot from R-1 to R-C.
2. The front yard requirement for a R-1 District (clustered subdivision) is 30 ft.; therefore, the proposed 31 ft. meets the former requirement.
3. The side yard requirement for a clustered lot in the R-1 District is 12 ft. with a total minimum of 40 ft; therefore, the proposed 12 ft. meets the R-1 District requirement.
4. It appears the proposed development would be harmonious with the existing neighborhood, and would not adversely impact the public's health, safety and welfare.

AND, WHEREAS, the Board has reached the conclusion that the applicant has met the provisions for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED in accordance with the following conditions:

1. This approval is for the location and the specific structure indicated on the plat included with this application prepared by Paciulli, Simmons & Associates, Ltd., and is not transferable to other land or to other structures on the same land.
2. A Building Permit shall be obtained prior to the start of construction.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

Page 463, May 24, 1983, Scheduled case of

11:00 PAUL & JACKIE BURNS, appl. under Sect. 18-401 of the Ord. to allow construction
A.M. of addition to dwelling to 12.0 ft. from rear lot line (25 ft. min. rear yard
req. by Sect. 3-407), located 7316 Brad St., R-4, Raymondale Subd., Providence
Dist., 60-1(16)48, 10,560 sq. ft., VC 83-P-038.

Mr. William Shoup presented the staff report. Mr. Paul Burns of 7316 Brad Street in Falls Church informed the Board that he and his wife and two children resided at the home which contained approximately 1,000 sq. ft. of living space. The house had been suitable before the children arrived but was now too small. With the birth of a daughter, they had enclosed the carport. They had just adopted a son which placed a burden on the house. They did not wish to move. The proposed addition would house two bedrooms. Mr. Burns stated that it was impossible to build on either side of the house. As a result, they had chosen to build at the back. At the rear of the property was another subdivision called Broyhill Park. The nearest dwelling at the back was 200 ft. away. Behind the property was a park and nothing could be built there. Accordingly, Mr. Burns did not feel his addition would cause an impact on anyone. In order to lessen any impact on the side yards, the Burns had chosen this split level construction at the back.

In response to questions from the Board, Mr. Burns stated that the subdivision had two styles of homes. All of the other homes had 2 or 3 level split homes with twice the square footage. The proposed addition would bring his home up to 80% of what was already in the community. The addition would not be visible from the street. The house was currently situated 25 ft. from the rear lot line. Mr. Burns explained that he could not build on the east side of his house as it would violate the side yard setback. In addition, his house peaked in the middle and it would be an engineering problem to build on the side. The neighbor on lot 47 would be visually impacted by such an addition.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. VC 83-P-038 by PAUL & JACKIE BURNS under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), on property located at 7316 Brad Street, tax map reference 60-1((16))48, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 24, 1983; 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 10,560 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing building in that it sits at an angle on the lot. The applicant does not have any other place to go in adding any kind of an 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:

1. This variance is approved for the location and the specific addition shown on the plat included with this application, and is not transferable to other land.
2. A Building Permit shall be obtained prior to the start of construction.
3. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 464, May 24, 1983, Board Comments

Mrs. Thonen complimented the staff on the good job they were doing with respect to the staff report and assessing how each application fit the section of the Ordinance. She found the information very helpful.

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Page 464, May 24, 1983, scheduled case of

11:10 CECIL G. FURBISH, appl. under Sect. 18-401 of the Ord. to allow construction of living space plus deck addition to dwelling to 10.2 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6513 Oakwood Dr., R-2, Barcroft Hills Subd., Mason Dist., 61-3((13))282, 12,984 sq. ft., VC 83-M-039.

Mr. William Shoup presented the staff report. Mr. Cecil G. Furbish of 6513 Oakwood Drive informed the Board that he had moved into his home 23 years ago and it was a fine home. He had been in the military and had not intended to live there forever. Mr. Furbish stated that he had promised his wife a modern kitchen and now had the money to provide it. He stated that he wanted to add a family room to improve the house and make it adequate for his larger family. The addition would consist of the kitchen and an adjoining family room. The deck was for aesthetics. The variance was necessary for topographic reasons. Mr. Furbish stated that there was a very large hill near the back door of his house. He could not build in the back without excavating a lot of dirt. He stated that he was proposing to go wider rather than deep. The deck would blend into the hill. Mr. Furbish informed the Board that his was an unusual and steeply graded lot.

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There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. VC 83-M-039 by CECIL G. FURBISH under Section 18-401 of the Zoning Ordinance to allow construction of living space plus deck addition to dwelling to 10.2 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 6513 Oakwood Drive, tax map reference 61-3(13)282, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 24, 1983; 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 12,984 sq. ft.
4. That the applicant's property has exceptional topographic conditions in that it is very steep and effectively terraced which limits the applicant in the type of addition he can construct on the 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 variance is approved for the location and the specific addition shown on the plat included with this application, and is not transferable to other land.
2. A building Permit shall be obtained prior to the start of construction.
3. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 2 (Mr. Smith & Mrs. Thonen) (Mr. DiGiulian being absent).

Page 465, May 24, 1983, Scheduled case of

11:20 COASTAL HOMES, INC., appl. under Sect. 2-419 of the Ord. to allow dwelling to remain 13.7 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-E07), A.M. located 9104 Weant Dr., R-E, Weant Subd., Dranesville Dist., 8-4(3)27, 29,412 sq. ft., SP 83-D-031.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. In response to questions from the Board as to what extent this was an honest error, Mr. Shoup replied that the staff had no way of ascertaining that other than relying on the applicant's representation. Mr. Shoup stated that if a building permit had been approved, the applicant expanded the size of the dwelling. Mr. Hyland inquired if the building could have been placed on the lot that would have satisfied the requirements without a variance. Mr. Shoup stated that the building would have had to be turned.

Ms. Minerva Andrews of Boothe, Prichard & Dudley in Fairfax represented Coastal Homes, Inc. She stated that they constructed modular homes. This particular one was a model house in Maryland which had been moved to this lot. The house had been staked out wrong. Ms. Andrews assured the Board that the owners were very distressed over the error. The builder did not know how it had happened. The side lot lines were not entirely parallel. There was 20 ft.

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at the front but not at the back. The difference was not apparent until the house was situated on the lot. The error had been discovered at the time of the as-built long after the house had been placed on the foundation. Ms. Andrews stated that DEM had approved the location of the deck based on the as-built survey which did not show the existing side yard. Zoning Enforcement noted the error and cited Coastal Homes in violation of the Ordinance. Ms. Andrews stated that Coastal Homes was asking that the house be allowed to remain.

Ms. Andrews informed the Board that she had met with the prospective neighbors. They had worked out a landscaping and screening plan. In response to questions from the Board as to who had staked out the lot, Ms. Andrews stated that it had been an employee. She was not aware of his qualifications. She stressed that Coastal Homes was deeply upset over the error. Ms. Andrews showed the Board a copy of the plat which had accompanied the building permit which reflected the 20 ft. side yard on one side and did not show a setback on the other side. Chairman Smith stated that based on the dimensions of the house, it would not have been possible to meet the setbacks and a variance would have been required anyway. Ms. Andrews stated that she was not certain whether the building could have been moved forward enough to meet the setbacks.

Ms. Andrews stated that they had cooperated to the fullest extent with the neighbor's request and had provided screening to lessen the impact. They guaranteed the screening for two years. The owner of lot 26 had plans to maintain the plants on the other side of the fence.

Mr. Hyland inquired of staff as to whether there was any place on the property that the house could have been situated that would have conformed to the setbacks. The plat had represented that there was 20 ft. on each side. Mr. Shoup responded that based on the design of the dwelling and the fact that 6.3 ft. would have to be made up, he doubted whether it could have been done. Even by moving the building forward, he doubted it would make that much difference. Ms. Andrews stated that if the house had been moved forward 25 ft., it might have met the side yard restrictions. However, the house was on the crest of the rise of the lot. The back yard was flat. In terms of slope of the lot, this was the best location on the lot.

In response to questions from the Board, Ms. Andrews stated that the property was not under contract but was rented. Coastal Homes did not wish to sell the property with the cloud on the property.

There was no one else to speak in support. Mr. Donald Chandler spoke to the Board. He was the owner of the lot adjacent to the property. Mr. Chandler informed the Board that he was an architect. He stated that there was a little bit of error in the mathematics. It was off 0.8 ft. He indicated that the house could be moved but would still be 0.8 ft. off. He stated that the lot was not 99 but was 99.5 ft. Chairman Smith stated that if the house had been centered on the lot, the Zoning Administrator could have approved the difference and there would not have been the need for the variance. Mr. Chandler stated that he was not opposed to the variance but he had been the neighbor Coastal Homes had negotiated with about screening.

Mrs. Carolyn Ebell informed the Board that she was the purchaser of the lot two doors from lot 25. She stated that she had requested a fence 80 ft. instead of 50 ft. because of the way the house was positioned on the lot. Mrs. Ebell stated that it would be a more advantageous view to have the fence 80 ft. in lieu of the 50 ft. The Board was not clear as to what she was talking about so Mr. Chandler enlightened them. He explained that the drawing showed the three lots with the proposed landscaping and the house on lot 25. On that end of the house was all glass. It was not certain where the house on lot 26 would be located. Therefore, Mrs. Ebell wanted the fence. At present, it would be constructed for 30 ft. along the rear; however, Mrs. Ebell wanted 20 ft. more fence since she did not know where her house would be. The fence was to lessen the impact of the error of lot 25.

Ms. Andrews informed the Board that Mr. Michael Berry had agreed to 60 ft. of fence and not 80 ft. The fence would be built within 5 ft. of the plantings. Ms. Andrews informed the Board that the landscaping had already been agreed upon.

Ms. Ann Shoop of 9105 Weant Drive spoke in opposition. She stated that she lived across the street and had seen the huge cranes trying to maneuver the house. She asked that the Board check more thoroughly into the mistake as she felt the applicants knew all along there was never anyway the house would fit on the lot. She felt that they were aware of it when they poured the foundation and did not feel it was an honest mistake. She didn't want a fence of equal height all along the front lot line as it would devalue her property. Ms. Shoop did not want Coastal Homes coming to the Board in the future with more mistakes. Ms. Shoop stated that the house was very visible as it was situated on a knoll.

As the Board wanted to allow the opposition an opportunity to discuss the landscaping with Ms. Andrews, the Board convened the meeting for lunch at 12:35 P.M. At 1:25 P.M., the Board reconvened to continue with the application of Coastal Homes. Mr. Ribble inquired if Coastal Homes had been involved in any other violations. The Board suggested a deferral to obtain additional information.

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Ms. Andrews informed the Board that they had agreed upon a landscaping plan during the luncheon recess. For lots 25 & 26, it was agreed to have a fence start at the front of the house and extend 60 ft. back so that there would not be any fence beyond the front. The landscaping would remain as planned. Some additional pines would be added with the fence at the rear. The only requirement had been that the landscaping be done professionally within 45 days. Chairman Smith informed Ms. Andrews to put the information in a memorandum, notarize it and make it a part of the record.

Mr. Hyland stated that he had some concerns about the original plat which was approved and the location of the stoop on that plat being different from the one presented to the Board. Secondly, the driveway had been changed from the right side to the left side. He wanted an explanation as to the reasons for the changes. He understood that the deck had been added later but this did not look like the same house as had been shown on the original plat. Ms. Andrews agreed to respond to that concern at the next hearing. Mr. Hyland also asked that the person who staked out the house be available at the next hearing. If that person was no longer available, Chairman Smith asked that a notarized statement be provided.

The Board scheduled the next meeting for June 7, 1983 at 12:00 NOON for additional information.

