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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 6, 1979. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes and John Yaremchuk. (Barbara Ardis was absent.)

The Chairman opened the meeting at 10:25 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock item:

10:00 VULCAN QUARRY - ANNUAL REPORT
A.M.

Mr. Gilbert Knowlton informed the Board that the special permit was granted to Vulcan Quarry in 1972. Since that time, the staff and the operators of Vulcan Quarry have made an annual report to the BZA in order to keep them abreast of whether they were in compliance with the 31 conditions placed on them. The Board was in receipt of an annual report from Vulcan Quarry and the Health Department with respect to Air Pollution. The two reports were not identical but quite similar and there was no area of concern according to Mr. Knowlton.

As the Board had no questions of the applicant, Mr. Barnes moved that the Board accept the annual report as submitted. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 (Ms. Ardis being absent.)

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Page 1, November 6, 1979, Scheduled case for

10:10 THE RUG MAN, appl. under Sect. 18-301 of the Ord. to appeal the
A.M. Zoning Administrator's decision that display of goods in a required yard of applicants property constitutes a violation of Sect. 2-504 of the Zoning Ordinance, located 6906 Richmond Hwy., 92-2((1))1, Mt. Vernon Dist., 82,241 sq. ft., C-8, A-189-79.

The Board was in receipt of a letter from the applicant's attorney, Mr. Thomas B. Dugan requesting the Board to defer the appeal as they were in the process of filing for a variance. Mr. Kocozny informed the Board that there was a court case pending which had been deferred until the outcome of the BZA hearing on either the appeal or the variance. Chairman Smith stated that the Board would defer the appeal and left the time flexible in order to work out a date with the attorney and the staff.

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Page 1, November 6, 1979, Scheduled case for

10:20 RICHARD F. & BETTY J. HARRIS, appl. under Sect. 18-401 of the Ord.
A.M. to allow the keeping of up to 8 goats plus chickens and rabbits on approximately .86 acres with enclosure shelter located closer than 100 ft. to the lot line (2 acres min. area for keeping livestock & max. 10 such animals per acre req. by Sect. 2-512 and 100 ft. min. to property line req. by Sect. 10-105), located 8215 Little River Turnpike, 59-4((1))8, Annandale Dist., .8621 acres, R-2, V-252-79.

Mr. Thomas Eckert, an attorney in Fairfax with the firm of Farley and Harrington, represented the applicants. Mr. Eckert stated that this was a situation in which approximately 8 goats were being kept on .86 acres. Over the past ten years, as many as 15 goats as well as rabbits and chickens have been kept in the compound. There have never been any complaints until recently. Mr. Eckert informed the Board that the chickens have been removed and asked that they no longer be considered for a variance. Mr. Eckert stated that the only animals being kept were 4 goats, 2 mature and 2 kids. He stated that he didn't count the rabbits. The most goats that have ever been on the property were 15; however, when the violation was issued there were only 8 goats on the property. Mr. Eckert stated that he believed the spirit of the Ordinance would be conducive to granting a variance. He informed the Board that this land was in a secluded area off of Rt. 236. The compound is surrounded by foliage. Over the past ten years, the Harrises have attempted to make the goats and rabbits barely noticable to the neighbors. They try to milk the goats at times during the day of high traffic.

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Over the past ten years and up until recently, there have never been any complaints about the animals. Mr. Eckert stated that it was their belief that the status quo should be allowed by the BZA. He stated that a favorable decision would not result in a reduction of property values or an increase in traffic. He stated that the land is well planted and landscaped and totally in keeping with the surrounding lots. By keeping the goats in the compound, they are secluded and unnoticeable. He presented the Board with letters from various people familiar with the situation. In addition, Mr. Eckert presented the Board with a new plat which showed the exact distance of the compound from the side property line as this was also requiring a variance. He stated that it was approximately 2.4 ft. from the side lot line.

The last item presented for the file was a letter from the family's pediatrician stating the need of the Harris children for goat's milk as they are allergic to cow's milk and soybean. In response to questions from the Board, Mr. Eckert stated that the ages of the children were 3 and 6. Chairman Smith inquired as to how much milk they drink a day. Mr. Eckert stated that they drink about 1/2 gallon. The goats produce about 1 gallon a day per goat. In addition, the family makes cheese and yogurt because the children cannot consume products made from cow's milk. Mr. Eckert stated that the animals are French Alpine Goats and are often entered into shows in which they have received awards.

Chairman Smith inquired if the animals were there to supply the milk or for showing and breeding. Mr. Eckert stated that the goats were there for the children but that they are also shown as a hobby. Mr. DiGiulian inquired if the 4 goats presently on the property were sufficient to supply the milk needs of the children. Chairman Smith inquired about the rabbits. Mr. Eckert stated that the family eats the rabbits. Mr. Eckert presented the Board with a photograph to show the size of a mature goat.