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Page 467, May 24, 1983, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for September 22, 1981. Mr. Hyland moved that the Minutes be approved. Mrs. Day seconded the motion and it passed unanimously by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 467, May 24, 1983, After Agenda Items

Douglas W. Olms, V-81-S-089: The Board was in receipt of a request from Mr. Douglas Olms for an extension of the variance granted on June 23, 1981. This was the second extension request. Mrs. Thonen moved that the Board grant a six month extension. Mr. Hyland seconded the motion. The motion passed unanimously by a vote of 6 to 0 (Mr. DiGiulian being absent). The Board noted that this would be the last extension.

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Page 467, May 24, 1983, Scheduling

The Clerk discussed scheduling of applications during the summer months in view of the August recess. After discussion, the Board stated that it had added additional meetings in June and July. Any other applications would have to wait until September.

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Page 467, May 24, 1983, Scheduled case of

11:30 A.M. BRUCE G. DUNCAN, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots with proposed lots 3 & 4 each having width of 10 ft. (100 ft. min. lot width req. by Sect. 3-206), located 1709 Hollindale Dr., Hollindale Subd., R-2, Mt. Vernon Dist., 93-4(6)3, 2.7447 acres, VC 83-V-046.

Mr. William Shoup presented the staff report. He informed the Board that it appeared the applicant enjoyed reasonable use of the property without a variance. Mr. Shoup was not able to answer the Board's question concerning the average lot size in the immediate area. Mr. Shoup explained to the Board that the subdivision as proposed with the pipestem lot would affect adjoining lots in that what had been a side yard would become a front yard. Mr. Hyland inquired as to whether the staff was aware that there was new information that the applicant was considering changing his request from 4 lots to 3 lots. Mr. Shoup stated he was not aware of that fact.

Mr. Bruce Duncan, owner of 1709 Hollindale Drive, was questioned by the Board as to if he subdivided the property into 3 lots, whether he was placing the house in a situation requiring a variance. Mr. Duncan stated that he had met with some of the neighbors. One had a concern about his lot 563 because of a pool. It was unfair to have it considered to be a front yard. Mr. Duncan informed the Board that he wanted to come up with a conservative development plan. Mr. Duncan stated that he could develop the property into four lots with a street but it would have impacted the area. The neighbors were concerned about water runoff and removal of trees.

Mr. Duncan stated that there was an existing structure on the property and he had few alternatives for the development of the property without a variance. Mr. Duncan felt that any other type of development would lead to a more extensive use of the land. He stated that he had owned the property for five years and had lived on the property up until 23 months ago.

In response to the Board's statement that he could develop the property without a variance, Mr. Duncan stated that he was reducing his request from four lots to three lots. There would be a 20 ft. pipestem on Hollindale to serve lot #3. With regard to the concern of the staff with respect to the soils, Mr. Duncan suggested that the soils be studied. He wanted the County Arborist to protect the trees.

Mrs. Thonen stated that 15% slopes were deadly with marine clay. Mr. Duncan stated that staff had suggested a geo-technical study which he had agreed to. Mr. Duncan was not certain whether any of his neighbors would still oppose the variance since he had reduced his request.

Mr. James W. Vaugh, Jr. of 1809 Hollindale Drive spoke on behalf of the citizens in the community. He represented eight of the nine adjacent property owners. The citizens were concerned about the water runoff. They were also concerned that the property could be subdivided into four lots with a cul-de-sac by right. Mr. Vaugh stated that there were only two half-acre lots in the area. All of the other lots were 2/3 acres or larger. Mr. Vaugh stated that this was an old community and was heavily wooded. Nothing had been constructed in the past 16 years. There was not any evidence of hardship. The citizens felt Mr. Duncan wanted the variance for economic reasons. The citizens were concerned about the environmental effects. The clearing of lots 1 & 2 and construction would increase the runoff down the hill to Masonhill Drive.

Mr. Ribble questioned the slopes in the area as it had lived there. He felt it was more than a 15% slope. Mr. Vaugh responded that it was more like 30%. Mrs. Thonen stated that the master plan called for 2 to 3 dwelling units per acre for this area. Mr. Vaugh stated that the community had existed before the rules were written. They were unusual lots.

Chairman Smith stated that two lots could be created without a variance. Mr. Vaugh stated that the citizens' biggest concerns were the wooded area and construction increasing the runoff and density. Mr. Vaugh stated that the citizens had not studied the front yard situation with respect to the swimming pool on lot 563. He asked that the Board defer the application to allow them time to study the situation.

Mr. Peter Race of 1812 White Oaks Drive informed the Board that he lived immediately behind lot #4. He was against the subdivision of four lots as it would have a detrimental impact on the other homes. It was not harmonious with the other homes in the area. He was concerned about the runoff from lot 4. Mr. Race stated that he had serious problems with the development by right. Mr. Race asked the Board to consider the alternative of the civic association which was to allow two lots only.

Mrs. Shirley Robson of 1708 Hollindale Drive informed the Board that the major concern was water runoff. Runoff on the south side could be a major problem as it turned into a river. They were also concerned about the excess removal of trees. She believed Mr. Duncan was sincere in not wanting to disrupt the area.

Mrs. Thonen stated that the Board had to determine whether this variance met the standards in a strict legal sense. Mr. Hyland responded that he felt it would be unreasonable not to allow the applicant the three lots. Mrs. Thonen stated that she was trying to find something in the Ordinance that gave the BZA the right to do that. Mrs. Thonen suggested that the Board defer the application as she wanted more information on the soils. She questioned whether the applicant could have four lots by right. Mrs. Thonen moved that the application be deferred until June 7, 1983 at 12:15 P.M. Mr. Ribble seconded the motion.

The owner of lot 563 with the swimming pool questioned the front yard situation. Chairman Smith stated that it would place her in a non-conforming situation. Mr. Shoup stated that question was now moot with only one pipestem lot. Mr. Vaugh requested that a survey be performed on the soils.

Chairman Smith called for a vote on Mrs. Thonen's motion to defer until June 7, 1983 at 12:15 P.M. The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

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Page 468, May 24, 1983, Scheduled case of

11:40 RICHARD A. & MARY ANN CHRISTIAN, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of addition to dwelling to 18.2 ft. from contiguous pipestem (25 ft. min. front yard req. by Sect. 2-416), located 6823 Lamp Post Ln., Stoneybrooke Subd., Lee Dist., R-3(C), 92-2((22))412, 8,832 sq. ft., VC 83-L-051.

Mr. William Shoup presented the staff report. Mr. Richard A. Christian of 6823 Lamp Post Lane informed the Board that he had purchased the property in 1973 from the original owner. He had not anticipated that this would become his lifelong home. He stated that his children were older and he needed additional living space. The property was trapezoid. It was narrower at the front than at the rear. Mr. Christian stated that the side yard setback had been only 12 ft. when he purchased the property. In 1978, the Zoning Ordinance changed the requirement to 25 ft. Because of the shape of the house, the only feasible place to add on

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was the location indicated at the rear corner. There was no one else to speak in support.

Mr. Roland Verrnier of 6825 Lamp Post Lane informed the Board that he lived behind Mr. Christian's property. He stated that he had sold his property on the 8th of May and did not get the notice until after selling the home. Mr. Verrnier stated that he had owned his house for 9 years. When he first purchased, he had a dispute with the builder about the steps and the driveway and ended up with a 10 ft. front yard. Mr. Verrnier stated that he did not object to the addition but there were rules about livestock in the back yard. Mr. Verrnier was concerned that the future owners of his property would come in and see the construction. The addition would hide Mr. Verrnier's home and block his view.

During rebuttal, Mr. Christian stated that the Verrnier house had been for sale for a long time. He indicated that he did not want to offend anyone. Mr. Christian explained that the Verrnier house was accessed by the pipestem drive. His house was angled towards the rear of the Christian house. With respect to the livestock, Mr. Christian stated that he had two small, white dwarf rabbits. Mr. Christian stated that he had notified all of the neighbors regarding the variance and no one had indicated any problems.

R E S O L U T I O N

In Application No. VC 83-L-051 by RICHARD A. & MARY ANN CHRISTIAN, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 18.2 ft. from contiguous pipestem (25 ft. min. front yard req. by Sect. 2-416), on property located at 6823 Lamp Post Lane, tax map reference 92-2((22))412, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 24, 1983; 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 8,832 sq. ft.
4. That the applicant's property is irregular in shape being trapezoid and that the proposed addition would not come closer to the side lot line than the existing structure and that the existing structure when placed on the property complied with the setback which was in effect at that time.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 variance is approved for the location and the specific addition shown on the plat included with this application, and is not transferable to other land.
2. A Building Permit shall be obtained prior to the start of construction.
3. Under Section 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 to 2 (Mr. Smith & Mrs. Thonen) (Mr. DiGiulian being absent).

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12:00 FELLOWSHIP BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-82-V-054
P.M. for church and related facilities and a private school of general education to
permit deletion of 1.0 acre from the total area of the site, Wildwood Subd., R-1,
Mt. Vernon Dist., 107-2((1))23, 5.4787 acres, SPA 82-V-054-1.

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Mr. William Shoup presented the staff report which recommended approval subject to the conditions set forth in Appendix I. Reverend Mark Grooms of 13014 Stirbridge Road in Woodbridge informed the Board that the Fellowship Baptist Church was a young church being 2 1/2 years old. The church had purchased the property one year ago and received a special permit last July. The church had many problems. One was to be able to pay off the property in its entirety so that the church could build this year. The deletion of the one acre would not be a real problem to the families in the neighborhood.

The Board questioned whether the church had considered plans for future expansion. Rev. Grooms stated that the church realized that there was a drainage easement on the property. Rev. Grooms stated that the church would not be able to expand. There was no one else to speak in support.

Mr. Edwards of 7714 Midway Place in Lorton spoke in opposition. He stated that he lived directly in front of the church property. The easement was his driveway. He had no objection to the church but he was concerned about the deletion of the one acre and whether the church could continue selling off property. Chairman Smith stated that the Board would have to address it whenever it came up.

Mr. Douglas R. Sigman stated that he lived across from the driveway and was concerned about water. He inquired as to how the water would be channeled on his property without overflowing. Mr. Sigman stated that the water covered the driveway completely. He suggested that the drain be in the form of a "Y" and tapped into the drain at the center of the property.

During rebuttal, Rev. Grooms stated that the driveway was already located there and the water was created by other properties and not the church property. Rev. Grooms stated that the water from the back of the church property went to the back drainage easement on the west side of the site. The church needed a building this year. They were not in the real estate business. The building would be for church uses. There was no intention of taking any more land in the future.

Page 470, May 24, 1983
FELLOWSHIP BAPTIST CHURCH

Board of Zoning Appeals

R E S O L U T I O N

Mr. Ribble made the following motion:

WHEREAS, Application No. SPA 82-V-054-1 by FELLOWSHIP BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-82-V-054 for church and related facilities and a private school of general education to permit deletion of 1.0 acre from the total area of the site, located at tax map reference 107-2((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 May 24, 1983; 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 5.4787 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 on the application and is not transferable to other land.
2. The approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structure 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 an 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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3. A perpetual easement for ingress and egress shall be recorded with the Deed of Sub-division whereby the proposed lot is created. This easement shall provide access to the proposed lot along the applicant's pipestem driveway and the church shall improve the driveway in accordance with the provisions of the Public Facilities Manual upon expiration of V-82-V-090.

4. This approval is subject to the approval of the County Executive's waiver for the subdivision of the property into two lots without public street frontage.

5. All provisions of SP 82-V-054 shall remain the same with the exception of the land area which shall be 4.4787 acres.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of condition unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

Page 471, May 24, 1983, After Agenda Item

Islamic Community Center of Northern Virginia, SP 83-M-015: The Board was in receipt of a letter from Mr. Abdo S. Ahmad, President of the Islamic Community Center of Northern Virginia requesting reconsideration of the Board's denial of the special permit heard on May 17, 1983. After review of the request and the reasons for reconsideration which were stated in the letter, Mr. Hyland moved that the Board not reconsider the matter and deny the request. Mrs. Thonen seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

// There being no further business, the Board adjourned at 3:40 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 NOV 28, 1983

Approved: NOV. 27, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 7, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; John Ribble; Paul Hammack, Gerald Hyland, and Mary Thonen.

The Chairman opened the meeting at 10:00 A.M. and Mrs. Day led the prayer.

The Chairman called the schedule 10 o'clock case of:

10:00 A.M. DRANESVILLE UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit building addition to existing church and related facilities, located 11711 Leesburg Pike, R-1, Dranesville Dist., 6-4(1)67, 1.937 acres, SP 83-D-022.

10:00 A.M. DRANESVILLE UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow addition to church with existing unpaved access/egress and parking area, (dustless surface req. by Sect. 11-102), located 11711 Leesburg Pike, R-1, Dranesville Dist., 6-4(1)67, 1.937 acres, VC 83-D-041.

The Chairman announced that due to staff error, the applicant had not received a notification letter detailing the date and time of the hearing in enough time to send out notices to contiguous property owners. These applications were deferred to June 21, 1983 at 9:00 P.M.

Page 472, June 7, 1983, AFTER AGENDA ITEMS:

//The Board approved the BZA minutes for September 29, 1981 as presented.

Page 472, June 7, 1983, AFTER AGENDA ITEMS:

PETER W. MORGAN/VC 83-A-093: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned variance application. It was the consensus of the Board to deny the request.

Page 472, June 7, 1983, AFTER AGENDA ITEMS:

OLAM TIKVAH PRESCHOOL, INC./SPA 81-P-068-1: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned special permit application. It was the consensus of the Board to deny the request.

Page 472, June 7, 1983, Scheduled 10:15 A.M. case heard at 10:15 A.M.:

10:15 A.M. EILEEN ALLEN, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, each having width of 8.34 ft. (100 ft. min. lot width req. by Sect. 3-106), located 2026 Rhode Island Ave., R-2, Franklin Park Subd., Dranesville Dist., 41-1((13))35A, 58D and pt. of 58C, 43,560 sq. ft., VC 83-D-042.

Jane Kelsey reviewed the staff report for the Board. She stated that the average size of the developed lots within the immediate area surrounding the proposed subdivision are considerably larger than those proposed in this application. For this reason the proposal did not appear to conform with the policies and intent of the Comprehensive Plan.

Charlie Runyon, 7649 Leesburg Pike, Falls Church, represented the applicant. He stated that parcels A1 and A2 were subdivided many years ago with an outlot to provide frontage for parcel A2. The applicant planned to resubdivide the outlot and a lot into two lots. Mr. Runyon stated that each lot would contain an average of 31,000 square feet. The present lots in the area of the proposed subdivision were varied, some being long and narrow, some being narrow and short. Mr. Runyon stated that this was not an unusual request and was not anything different than what has been created throughout Franklin Park subdivision over the years. The applicant had purchased the property in the late 1960's.

Citizens speaking in opposition included Herb Becker, from the Franklin Area Citizens Association, 2009 Lorraine Avenue, McLean; and Debra Fialco, Rockingham Court. Concerns included the growing trend in the area toward speculation; large trees being removed for construction; and utilities being installed on the property to include trenches and gas and sewer lines, which would endanger the environment. Ms. Fialco stated that a stream ran through the subdivision creating an extremely high water table, and she felt new construction should be limited in this area.

During rebuttal, Mr. Runyon stated that this variance request would not change the concept of the development and this was not an unreasonable request. He stated that the driveway would be paved.

There was no one else to speak in support or opposition.

R E S O L U T I O N

In Application No. VC 83-D-042 by EILEEN ALLEN under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, each having width of 8.34 ft. (100 ft. min. lot width req. by Sect. 3-106), on property located at 2028 Rhode Island Avenue, tax map reference 41-1((13))35A, 58D and pt. of 58C, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 7, 1983; 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 43,560 sq. ft.
4. Under Sect. 18-404, the Required Standards for Variances, the applicant did not meet the following standards:
 - o That the strict application of this Ordinance would produce undue hardship.
 - o The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - o The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
 - o That authorization of the variance will not be of substantial detriment to adjacent property.
 - o That the character of the zoning district will not be changed by the granting of the variance.
 - o That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

Both of the existing houses would be a non conforming use if this was granted.

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 6 - 0 with one abstention (Mr. Hammack).

Page 473, June 7, 1983, Scheduled 10:30 A.M. case heard at 11:05 A.M.:

10:30 A.M. THOMAS D. & MARY F. HOGE, appl. under Sect. 18-401 of the Ord. to allow construction of 12.63 ft. high detached garage 5.0 ft. from rear lot line (12.63 ft. min. rear yard req. by Sects. 3-307 & 10-104), located 6225 Virginia Hills Ave., R-3, Virginia Hills Subd., Lee Dist., 82-4((14))(25)75, 10,788 sq. ft., VC 83-L-043.

Jane Kelsey reviewed the staff report for the Board which indicated that this lot was in an area that contains marine clay. Ms. Kelsey stated that if this application was approved, the applicant would be required to submit a soils report prior to construction of the proposed garage.

Thomas Hoge presented his application. He stated that he wanted some off-street parking for his vehicles. His present driveway was terraced, and he wanted a level area to park the cars. Mr. Hoge stated that due to the hilly terrain and with the existing house being centered on the lot, there was no other location suitable for the garage. Mr. Hammack felt that the garage could be moved forward on the lot so that it wouldn't be so close to the rear property line.

There was no one to speak in support or opposition.

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R E S O L U T I O N

In Application No. VC 83-L-043 by THOMAS D. & MARY F. HOGE under Section 18-401 of the Zoning Ordinance to allow construction of 12.63 ft. high detached garage 5.0 ft. from rear lot line (12.63 ft. min. rear yard req. by Sects. 3-307 & 10-104), on property located at 6225 Virginia Hills Avenue, tax map reference 82-4((14))(25)75, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 7, 1983; 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 10,788 sq. ft.
4. The applicant has failed to satisfy the Board he meets the nine requirements set forth in the Ordinance which have to be met to grant a variance. Specifically the applicant has not met the following conditions:
 - o That the strict application of this Ordinance would produce undue hardship.
 - o That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - o A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - o The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

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

Mrs. Day seconded the motion.

The motion passed by a vote of 7 - 0.

Page 474, June 7, 1983, Scheduled 10:45 A.M. case heard at 11:20 A.M.:

10:45 A.M. DORIS W. WOOD, appl. under Sect. 18-401 of the Ord. to allow deck addition to proposed dwelling to 2.50 ft. from the edge of a flood plain (15 ft. min. distance from edge of flood plain req. by Sect. 2-415), located 6131 Franklin Park Rd., R-2, Dranesville Dist., 41-1((1))26A, 18,939 sq. ft., VC 83-D-045.

Jane Kelsey reviewed the staff report for the Board which indicated that this property was the subject of a previous variance approved by the BZA on August 4, 1983 to allow the dwelling to be located 12.4 feet from the front property line. A Building Permit was recently approved, but by a letter dated May 25, 1983, from Claude Cooper, Acting Director of DEM, this Building Permit was deemed null and void. The plans submitted with the Building Permit were not in conformance with the variance plat approved by the BZA, but instead showed a much larger dwelling with a detached garage instead of an attached garage. Ms. Kelsey stated that it was staff's judgment that application VC 83-D-045 should be amended to reflect the currently proposed dwelling and new plats submitted.

Charlie Runyon, 7649 Leesburg Pike, Falls Church, represented the applicant. He stated that this was a small change to the application, not the major change that staff thought it was. He stated that he had submitted two plats, one having the detached garage on it and the other showing just the house with no garage. If the Board decided to approve just the house location, he stated that a separate variance would be filed for the garage. With reference to the deck, Mr. Runyon stated that this lot sloped from the front property line back to the 100 year floodplain and storm drainage easement in the rear. The lot dropped 40 feet vertically. He stated that the floodplain area was very narrow and steep. The applicant was requesting permission to approve this second story deck which would be 10 feet higher than the ground level at which the rear of the building sits at.

There was no one to speak in support or opposition.

R E S O L U T I O N

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In Application No. VC 83-D-045 by DORIS W. WOOD under Section 18-401 of the Zoning Ordinance to allow deck addition to proposed dwelling to 2.50 ft. from the edge of a flood plain (15 ft. min. distance from edge of flood plain req. by Sect. 2-415), on property located at 6131 Franklin Park Road, tax map reference 41-1((1))26A, 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 7, 1983; 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 18,939 sq. ft.
4. The applicant meets the standards under Sect. 18-404, specifically:
 - o That the subject property was acquired in good faith.
 - o That the subject property has exceptional topographic conditions; the flood plain area takes up approximately half of the lot.
 - o That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
 - o That the strict application of this Ordinance would produce undue hardship.
 - o That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - o The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - o The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
 - o That authorization of the variance will not be of substantial detriment to adjacent property.
 - o That the character of the zoning district will not be changed by the granting of the variance.
 - o That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. A Building Permit shall be obtained prior to the start of construction.
3. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

//The Board recessed for lunch at 12:00 Noon and returned at 12:55 P.M. to take up the scheduled agenda.

11:00 A.M. JAMES S. & JUDITH K. OWEN, appl. under Sect. 18-401 of the Ord. to allow porch addition to dwelling to 25 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-407), located 5622 Tremont Dr., Burgundy Village Subd., R-4, Lee Dist., 82-2((13))84, 7,200 sq. ft., VC 83-L-047.

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Jane Kelsey reviewed the staff report for the Board. James Owens presented his application. He stated that the present porch and overhang had deteriorated and he wanted to upgrade his property. He stated that this was an old subdivision, and when the County upgraded the streets, some of his front yard had been taken for the placement of a sidewalk. Mr. Owens indicated that his home was located on a hill.

Martha Spears, 3602 Keota Street, spoke in support of the application. She stated that there were many similar porches in the area because the drainage problems caused peoples yards to stay marshy. There was no one to speak in opposition.

Page 476, June 7, 1983
JAMES S. & JUDITH K. OWEN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC 83-L-047 by JAMES S. & JUDITH K. OWEN under Section 18-401 of the Zoning Ordinance to allow porch addition to dwelling to 25 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-407), on property located at 5622 Tremont Drive, tax map reference 82-2((13))84, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 7, 1983; 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 7,200 sq. ft.
4. This is a perfect example of an area that needs some improvement. The applicants property is small and has only 60 ft. at the front. The porch overhang at the front door has deteriorated and he has no protection from the weather. By allowing this man with a small house to have a porch on the front I do not feel is a detriment to the neighbors. It would be an improvement to his home with no adverse effect on the neighboring properties. The applicants property sets on a hill and over looks another area. This application meets the following standards under Sect. 18-404:
 - o Exceptional narrowness at the time of the effective date of the Ordinance;
 - o Exceptional shallowness at the time of the effective date of the Ordinance;
 - o That authorization of the variance will not be of substantial detriment to adjacent property.
 - o That the character of the zoning district will not be changed by the granting of the variance.
 - o That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. A Building Permit shall be obtained prior to the start of construction.
3. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

Page 477, June 7, 1983, Scheduled 11:15 A.M. case heard at 1:15 P.M.:

11:15 A.M. BERRY LAND DEVELOPMENT COMPANY, appl. under Sect. 3-C03 of the Ord. for modification of the minimum yard requirements for R-C lot, located 6909 Winners Circle, Canterberry Estates Subd., R-C, Springfield Dist., 87-3((9))37; 27,837 sq. ft., SP 83-S-023.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit subject to the development conditions suggested by staff. Chip Paciulli represented the applicant. He stated that this lot had been recorded as of March 1982 when the required setbacks were 30 foot front and 12 foot side yards. He stated that this was one of the smallest lots in the subdivision, with the AT&T line and a drainage field passing through the back of the lot.

There was no one to speak in support or opposition.

Page 477, June 7, 1983

Board of Zoning Appeals

BERRY LAND DEVELOPMENT COMPANY

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. SP 83-S-023 by BERRY LAND DEVELOPMENT COMPANY under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, located at 6909 Winners Circle, tax map reference 77-3((6))970, 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 7, 1983; and

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

1. That the property was the subject of final plat approval prior to July 26, 1982.
2. That the property was comprehensively rezoned to the R-C District on July 26, or August 2, 1982.
3. That such modification in the yard shall result in a yard not less than the minimum yard requirement of the zoning district that was applicable to the lot on July 25, 1982.
4. That the resultant development will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

AND WHEREAS, the Board has reached the conclusion that the applicant has met the provisions for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE BE IT RESOLVED that the subject application is GRANTED in accordance with the conditions contained in Appendix 1 of the Staff Report dated May 19, 1983 as follows:

1. This approval is for the location and the specific structure indicated on the plat included with this application prepared by Paciulli, Simmons & Associates, Ltd., and is not transferable to other land or to other structures on the same land.
2. A Building Permit shall be obtained prior to the start of construction.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 7 - 0.

Page 477, June 7, 1983, Scheduled 11:30 A.M. case heard at 1:20 P.M.:

11:30 A.M. FAIRFAX STATION ASSOCIATES, appl. under Sect. 3-C03 of the Ord. for modification of minimum yard requirements for R-C lot, located 11152 Deuauahn Ct., Fairfax Station Subd., R-C, Springfield Dist., 77-3((6))970, 25,000 sq. ft., SP 83-S-024.

Mr. McDermott, the applicant's representative, requested that the Board defer hearing this case to the end of the agenda for that day.

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Page 478, June 7, 1983, Scheduled 11:45 A.M. case heard at 1:20 P.M.:

11:45 A.M. ROBERT J. LAFERRIERE, appl. under Sect. 18-401 of the Ord. to allow construction of a stable 21.4 ft. from each side lot line (stable req. to be not closer than 40 ft. to any side lot line by Sect. 10-104), located 1512 Victoria Farms Ln., Victoria Farms Subd., R-E, Dranesville Dist., 18-4((9))4A, 87,456 sq. ft., VC 83-D-044.

Jane Kelsey reviewed the staff report for the Board. Robert LaFerriere presented his application. He stated that most of the people in his neighborhood had horses and barns on their property. The barns had all been constructed towards the rear of the properties. Mr. LaFerriere stated that to move the proposed barn closer to his house would cause a problem with the Health Department, which required that it be located 100 feet away from the wall. He stated that his lot was irregular in shape, and that the use was a general condition in the neighborhood. Mr. LaFerriere handed the Board a petition in support of the proposed barn signed by adjacent property owners.

There was no one to speak in support or opposition.

Page 478, June 7, 1983
ROBERT J. LAFERRIERE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC 83-D-044 by ROBERT J. LAFERRIERE under Section 18-401 of the Zoning Ordinance to allow construction of a stable 21.4 ft. from each side lot line (stable req. to be not closer than 40 ft. to any side lot line by Sect. 10-104), on property located at 1512 Victoria Farms Lane, tax map reference 18-4((9))4A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 7, 1983; 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 87,456 sq. ft.
4. The applicant's property is exceptionally deep and narrow at the rear of the lot. It meets the other nine criteria set forth in Sect. 18-404 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 plans 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

Page 478, June 7, 1983, Scheduled 12:00 Noon case heard at 1:45 P.M.:

12:00 NOON COASTAL HOMES, INC., appl. under Sect. 2-419 of the Ord. to allow dwelling to remain 13.7 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-E07), located 9104 Weant Dr., R-E, Weant Subd., Dranesville Dist., 8-4((3))27, 29,412 sq. ft., SP 83-D-031. (DEFERRED FROM 5/24/83 FOR ADDITIONAL INFORMATION)

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William Shoup reviewed the staff report for the Board, which contained amended development conditions. Minerva Andrews, an attorney in Fairfax, represented the applicant. Ms. Andrews corrected a statement she made at the previous hearing regarding the building permit. She stated that the building permit was obtained by the prior owner, and when Coastal Homes purchased the property, they determined that the size of the home shown on the building permit was the size of the modular house they had. Ms. Andrews indicated that Coastal Homes has never before made such an error, in either Maryland or Virginia. She submitted an agreement to the Board made between the applicant and the contiguous property owner for the provision of landscaping.

Kenneth Brown, 2 Carlton Place, Alexandria, spoke regarding the construction error. He stated that he had been the Construction Foreman for Coastal Homes for the last twenty years. Mr. Brown stated that he and another person had measured the lot and put the four corner stakes in, then the foundation was poured. He stated that he had no idea how the stakes had been moved, and indicated that it may have been done by children in the area.

There was no one to speak in support or opposition.

//Mrs. Thonen requested a five minute recess to discuss a legal matter pertaining to the Coastal Homes, Inc. case. The Board convened for an executive session and returned at 2:15 P.M. to take up the scheduled agenda.

R E S O L U T I O N

In Application No. SP 83-D-031 by COASTAL HOMES, INC. under Section 2-419 of the Zoning Ordinance to allow dwelling to remain 13.7 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-E07), on property located at 9104 Weant Drive, tax map reference 8-4((3))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 June 7, 1983; and

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.

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

1. The reduction in setback will not impair the purpose and intent of the Ordinance and will not be detrimental to the use and enjoyment of other properties in the immediate vicinity.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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 plat included with this application and is not transferable to other land or to other structures on the same land.
2. The Building Permit shall be amended by submitting a revised plat to the Permit Branch of the Department of Environmental Management showing the actual location of the structure and stoop.
3. If deemed necessary by the Department of Environmental Management, approval of a revised grading plan shall be obtained showing the new location of the driveway.
4. This approval is subject to the agreement between Coastal Homes, Inc. and Donald R. Chandler.

RE: A. Coastal Homes, Inc. will construct a wooden fence sixty feet long and seven feet high and will plant twelve white pines six feet in height and twenty-one euonymus bushes four feet in height, as more particularly described and shown on the plat dated May 31, 1983 prepared by Donald R. Chandler, Architect. All plantings will be guaranteed for two years. An additional \$200.00 landscaping fee will be paid to Donald R. Chandler.

B. Coastal Homes, Inc. hereby grants to Donald R. Chandler, his successors and assigns as owners of Lot 26, Section 2, Weant Subdivision, the right to enter upon Lot 27, Section 2, Weant Subdivision, within the five foot strip along the western boundary of Lot 27, for the purpose of maintaining and replacing the said plantings and fence, so long as the house on Lot 27 remains within the required set back area.

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Mr. Hyland seconded the motion.

The motion passed by a vote of 7 - 0.

Page 480, June 7, 1983, Scheduled 2:15 P.M. case heard at 2:25 P.M.:

12:15 P.M. BRUCE G. DUNCAN, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots with proposed lots 3 & 4 each having width of 10 ft. (100 ft. min. lot width req. by Sect. 3-206), located 1709 Hollindale Dr., Hollindale Subd., R-2, Mt. Vernon Dist., 93-4((6))3; 2.7447 acres, VC 83-V-046. (DEFERRED FROM 5/24/83 FOR ADDITIONAL INFORMATION)

William Shoup indicated that this application had been deferred from May 24, 1983 for a soils report. He stated that the applicant had conducted a soils study and submitted it to the office. In view of the report, there were new development conditions to consider.

Richard Hausler, an attorney, represented the applicant. He stated that he had reduced the request from four to three lots because of neighborhood concern, and he presented a new plat to the Board reflecting the change. Mr. Hausler stated that he felt the applicant had met the specific concerns of the neighborhood. He handed a marked-up copy of suggested development conditions to the Board which was a combined effort of the applicant and adjacent property owners. Mr. Hausler stated that there would be a forty foot buffer zone on the front of lot, and the front driveway had been consolidated to minimize disturbance of the land area and minimize storm water run-off.

Chairman Smith indicated that he felt any decision should be deferred until Mr. Hausler could provide the Board with a final, typed copy of the suggested conditions, and the staff could review them.

Shirley Ropson, 1708 Hollindale Drive, across the street from the property in question, spoke with regard to the application. She stated that many members of the community had met with Mr. Duncan the previous week. The consensus of the community was that they still would prefer to have only one lot on the front of the property.

It was the consensus of the Board to defer any decision on the variance application until the applicant's suggested development conditions could be provided to the Board as a final copy. The application was deferred to June 14, 1983.

Page 480, June 7, 1983, Scheduled 11:30 A.M. case that had been deferred to the end of the agenda.

11:30 A.M. FAIRFAX STATION ASSOCIATES, appl. under Sect. 3-C03 of the Ord. for modification of minimum yard requirements for R-C lot, located 11152 Deuauahn Ct., Fairfax Station Subd., R-C, Springfield Dist., 77-3((6))970, 25,000 sq. ft., SP 83-S-024.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit subject to the suggested development conditions in the staff report.

Francis A. McDermott, an attorney, represented the applicant. He stated that this lot was the subject of a subdivision plat recorded on May 24, 1982. The siting and development proposed for this lot comports with the character and development configurations existing in the remainder of the subdivision, and is harmonious with surrounding uses.

There was no one to speak in support or opposition.

Page 480, June 7, 1983 Board of Zoning Appeals
FAIRFAX STATION ASSOCIATES

R E S O L U T I O N

Mr. Ribble made the following motion:

WHEREAS, Application No. SP 83-S-024 by FAIRFAX STATION ASSOCIATES under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, located at 11152 Deuauahn Court, tax map reference 77-3((6))970, 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 7, 1983; and

Page 481, June 7, 1983
 FAIRFAX STATION ASSOCIATES
 (continued)

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

1. That the property was the subject of final plat approval prior to July 26, 1982.
2. That the property was comprehensively rezoned to the R-C District on July 26, or August 2, 1982.
3. That such modification in the yard shall result in a yard not less than the minimum yard requirement of the zoning district that was applicable to the lot on July 25, 1982.
4. That the resultant development will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

AND WHEREAS, the Board has reached the conclusion that the applicant has met the provisions for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE BE IT RESOLVED that the subject application is GRANTED in accordance with the conditions contained in Appendix 1 of the Staff Report dated May 17, 1983 as follows:

1. This approval is for the location and the specific structure indicated on the plat included with this application prepared by Paciulli, Simmons & Associates, Ltd., and is not transferable to other land or to other structures on the same land.
2. A Building Permit shall be obtained prior to the start of construction.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 7 - 0.

Page 481, June 7, 1983, AFTER AGENDA ITEMS:

TRIANGLE DEVELOPMENT CORPORATION/SF 83-F-047: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned special permit application. It was the consensus of the Board to deny the request.

// There being no further business, the Board adjourned at 3:10 P.M.

By Judy L. Moss Daniel Smith
 Judy L. Moss, Deputy Clerk to the Board of Zoning Appeals DANIEL SMITH, CHAIRMAN

Submitted to the Board on Dec 4, 1984 APPROVED: December 11, 1984
 Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 14, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; John Ribble; Paul Hammack and Mary Thonen. Gerald Hyland was absent.

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

The Chairman called the schedule 10 o'clock case of:

10:00 A.M. CHRISTIAN FELLOWSHIP CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-196-77 for church and related facilities to permit addition of land area and construction of additional parking lot with 171 spaces, redesign existing parking lot to increase total parking to 361 spaces and add parking lot lights, located 10237 Leesburg Pike, Dranesville Dist., R-1, 18-2((7))A, B, & C, 7.5472 acres, S-82-D-066. (DEFERRED FROM OCTOBER 28, 1982 AT THE REQUEST OF THE APPLICANT AND FROM MAY 3, 1983 FOR A PROGRESS REPORT ON THE REVISED SITE PLAN AND TO ALLOW TIME FOR THE APPLICANT TO COMPLETE PAVING AND CONSTRUCTION)

William Shoup indicated that the applicant had not yet submitted new plats to be reviewed. Rev. Ahlemann stated that he would like another deferral, possibly for another 60 days. It was the consensus of the Board to defer the special permit application to July 26, 1983 at 10:00 A.M.

Page 482, June 14, 1983, Scheduled 10:15 A.M. case heard at 10:20 A.M.:

10:15 A.M. STEPHEN M. WEGLIAN, appl. under Sect. 18-401 of the Ord. to allow construction of 8 ft. high wall in front, rear & side yards and to extend partially enclosed patio to 0.25 ft. from side lot line (4 ft. max. wall hgt. in front yard and 7 ft. max. wall hgt. in rear and side yards req. by Sect. 3-207), located 7819 Lewinsville Rd., R-2(C), McLean Hamlet Subd., Dranesville Dist., 29-2((3))106, 15,295 sq. ft., VC 83-D-048.

William Shoup reviewed the staff report for the Board. A review of the zoning files indicated that no building permit had been obtained for the existing patio. It was noted that the existing patio does not appear to be in compliance with the 8.9 foot required minimum side yard.

Stephen Weglian presented his application. He stated that he wanted to expand the existing patio because it did not have sufficient floor space to allow his four children to play. He wanted a secure place for his children, because he lived on a busy road. Due to the fact that the patio is elevated to the first floor level and there is a sharp slope in the rear yard, the height of the existing north and east walls on the outside are 6 feet 10 inches above ground. To make the walls an even height on the sloped terrain, portions of the wall would have to be 8 feet in height. Mr. Weglian indicated that the adjacent property owner most affected, Mrs. Elizabeth Gibson on lot 105, was in full agreement of the proposed plans.

Mrs. Thonen questioned whether or not there was a drainage problem on this property. Mr. Weglian replied that the present porch did not have the proper drainage it should have, and that he was facing the drain so that water would run back onto his property.

There was no one to speak in support or opposition.

Page 482, June 14, 1983
STEPHEN WEGLIAN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC-83-D-048 by STEPHEN M. WEGLIAN under Section 18-401 of the Zoning Ordinance to allow construction of 8 ft. high wall in front, rear & side yards and to extend partially enclosed patio to 0.25 ft. from side lot line (4 ft. max. wall hgt. in front yard & 7 ft. max. wall hgt. in rear and side yards req. by Sect. 10-104; 9.90 ft. min. patio distance from side lot line req. by Sect. 3-207), on property located at 7819 Lewinsville Road, tax map reference 29-2((3))106, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 14, 1983; 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 15,295 sq. ft.
4. A variance application must satisfy the provisions of Sect. 18-404, Required Standards for Variances. This section was recently amended so that these standards would be in strict accordance with the provisions of the Virginia Code. It is noted that the revised provisions require a finding that the application satisfies all of the requirements. A copy of this Section is enclosed in the staff report. The applicant does not meet these nine conditions.

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. Hammack seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. Hyland being absent)

Page 483, June 14, 1983, Scheduled 10:30 A.M. case heard at 10:45 A.M.:

10:30 A.M. CARLTON L. & DIANA J. DOLWICK, appl. under Sect. 2-419 of the Ord. to allow porch to remain 17.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 6661 New Chandler Ct., R-3(C), Cherry Run Subd., Springfield Dist., 88-1((7))33, 11,897 sq. ft., SP 83-S-033.

Chairman Smith informed the Board that the notices were not in order for this application. Jeffrey Silverstein, the applicant's representative, presented a notarized waiver letter to the Board members from the property owner not timely notified. It was the consensus of the Board that they did not have the authority to accept a waiver, and they asked staff to contact the County Attorney's Office for a legal opinion on the matter. The special permit application was deferred to July 18, 1983 at 8:00 P.M.

Page 483, June 14, 1983, Scheduled 10:40 A.M. case heard at 10:50 A.M.:

10:40 A.M. MR. & MRS. CONRAD J. CLARK & CHERYL K. BAKER, appl. under Sect. 18-401 of the Ord. to allow subdivision into eight lots, proposed lot 2B having width of 15 ft. (100 ft. min. lot width req. by Sect. 3-206), located 7058 Idylwood Rd., R-2, Ashleigh of McLean Subd., Dranesville Dist., 40-1((1))9A & 9B, 5.185 acres, VC 83-D-050.

William Shoup reviewed the staff report for the Board. The staff recognized that the subdivision of lot 9A was limited because of the existing development on the lot, but it appeared that the Clark's already enjoyed a reasonable use of the land. However, it was noted that the proposed subdivision would eliminate a non-conforming situation.

Greg Friedman, a lawyer, 1425 21st Street N.W., Washington, DC, represented the applicants. He submitted a letter to the BZA from Mr. & Mrs. Conrad Clark which stated their justification. Ms. Baker was listed on the application because she had gone to settlement on lot 9B which was the front approximately three acres of this property. He stated that this application existed from a misunderstanding. Ms. Baker had acquired this property subject to the terms of a contract entered into by her late husband. At the time she was not familiar with zoning procedures. Mr. Friedman stated that when this application was granted, she thought that the one year to record the subdivision referred to the subdivision of the parcel into the current lots. She was unaware further action had to be taken, therefore, the variance lapsed. This application was only changed slightly from the original one to lengthen the cul-de-sac due to the widening of Idylwood Road. The lot sizes were not changed from the proposed subdivision from three years ago.

Mr. Friedman stated that Mr. & Mrs. Clark had purchased this property with the understanding that they would be buying two houses on two lots with a conforming status. He stated that the property was purchased in good faith. The Clark's decision to purchase the property was the expectation that the lot would be subdivided. The subject property has an extraordinary condition in that there is a non-conforming use. There are currently two free-standing, detached dwelling units on one lot. Mr. Friedman stated that in a memo from Phil Yates dated December 14, 1979, he indicated that this was a non-conforming use.

There was no one to speak in support or opposition.

R E S O L U T I O N

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In Application No. VC 83-D-050 by MR. & MRS. CONRAD J. CLARK AND CHERYL K. BAKER under Section 18-401 of the Zoning Ordinance to allow subdivision into eight lots, proposed lot 2B having width of 15 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 7058 Idylwood Road, tax map reference 40-1((1))9A & 9B, 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 14, 1983; 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 5.185 acres.
4.
 - o That the subject property was acquired in good faith.
 - o That the subject property has the following characteristics:
 - o Exceptional size at the time of the effective date of the Ordinance.
 - o Exceptional shape at the time of the effective date of the Ordinance.
 - o An extraordinary situation or condition of the subject property.
 - (There are two existing dwellings on one lot.)
 - o That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
 - o That the strict application of this Ordinance would produce undue hardship.
 - o That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - o That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
 - o That authorization of the variance will not be of substantial detriment to adjacent property.
 - o That the character of the zoning district will not be changed by the granting of the variance.
 - o That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of 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 variance is approved for the subdivision of the lots as shown on the plat submitted with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. Road improvements shall be provided along the frontage of Idylwood Road to match the improvements provided on the adjacent subdivision, Southampton Forest, Section One.
4. External foundation drainage systems shall be installed for all structures on Glenville soil which have a floor level below grade.
5. Development should be in accordance with the provisions of Sect. 2-414 of the Zoning Ordinance.
6. Proposed lots 1A, 1B, 1E and 1F shall be developed with the following acoustical treatment features:
 - o exterior walls should have a laboratory sound transmission class (STC) of at least 39;
 - o doors and windows should have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they should have the STC specified for exterior walls;
 - o adequate measures to seal and caulk between surfaces should be provided; and

Page 485, June 14, 1983
MR. & MRS. CONRAD J CLARK & CHERYL K. BAKER
(continued)

- o acoustical fencing not less than six (6) feet in height shall be provided on those portions of the lot not shielded by topography or built structures.
7. The limits of clearing and grading shall be approved by the County Arborist to ensure that a maximum number of trees are preserved.
8. A trail shall be constructed along Idylwood Road in accordance with the County trails plan.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hyland being absent)

Page 485, June 14, 1983, Scheduled 10:50 A.M. case:

10:50 A.M. SUSAN L. ROOS, appl. under Sect. 18-401 of the Ord. to allow man-made pond 15 ft. from street line of a corner lot, established front yard being 39 ft. (accessory structure or use req. not to be located in any front yard by Sect. 10-104), located 2735 Valestra Cir., R-1(C), Berryland Farms Subd., Centreville Dist., 37-3((8))76, 28,448 sq. ft., VC 83-C-052.

This application was administratively withdrawn by a letter to the applicant from the Zoning Administrator. In the letter, Mr. Yates stated that after reviewing all of the information submitted with the application, it was his judgment that the proposed pond should be considered a landscaping feature which is allowed in any part of a yard.

Page 485, June 14, 1983, Scheduled 11:00 A.M. case heard at 11:10 A.M.:

11:00 A.M. CENTEX HOMES OF WASHINGTON D.C., INC., appl. under Sect. 3-103 of the Ord. for a temporary subdivision sales office, located 811 Ridge Dr., Langley Oaks Subd., R-1(C), Dranesville Dist., 21-2((7))209, 20,000 sq. ft., SP 83-D-025.

William Shoup reviewed the staff report for the Board. Staff was of the opinion that this application would be in conformance with the general standards for special permit uses.

Minerva Andrews, an attorney in Fairfax, represented the applicant. She stated that a temporary special permit, TSP-089-90, was issued for the construction and sales office on August 12, 1980 for a period of two years. There was little sales activity due to the slump in the housing market. Construction has now resumed, and a special permit is requested until the completion of the sale of houses on Heather Brook Court, Heidi Court and Ridge Drive at Langley Oaks. Ms. Andrews stated that the hours of operation would be 6:00 A.M. to 8:00 P.M., with four employees working periodically. An average of five customers visit the sales office every day. The office has a natural wood siding and a pitched roof which causes it to blend into the surrounding woods.

There was no one to speak in support or opposition.

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Board of Zoning Appeals

CENTEX HOMES OF WASHINGTON, D.C., INC.

R E S O L U T I O N

In Application No. SP 83-D-025 by CENTEX HOMES OF WASHINGTON, D.C., INC. under Section 3-103 of the Zoning Ordinance for a temporary subdivision sales office on property located at 811 Ridge Drive, tax map reference 21-2((7))209, 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 14, 1983; 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-1(C).
3. The area of the lot is 20,000 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:

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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.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. Parking shall be provided on site to accommodate two employees and one customer at any one time. If it is determined by the Zoning Administrator that additional parking is necessary to provide all parking on-site, a new plat shall be submitted for the BZA's approval showing the location of such parking in accordance with the provisions of Sect. 8-014.
5. Hours of operation shall be from 6:00 A.M. to 8:00 P.M., seven days a week.
6. This permit is granted for a period of two years from this date.

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

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. Hyland being absent)

Page 486, June 14, 1983, Scheduled 11:15 A.M. case heard at 11:25 A.M.:

11:15 A.M. MESSIAH UNITED METHODIST CHURCH, appl. under Sect. 6-303 of the Ord. for addition of storage shed and light standard to existing church and related facilities, located 6215 Rolling Rd., Cardinal Forest Subd., PRC, Springfield Dist., 79-3((8))(5)29 and 79-3((8))6, 4.191 acres, SP 83-S-026.

William Shoup reviewed the staff report for the Board which recommended approval of the special permit subject to the conditions set forth in the report. Douglas Lord, 7924 Jansen Drive, Springfield, represented the applicant. He stated that he was the Secretary/Treasurer of the Board of Trustees of the Messiah United Methodist Church. He stated that he had a letter of support from the Swade Enterprises, a professional enterprise, which ordered the south side of the church.

Mrs. Thonen stated that Mr. Stone, a lawyer, had contacted her with some questions about the application. She questioned why a 10 foot light was being increased to 25 feet high. Mr. Lord replied that this corner of the lot was used for commuter parkers by agreement with Supervisor Travesky. Last fall someone was approached and threatened. The church felt that it needed improved lighting to help protect the citizens. Also, since the professional center had been built, the church had less vandalism problems which they were trying to prevent. Mr. Lord stated that the type of light being installed would give light only twice the distance of the height, and would not affect adjacent property owners. He stated that the proposed shed was placed to hide it in a grove of trees.

Steve Stone, a lawyer, represented Sam Klewens, an adjacent property owner who would be near the proposed storage shed. He stated that he was not in absolute opposition to the application, but was seeking alternatives. He objected to the smell of gasoline that would come from the shed. Mr. Stone stated that the BP oil company had a lot adjoining the church which would be a good place to locate the shed. He stated that this would be a conforming smell area. Mr. Stone stated that during the winter when the leaves were off the trees, the proposed light would possibly illuminate Mr. Klewens property. Mrs. Thonen replied that the applicant had stated that the light would not project more than twice the height of the pole, and that the light looked like it was at least 100 feet from the property line.

//Mrs. Thonen left the meeting at 11:45 A.M.

There was no one else to speak regarding the application.

R E S O L U T I O N

In Application No. SP 83-S-026 by MESSIAH UNITED METHODIST CHURCH under Section 6-303 of the Zoning Ordinance for addition of storage shed and light standard to existing church and related facilities on property located at 6215 Rolling Road, tax map reference 79-3((8))(5)29 and 79-3((8))6, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 14, 1983; 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 PRC.
3. The area of the lot is 4.191 acres.
4. That compliance with the Site Plan Ordinance is required.
5. The light is 100 feet from the property line. The storage shed meets the set back requirements and is a safer and cleaner way to store gasoline engine equipment rather than in the basement of the education building.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in PRC 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 on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The transitional screening and barrier requirements may be modified, provided the existing screening is retained except in the immediate area where the shed is proposed. Additional screening and landscaping may be required at the determination of the Director of the Department of Environmental Management at the time of site plan review.
5. The light shall be shielded so that it does not disturb the use of adjacent residential properties.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1. (Mr. Hammack) (Mr. Hyland and Mrs. Thonen being absent)

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Page 488, June 14, 1983, Scheduled 11:45 A.M. case heard at 11:50 A.M.:

11:45 A.M. OAKTON UNITED METHODIST CHURCH, appl. under Sect. 3-203 of the Ord. for expansion and improvement of parking lot for existing church and related facilities, located 2951 Chain Bridge Rd., C-5 & R-2, Providence dist., 47-2((1))91, 1.816 acres, SP 83-P-027.

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William Shoup reviewed the staff report for the Board which recommended approval of the special permit subject to the development conditions listed in the report.

Jack Rinker, from Rinker/Detwiller Associates, represented the applicant. He stated that the proposed parking was necessary because the church attendance had increased over the years. The existing parking could not accommodate this increase which caused an overflow of parking onto the adjacent properties of Exxon Corporation and First Virginia Bank. He stated that the church was built in the 1920's and that the parking lot was accessed from Route 123. Mr. Rinker stated that the church was in agreement with the conditions concerning screening.

There was no one to speak in support or opposition.

Page 488, June 14, 1983

Board of Zoning Appeals

OAKTON UNITED METHODIST CHURCH

R E S O L U T I O N

In Application No. SP 83-P-027 by OAKTON UNITED METHODIST CHURCH under Section 3-203 of the Zoning Ordinance for expansion and improvement of parking lot for existing church and related facilities on property located at 2951 Chain Bridge Road, tax map reference 47-2((1))91, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 14, 1983; 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-5 & R-2.
3. The area of the lot is 1.816 acres.
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 presented testimony indicating compliance with Standards for Special Permit Uses in R Districts and C 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 on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The transitional screening and barrier requirements may be modified to allow not less than a ten (10) foot buffer strip provided the parking area is screened from adjacent residential property and Chain Bridge Road with evergreen plantings not less than five (5) feet in height. Such screening shall be provided in accordance with VDH & T sight distance standards and shall be subject to the approval of the Director of the Department of Environmental Management.
5. Seating capacity in the principal area of worship shall remain three hundred and fifty (350).
6. Eighty-eight (88) parking spaces shall be provided.
7. If the access to the property is different than that shown on the plat submitted with this application, an amendment to the special permit shall be required in accordance with the provisions of Sect. 8-014.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0 (Mr. Hyland and Mrs. Thonen being absent)

Page 489, June 14, 1983, Scheduled 12:00 Noon case heard at 12:00 Noon:

12:00 Noon CITIZENS COMMITTEE FOR THE PRESERVATION OF FARMLANDS, appl. under SEct. 3-203 of the Ord. for open air produce stands once a week in a church parking lot, located 1326 Calder Rd., Salona Village Subd., R-2, Dranesville Dist., 30-2((13))11, 12, & 13; 2.838 acres, SP 83-D-029.

William Shoup reviewed the staff report for the Board. He stated that on July 20, 1982, the BZA had approved S-82-D-040 to permit the same use of the property through October of 1982. Given the nature of this use, it appeared appropriate to allow it to continue in subsequent years upon the Zoning Administrator's approval. Mr. Shoup stated that the operation of the produce stand was not in total compliance with the Zoning Ordinance provisions. The Zoning Enforcement Branch had indicated that portable signs advertising the operation were erected in violation of Article 12 of the Zoning Ordinance.

Maya Huber represented the applicant. She stated that this was the third year for this entirely non-profit, volunteer sponsored and run activity. She was unaware of the sign ordinance violation. She stated that the signs were put out when the market opened in the morning, and taken down when it closed. Also, signs were put out at the intersection of Old Dominion Road and Dolley Madison Boulevard. She stated that if that was not permitted she would refrain from doing it.

There was no one to speak in support or opposition.

Page 489, June 14, 1983

Board of Zoning Appeals

CITIZENS COMMITTEE FOR THE PRESERVATION OF FARMLANDS
 R E S O L U T I O N

In Application No. SP 83-D-029 by CITIZENS COMMITTEE FOR THE PRESERVATION OF FARMLANDS under Section 3-203 of the Zoning Ordinance for open air produce stands once a week in a church parking lot on property located at 1326 Calder Road, tax map reference 30-2((13))11 County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 14, 1983; and

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

1. That the applicant is the lessee.
2. The present zoning is R-2.
3. The area of the lot is 2.838 acres.
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 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 on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit shall be maintained on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. All parking associated with this use shall be on site.
5. One (1) sign shall be permitted in accordance with Sect. 12-103 of the Zoning Ordinance.
6. This special permit shall become null and void at such time as the church cancels the lease with the applicant.
7. The operation shall be conducted only during the months of April through November.
8. The hours of operation shall be 9:00 A.M. to 4:00 P.M., Fridays only.
9. This Special Permit shall be approved for the period of April 1, 1983 through November 30, 1983 with the Zoning Administrator empowered to grant four (4) extensions for the same time period in 1984 through 1987 in accordance with the provisions of Sect. 8-012 of the Zoning Ordinance.

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

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. Hyland and Mrs. Thonen being absent)

Page 490, June 14, 1983, Scheduled 12:15 P.M. case heard at 12:15 P.M.:

12:15 P.M. BRUCE G. DUNCAN, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots with proposed lots 3 & 4 each having width of 10 ft. (100 ft. min. lot width req. by Sect. 3-206), located 1709 Hollindale Dr., Hollindale Subd., R-2, Mt. Vernon Dist., 93-4((6))3, 2.7447 acres, VC 83-V-046. (DEFERRED FROM 5/24/83 FOR ADDITIONAL INFORMATION AND FROM 6/7/83 FOR SUBMISSION OF REVISED PLATS AND TO ALLOW APPLICANT TIME TO RE-TYPE REVISED DEVELOPMENT CONDITIONS.)

William Shoup stated that he had received the revised plats from the applicant and they were in accordance with what the Board had requested. He had also reviewed the development conditions submitted by the applicant's attorney and found them in order.

There was no one to speak regarding the application.

Page 490, June 14, 1983 Board of Zoning Appeals
BRUCE G. DUNCAN

R E S O L U T I O N

In Application No. VC-83-V-046 by BRUCE G. DUNCAN under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots with proposed lots 3 & 4 each having width of 10 ft. (100 ft. min. lot width req. by Sect. 3-206) with amended application to read: to allow subdivision into three (3) lots with lot 3 having width of 20 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 1709 Hollindale Drive, tax map reference 93-4((6))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 June 14, 1983; 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 2.7447 acres.
4. That the subject property was acquired in good faith.
 - o That the subject property has the following characteristics:
 - o Exceptional narrowness at the time of the effective date of the Ordinance.
 - o That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
 - o That the strict application of this Ordinance would produce undue hardship.
 - o That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - o That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
 - o That authorization of the variance will not be of substantial detriment to adjacent property.
 - o That the character of the zoning district will not be changed by the granting of the variance.
 - o That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of 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 variance is approved for the subdivision of this lot as shown on the plat included with this application and is not transferable to other land. (The plat referred to includes a single pipestem lot, approximately 1.7 acres with 20 foot frontage, in lieu of the original plat showing two pipestem lots submitted with the original application for variance.)
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Geotechnical Review shall be conducted prior to construction. No construction shall take place unless review by appropriate County agencies clearly demonstrates no adverse environmental effect nor excess water runoff, as provided in these conditions.
4. The County Arborist and representatives of the Hollindale Community shall be consulted to establish the limits of clearing and grading necessary to preserve trees on all of the lots on the site. No trees of more than eight inches in diameter shall be removed except as necessary for construction, and in no case shall any trees be removed without approval of the County Arborist.
5. A stormwater detention facility will be provided on site to minimize off-site peak stormwater runoff. Such facility shall have certification from a civil engineer that no increase in offsite peak stormwater runoff will be caused by construction on the lots. Further, such facility will be constructed so as not to destroy existing trees or tree root systems through actual physical damage or standing water.
6. A single driveway will be provided along the common lot line for both front lots to minimize stormwater runoff from the site.
7. Necessary and appropriate stormwater management practices shall be followed during construction on all the lots to limit to the maximum extent possible erosion and stormwater runoff.
8. The existing driveway to the existing house will be used at its present location for access to the proposed pipestem lot.
9. A setback of at least 78 feet from Hollindale Drive (70 ft. from the front lot line) will be observed for both front lots. Houses constructed on these lots shall be of separate and individual exterior design consistent with the character of the neighborhood.
10. All existing evergreens, hardwoods, and other mature trees will be preserved to provide a minimum of 30 feet of screening on either side of the front lots and to a minimum depth of 40 feet for the street frontage. Preservation (including pruning to remove existing dead wood) shall specifically include the three approximately 36 inches in diameter white oak trees on the front of proposed Lot #2 and County property fronting thereon.

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- 11. In addition, limits of clearing and grading shall be established for the entire site to minimize disturbance of existing mature trees to that actually required for the proposed improvements to the lots and stormwater detention. The established limits shall include barriers coinciding with the drip line of the mature trees to protect against damage to the trees and their root structure by grading equipment.
- 12. All existing hardwoods, evergreens, and other mature trees within the pipestem portion of the rear lot will be preserved.
- 13. All existing hardwoods, evergreens, and other mature trees will be preserved within an area of at least 20 feet on either side of the lot line separating lot 3 from lots 1 and 2 (total 40 feet) and on the three other sides of lot 3 to provide maximum screening from neighboring properties.
- 14. A soil report showing suitable soil borings for foundations for both houses to be constructed will be submitted for Department of Environmental Management review prior to issuance of building permits.
- 15. These conditions shall be placed in covenants enforceable by neighboring lot owners and shall run with the land for maximum time permissible under law and their satisfaction shall be required by owner of subsequent purchasers, which purchasers shall be required by owner to make similar provision of their purchasers. These conditions shall be recorded among the land records in a suitable document with the deed of subdivision.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0 (Mr. Hyland and Mrs. Thonen being absent)

Page 492, June 14, 1983, AFTER AGENDA ITEMS:

The Board approved the BZA minutes for October 5th and October 6th, 1981 as presented.

Page 492, June 14, 1983, AFTER AGENDA ITEMS:

FAIRFAX STATION ASSOCIATES/SP 83-S-039: The Board was in receipt of a letter from Francis McDermott, a lawyer from Hazel, Beckhorn and Hanes, requesting an out-of-turn hearing for the referenced special permit application. It was the consensus of the Board to grant the request and schedule the special permit application for July 18, 1983, an evening meeting.

Page 492, June 14, 1983, AFTER AGENDA ITEMS:

The Board was in receipt of a summary prepared by Sandra Hicks that referenced BZA actions, scheduling and compensation of other jurisdictions. The Board thanked Ms. Hicks for the excellent job she had done preparing the summary. The BZA members asked that a copy of the summary be sent to the County Executive and the Board of Supervisors as an information item.

// There being no further business, the Board adjourned at 12:35 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Dec 4, 1984 APPROVED: December 11, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 21, 1983. The following Board Members were present: Daniel Smith, Chairman; Gerlad Hyland; Ann Day; Paul Hammack; John Ribble and Mary Thonen. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 8:15 P.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY BOARD MEMBERS: The Board was in receipt of two memorandums from the Zoning Administrator forwarding appeals filed by Montebello Associates and W. John Layng. Mr. Yates briefed the Board on the new processing of appeals under Section 18-305 of the Zoning Ordinance in which the Board had to review the applications to determine that they were complete and timely filed, set a reasonable date and time for the public hearing and determine who the interested parties were that should receive notice of the public hearing. After discussion of the two appeals, Mrs. Day moved that the Board schedule the appeals for September 20, 1983 at 8:00 P.M. and 8:30 P.M. respectively. Mr. Ribble seconded the motion and it passed unanimously by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 493, June 21, 1983, Scheduled case of

8:00 PROVIDENCE PRESBYTERIAN CHURCH, appl. under Sect. 3-103 of the Ord. to amend
P.M. S-82-A-039 for church and related facilities to permit addition of lights, fence & gate in rear parking lot, and addition of classroom trailer to existing facilities, located 9019 Little River Turnpike, R-1, Annandale Dist., 58-4(1)1, 5.2079 acres, SPA 82-A-039-1.

Ms. Jane Kelsey presented the staff report which recommended approval subject to the conditions set forth in Appendix I of the staff report. Mr. Jim Forsberg, a member of the Building Committee for the church, represented the church. He stated that the church had no problem with the recommendations of staff and accepted every one. Mr. Hammack inquired if the church was able to comply with the additional screening and was informed that a revised drawing including additional screening had been submitted. Mrs. Thonen stated that the church was putting the 5.2079 acres to quite a bit of use and inquired if there was any opposition from the surrounding single family homes. Mr. Forsberg stated that the church assumed it had a good rapport with the neighbors as they had tried to satisfy the needs of both the church and the neighbors. Mr. Forsberg stated that the trailer was temporary. The church hoped to complete development of the property in five years.

There was no one else to speak in support. Mr. Robert Moore, an adjacent property owner on the southeast corner of the church, spoke in opposition. He stated that the gate was to be used only on Sundays but yet it had been open for the two to three days for the Bible School. Mr. Moore stated that his concern was the traffic which the gate was supposed to control. Mr. Moore stated that he understood the classroom trailer would only be used for Sunday service. Another concern was the garbage which was being placed at the gate in the residential area. Mr. Moore explained that the residents preferred that the trash be placed out on the access road along Rt. 236.

Mr. Jim Hoyt was the next speaker in opposition. He resided on the other part of the cul-de-sac. He asked that the church give the residents a firm commitment regarding the trash and the gate. There was not any other problem with the church at this time according to Mr. Hoyt.

During rebuttal, Mr. Forsberg explained that the church had many problems with the transferring of the trash cans from one end of the property to the other. He stated that the church did not want to create problems; however, he had been assured that the garbage was at the front of the property. Mr. Forsberg stated that the church had not received any complaints until two weeks ago.

In response to questions from the Board, Mr. Forsberg stated that the church did not allow the commercial trash trucks to come onto the church property as they destroyed the parking lot. Therefore, the trash was transferred at the entrance. Mr. Forsberg stated that the trash truck could come onto the service road.

With respect to the gate, Mr. Forsberg explained that it was not only used for Sunday service but also for special events and during the holidays. It had been open for the families for Bible Study. Normally, it was closed Monday through Saturday. Mr. Forsberg stated that he had no objection to the Board placing conditions regarding the garbage or the gate in the resolution.

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PROVIDENCE PRESBYTERIAN CHURCH

R E S O L U T I O N

In Application No. SPA 82-A-03901 by PROVIDENCE PRESBYTERIAN CHURCH under Section 3-103 of the Zoning Ordinance to amend S-82-A-039 for church and related facilities to permit addition of lights, fence & gate in rear parking lot, and addition of classroom trailer to existing

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facilities, on property located at 9019 Little River Turnpike, tax map reference 58-4((1))1, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 21, 1983; 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-1.
3. The area of the lot is 5.2079 acres.
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 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 on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Specifically, that the gate which is shown on the new plat shall be opened only on Sundays and major church events during the week and that the trailer being granted for additional classrooms shall be used only on Sundays for classroom needs. Any additional structures of any kind, changed 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's approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. Transitional Screening and a barrier shall be provided along a portion of the western property line to screen the trailer and the glare of vehicle lights from the view of adjacent properties. Transitional screening may be modified as shown on the plat submitted with this application.
4. The proposed parking lot lights shall be of the design submitted with this application but shall be lowered to a height of eight (8) feet.
5. The trailer is approved for a period of five (5) years. Any subsequent renewals shall be in accordance with Sect. 8-013.
6. All garbage or trash shall be picked up at the entrance to the church on the access road parallel to Little River Turnpike or at an appropriate location on the church property near the building.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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8:15 P.M. HOWARD C. HOGG AND AKIKO HOGG, appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, proposed lots 2 and 3 having widths of 18 ft. and 6 ft., respectively (150 ft. min. lot width req. by Sect. 3-106), located 937 Bellview Rd., R-1, Dranesville Dist., 20-1((1))17 & 18, 4.869146 acres, VC 83-D-019. (DEFERRED FROM MAY 3, 1983 AT THE REQUEST OF THE APPLICANT TO ALLOW TIME TO AMEND THE APPLICATION).

Ms. Jane Kelsey presented the staff report and informed the Board that the applicant had amended his application since the last hearing. Instead of requesting a subdivision into four lots, he now was requesting three lots. Proposed lot 1 would have 113 ft. provided necessitating a 37 ft. variance; lot 2 would have 18 ft. provided necessitating a 132 ft. variance; and lot 3 would have 6 ft. provided necessitating a 144 ft. variance. In the R-1 zoning district, a 150 ft. min. lot width was required by the Zoning Ordinance. Ms. Kelsey informed the Board that staff felt the applicant enjoyed a reasonable use of his property without the variance.

Mr. Marc Bettius of 10521 Judicial Drive in Fairfax represented the applicants. He stated that they owned almost five acres and could have four lots but had amended it to three. In terms of the staff report with respect to the placement of the pipestem from Bellview Road, there was concern about the adjoining lots becoming front yards. To alleviate that concern, Mr. Bettius stated that the applicant had provided a strip between the pipestem and the adjoining properties.

Mr. Bettius informed the Board that the development along Bellview Road had an unusual pattern. The subject property had steep slopes. Without the pipestem, the applicant would have to build a public street which would cause the adjoining properties to become front yards. In addition, the placement of the dwellings on the lots would be much less advantageous and would extend the public street system out of keeping with the neighborhood. Mr. Bettius stated that the character of surrounding development had cluster and pipestems. Denial of the variance would force construction on steep slopes and create a degradation of the property. Mr. Bettius urged the Board to grant the requested variance.

Mr. Edward Cooper of 914 Saddleback Court spoke in support of the variance. He indicated that as long as there was not any problem with the adjoining properties becoming front yards, he felt Mr. Hogg had a right to develop his property any way he preferred. Mr. Cooper stated that he personally preferred single family dwellings to a public road.

Mr. Jerry Everton of 8406 Martingale Drive; Ms. Barbara Jackson of 913 Saddleback Court and Mr. Paul Gerhart of 912 Saddleback Court spoke in opposition. They were concerned about long term impacts of the variance. Safety of the neighborhood was also a consideration because the variance would open the back yards to vandalism. Presently, the neighbors were protected by parkland and a watershed. Steepness and topography of the property would cause an environmental impact. If the pipestem was allowed adjacent to the neighbors, the back yards would become front yards. None of the adjoining property owners would be able to construct any accessory structure which would preclude the reasonable use of their property. The neighbors urged the Board to consider the visual and audible impact the development would have on their property. In response to questions from the Board, the opposition indicated it would prefer development of the property with a public street because at least it would have gutters, fire hydrants, etc.

During rebuttal, Mr. Bettius informed the Board that he had requested a meeting with the citizens by they had declined. Because there was not a meeting, a lot of valuable information had been lost. Four lots had been requested originally but now the applicant was seeking three. In terms of security, if a public street was constructed, the burglars would be able to park on the street on both sides of the road. The houses would have to be constructed on steep slopes and the property would be denuded for construction of the road. If development was examined logically, three lots were better than four lots if developed with a pipestem. Strangers would not be able to park on the pipestem. The development would be a quiet cluster of homes and the trees would be preserved. With respect to the issue of drainage, Mr. Bettius indicated greater harm would come to the adjoining lots if there was all that pavement.

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HOWARD C. HOGG AND AKIKO HOGG

Board of Zoning Appeals

R E S O L U T I O N

In Application No. VC 83-D-019 by HOWARD C. HOGG AND AKIKO HOGG under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots 2 and 3 having widths of 18 ft. and 6 ft., respectively (150 ft. min. lot width req. by Sect. 3-106), on property located at 939 Bellview Road, tax map reference 20-1((1))17 & 18, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 21, 1983 having been deferred from May 3, 1983 to allow the applicant an opportunity to amend the application; and

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

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RESOLUTION

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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 4.869146 acres.
4. That the property does meet the Comprehensive Plan since the Comprehensive Plan calls for 1 to 2 dwelling units per acre for the property under development.
 - o The subject property was acquired in good faith.
 - o The subject property has exceptional topographic conditions.
 - o It has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property and would not affect the immediate property owners.
 - o All of the neighbors live in harmony and are not buffered and could continue to live in harmony.
 - o The strict appli-ation of the Ordinance would produce an undue hardship by not granting these three lots when the applicant was entitled to four lots.
 - o The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
 - o The authorization of the variance will not be of substantial detriment to adjacent 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 variance is approved for the subdivision of the subject lot into three (3) lots as shown on the plat included with this application provided adequate sight distance can be obtained as determined by the Department of Environmental Management and VDH&T and provided the access easement meets all the requirements of the Public Facilities Manual. This variance is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the effective date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for an extension is approved by the EZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for an additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. The buffer stand of trees that have been shown in Exhibit 2 shall be left and the only trees that are to be removed are in the drainage area.
4. The applicant must control water runoff.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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8:30 P.M. EXXON COMPANY, U.S.A., appl. under Sect. 18-401 of the Ord. to allow construction of additions to existing service station building to 1 ft. and 11.2 ft., respectively, from rear lot line (20 ft. min. rear yard req. by Sect. 4-507), located 3403 Holly Rd., C-5, Mason Dist., 59-2((4))17A, 15,863 sq. ft., VC 83-M-034. (DEFERRED FROM MAY 17, 1983 AT THE REQUEST OF THE APPLICANT).

The Board was in receipt of a request from the applicant for another deferral of the above-captioned variance application. It was the consensus of the Board to defer the application until Tuesday, July 7, 1983 at 8:45 P.M.

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Page 496, June 21, 1983, Scheduled case of

8:45 P.M. COMMUNITY CHURCH OF GOD, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located 2548 Gallows Rd., R-1, Providence Dist., 39-4((1))30A, 68,064 sq. ft., SP 83-P-028.

8:45 P.M. COMMUNITY CHURCH OF GOD, appl. under Sect. 18-401 of the Ord. to allow church and related facilities with gravel surface parking lots (dustless surface req. by Sect. 11-102), located 2548 Gallows Rd., R-1, Providence Dist., 39-4((1))30A, 68,064 sq. ft., VC 83-P-053.

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Ms. Jane Kelsey presented the staff report which recommended approval of the special permit in accordance with conditions set forth in Appendix I. The church wanted to construct a one story structure that would be 28 ft. in height and have a seating capacity of 400 persons. One hundred parking spaces were required. In addition, the church wanted to maintain its gravel parking area. A transitional screening barrier, type I, was required along the western lot. However, the church and the adjacent neighbor were requesting a waiver of that provision. Ms. Kelsey reported that the staff did not have a problem with that waiver provided low shrubs were planted instead. In addition, with respect to the variance to the dustless surface, staff did not feel it would create any adverse problems and felt the variance should be granted for a limited period.

Chairman Smith stated that he found no authority for the Board to grant such a variance as it did not comply with the nine standards in the Ordinance. He indicated that if the Board should grant such a use, it should be on a temporary basis only. Chairman Smith stated that this type of application would be better covered under a special permit process. Ms. Kelsey stated that staff shared the Board's dilemma but indicated they had no choice but to accept the applications for ultimate determination by the BZA.

Mr. Harold Hunsberger of 5619 Wharton Lane represented the church. He presented a letter from Mrs. Louise Glasmyer who was requesting that the church not be required to provide screening along their mutual property line. He asked that the church be spared from having to provide the low evergreens along Gallows Road as the church wanted complete visibility. He asked that in addition to the request for a variance, that the interior landscaping be held off.

Mr. Glen Dryden of 10756 Main Street also represented the church. With regard to the variance, he informed the Board that the Community Church of God had been using the gravel parking lot of the Methodist church for fund raising activities. Their parking lot was in close proximity and he did not see any problems with the gravel surface. Mr. Dryden stated that the church was in a building program. The period of time that the church would not be required to comply with the dustless surface would help the building program.

Mrs. Ann Webb of 6127 Ravanna Drive in Springfield spoke in support of the applications. She was a member of the church which served as a lighthouse to the community. She indicated that the requests would be an asset to the community and she urged the Board to approve the applications.

There was no one else to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. SP 83-P-028 by COMMUNITY CHURCH OF GOD under Section 3-103 of the Zoning Ordinance for a church and related facilities, on property located at 2548 Gallows Road, tax map reference 39-4(1)30A, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 21, 1983; 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-1.
3. The area of the lot is 68,064 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 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 the Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to

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apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. This approval 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.

4. Transitional Screening shall be provided along Cedar Street and the west as shown on the plat. Low evergreen plantings shall be provided around the parking areas adjacent to Parcel 2A and along Gallows Road to screen these areas from view of the roads and the adjacent property and to shield carlights from adjacent property. Additional screening and landscaping may be required as determined by the Director of Environmental Management at the time of site plan review.

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

6. If parking lot lights are installed, they shall be the low intensity shielded type no higher than 8 to 12 ft.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

R E S O L U T I O N

In Application No. VC 83-P-053 by COMMUNITY CHURCH OF GOD under Section 18-401 of the Zoning Ordinance to allow church and related facilities with gravel surface parking lots (dustless surface req. by Sect. 11-102) on property located at 2548 Gallows Road, tax map reference 39-4(1)30A, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 21, 1983; 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 68,064 sq. ft.
4. There has been no evidence presented to the Board which justifies the request for the dustless surface other than economic which the Board can understand but is not a reason recognized by the Ordinance. None of the conditions under the Ordinance have been met for the granting of the variance.

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.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

9:00 P.M. DRANESVILLE UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit building addition to existing church and related facilities, located 11711 Leesburg Pike, R-1, Dranesville Dist., 6-4(1)67, 1.937 acres, SP 83-D-022.

9:00 P.M. DRANESVILLE UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow addition to church with existing unpaved access/egress and parking area, (dustless surface req. by Sect. 11-102), located 11711 Leesburg Pike, R-1, Dranesville Dist., 6-4(1)67, 1.937 acres, VC 83-D-041.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit and variance applications subject to the conditions set forth in Appendix I and 2. She stated that the church was proposing to construct an addition to the existing structure. They wanted to build a tower to provide an entrance to the balcony which would increase the seating capacity from 130 to 238. The church was constructed prior to the adoption of the Zoning Ordinance; however, this special permit would bring the entire use under special permit control. The church was also requesting a variance to the dustless surface requirement since the church had been established in the early 1800s. The only problem the staff had concerned the access to the church. The easement crossed two properties. Ms. Kelsey explained that the County Attorney was researching whether the abandonment was or was not legal. The church would have to obtain a permanent easement.

In response to questions from the Board, Ms. Kelsey stated that the cemetery on the church property would be included under the special permit as it was contained in the 1.937 acres.

Mr. Ben Eddy of Seneca Road in Great Falls represented the church. He stated that the church had a large attendance and had grown by over 200 people this past year. He stated that the church grew in membership by 10 people a month. However, because this was a transit area, they also lost a few. The proposed addition would enable the church to use the balcony area and to repave the church in a safe manner in order to cope with growth.

With regard to the easement, Mr. Eddy stated that the church did not yet have a firm commitment from Mr. Tanner. However, he did not object to the church's continuous use of the road. Mr. Eddy explained that Mr. and Mrs. Tanner were residents of Maryland and their property was tenant occupied.

Mr. Eddy informed the Board that the cemetery which existed on the church property was full. There would not be any additional burials there.

In response to questions from the Board, Mr. Eddy explained that the church did not have anything in writing from the Tanners with respect to the road. However, the church had been using the road since it was abandoned.

The Board questioned staff with respect to the variance request. Ms. Kelsey stated that the parking and access was well compacted. Presently, it was a non-conforming use. However, the expansion of the church meant that the applicant had to comply with Article 8 and Article 11 of the Zoning Ordinance.

Chairman Smith informed the Board that it did not have any authority for the granting of the variance and suggested that a time factor be set on it if the Board wished. Mr. Ribble questioned the 63 parking spaces and whether they would be adequate to accommodate the increased seating capacity to 238. Ms. Kelsey assured the Board that the parking met the requirements of the Ordinance. The church was not adding or any parking or paving the parking lot. They were only adding the addition which required them to apply for the special permit. There would not be any seats in the addition as it would serve as an entrance to the seats in the balcony.

Mr. Hyland stated that he wanted the position of the Zoning Administrator as to whether this application was such that the use was being changed that would then require them to comply with the dustless surface requirement. Mr. Hyland did not feel that the church should have to comply. Ms. Kelsey informed the Board that the question had come many times before as after agenda items. In all instances, the Board had ruled that if a building permit was required, then the applicant had to follow the administrative process and file an amendment to the special permit. The addition proposed by the church required a building permit. Mrs. Thonen stated that the Board had been granting the variances to the dustless surfaces on a two year basis. Mr. Hyland expressed concern that the change in the Ordinance would no longer allow the Board the authority to do so. However, the church had been operating for years and years.

Chairman Smith stated that the church did have an unusual situation pertaining to the access way to the church which was under negotiation. He suggested that the Board might want to consider granting a temporary variance to allow the church to resolve that situation. Mr. Hyland stated that it appeared the Board did not have the authority to grant such a request on a temporary basis either.

Ms. Kelsey suggested that the Board defer the application for the variance to a specific time and date. She indicated that two to three months should be adequate for the church to come back and inform the Board whether they had obtained the use of the road. Mr. Hammack asked if the Board could grant the special permit to allow the addition but defer the variance for

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six months which would allow the church to resolve their problems. Ms. Kelsey stated that the church would not be able to use the addition without the non-rup which they could not obtain without paving the parking lot.

Mrs. Jeffrey Tanner of Frederick, Md. informed the Board that she had been born and raised on the property in question. The road was started in 1946 - 1948. The entrance to the church was from Rt. 7. Neighbors asked her father if they could use the road he used for tractors. He gave them permission and it went on from there. Mrs. Tanner stated that she did not oppose the growth of the church but did oppose the way the church took the liberty of inching over the road into her backyard. She stated that the church came onto her property and burned down trees without her permission. Mrs. Tanner stated that her property extended into the graveyard. She had offered to sell her property if the church wanted to buy it. Mrs. Tanner informed the Board that the church could put in a permanent road where they had the parsonage. With regard to the present road, it was very dusty in the summertime. Dust settles in the house when the windows are open. Mrs. Tanner stated that she no longer lived in the house but had for fifteen years.

Mr. Hyland moved that the Board defer the matter of the waiver of the dustless surface requirement for a period of six months. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent). It was the consensus of the Board to defer the variance until December 20, 1983 at 8:00 P.M.

R E S O L U T I O N

In Application No. SP 83-D-022 by DRANESVILLE UNITED METHODIST CHURCH under section 3-103 of the Zoning Ordinance to permit building addition to existing church and related facilities, on property located at 11711 Leesburg Pike, tax map reference 6-4(1)67, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 21, 1983; 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-1.
3. The area of the lot is 1.9379 acres.
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 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 on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures or any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. This approval does not constitute 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.
4. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. Transitional screening and barrier requirements may be modified in accordance with Article 13 of the Zoning Ordinance, provided that supplemental screening may be required if a site inspection at the time of site plan review reveals that such is necessary.

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6. If for any reason the access to the property must be relocated in an area other than the general area of the current access, new plats shall be submitted for review by the staff and the BZA for a determination as to whether or not this relocation will require a new application.

7. The seating capacity shall be 238.
8. The hours of operation shall be those of normal church hours.
9. The number of parking spaces shall be 63.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

Page 501, June 21, 1983, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for October 21, 1981. Mrs. Day moved that the Minutes be approved as submitted. Mr. Hyland seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 501, June 21, 1983, After Agenda Items

FRED HAGEMAN: The Board was in receipt of a request from Mr. Fred Hageman for an out-of-turn hearing on his variance application to allow enclosure of an existing carport as living space addition to his dwelling which would be located 18.6 ft. from the side lot line. Mr. Hammack moved that the Board deny the request for the out-of-turn hearing. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 501, June 21, 1983, After Agenda Items

DAVID C. BUCKIS: The Board was in receipt of a request for a change of hearing date from July 26, 1983 to sometime in June because of contract difficulties. Mr. Buckis had applied for a home professional office (dentist) at 3238 West Ox Road. Mr. Hammack moved that the Board deny the request for an out-of-turn hearing. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 501, June 21, 1983, After Agenda Items

C. RICHARD BOEHLERT: The Board was in receipt of a request for a second extension of the variance granted to Mr. Boehlert to allow a subdivision into ten lots. The Board had granted one six month extension previously. Mr. Hyland moved that the Board grant a six month extension. Mr. Ribble seconded the motion and it passed by a vote of 5 to 1 (Mr. Smith) (Mr. DiGiulian being absent).

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CARLTON L & DIANA J. DOLWICK, SP 82-S-033: The Board was in receipt of a request from Mr. Jeffrey N. Silverstein for a further deferral of the special permit application scheduled for July 18, 1983 at 8:00 P.M. because the Dolwicks would be out-of-town. It was the consensus of the Board to grant the request; however, the Board indicated that a new date and time would not be selected until July 18th.

// There being no further business, the Board adjourned at 11 o'clock.

BY

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

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on Dec 4, 1984 APPROVED: _____ Date