Chairman Smith inquired of the attorney as to which section of the Code would give the BZA the right to grant this variance request. Mr. Eckert stated that Sect. 18-402 allows the Board to vary the Code. Chairman Smith stated that was the section referring to land use. He indicated that unless there was a topographic or an unusual condition as to the buildings or the land involved, the BZA did not have the authority to grant the request. Mr. Eckert stated that the whole purpose of Sect. 18-402 of the Ordinance was to protect the neighbor's property values.

Chairman Smith stated that the section of the Code relating to the limitation of the keeping of animals allowed the BZA to increase the number of animals but this was the only section that gave the BZA any authority. He stated that the BZA does have the authority to vary the number of animals but it has to be a two acre lot. Lots of less than two acres are prohibited from keeping this type of animal. Mr. Yaremchuk stated if that was the case, then why was this application scheduled before the Board. Mr. Covington stated that the Zoning Administrator accepts the applications. Mr. Yaremchuk stated that if the Zoning Administrator accepted the application then he apparently thought the BZA had the authority to grant such a variance. Mr. Yaremchuk stated that if the Zoning Administrator or the staff accepts any application, then the BZA has a legal right to act on it.

Chairman Smith stated that the section of the Code referring to animals only gives the BZA the authority to vary the number. He stated that this was non-conforming use and that the Board cannot establish a non-conforming use. If the variance were granted, everybody in the County would be entitled to keep goats. He stated that he was trying to find a hardship other than the children. He reminded the Board that this was a hobby. Chairman Smith stated that he was a farmer and also loved animals.

Mr. Eckert stated that this was a totally unique situation which would not fit into the four corners of the Ordinance. He stated that they were here to seek some flexibility from the Code. He reminded the Board that the situation has existed for ten years. Chairman Smith stated that he did not see any provision in the Ordinance which would allow the BZA to vary it. Mr. Eckert stated that their logic was that the Ordinance allows sheep if you have a 2 acre lot. Chairman Smith stated that if this were a two acre lot, he would not have any problem with it. Mr. Eckert stated that if this were a two acre lot, they would not be here. Chairman Smith stated that he did not believe the Board has the right to allow the animals on less than two acres.

Mr. Covington informed the Board that Mr. Claude Kennedy had issued the violation and had discussed the matter in depth with Mr. Yates, the Zoning Administrator. Mr. Kennedy stated that with reference to the justification for the variance request, he had talked to Mr. Yates and one of the key points was Sect. 18-401 of the Code. Sect. 18-402 and Sect. 18-405 would not prohibit the request. Chairman Smith stated that Sect. 18-402 does not pertain to the keeping of animals. He indicated that it refers to the buildings and structures on the land. Mr. Kennedy referred to Sect. 18-405 of unauthorized variances. Chairman Smith stated that Sect. 2-17, the limitation on the keeping of animals was a use that was permitted. Mr. Yaremchuk stated that the Chairman had made his point.

Mr. Eckert presented two individuals who were familiar with the situation. The first speaker was Mr. Robert Fowler, a neighbor of the Harrises. Mr. Fowler resided at 4105 High Point Ct. in Annandale. He indicated that he had never found anything to object to about the keeping of the goats. He stated that he could not see, hear or smell them. Mr. Fowler informed the Board that he was the nearest neighbor and stated that the goats do not bother him in any way.

The next speaker was Mr. Robert Baylor, a resident of Fairfax County residing at 7701 Willow Brook Road in Fairfax Station. He stated that he was a government lawyer and that he had visited the property. He stated that the property was located on a dead-end street. The area is very wooded and is located next to a very busy highway. He advised the Board that there was a recent article in the Post about the Harrises. Chairman Smith stated that the character and integrity of the Harrises were not in question. He stated that the Board has to study this application under the Code. He asked Mr. Baylor if he was aware of where in the Code the BZA had the right to grant this variance to one property owner and not the others. Chairman Smith stated that if the Board granted this variance to all property owners then the Code would be wrecked. He stated that this was a matter of law. Mr. Baylor stated that he was not familiar with the Ordinance. He stated that they have flexibility and indicated that the Board should be flexible.

Mr. Eckert stated that the Code was enacted for the basic benefit of people in Fairfax County. He stated that he was seeking a liberal interpretation in seeking a variance under the strict interpretation of the Code. He stated that Mr. & Mrs. Harris could answer any questions should the Board so choose.

There was no one to speak in favor of the application. The following person spoke in opposition to the application. Mr. James L. & Dawn O'Brien were co-owners with James J. & Lynn O'Brien of the property purchased in 1978 from Mary Deatherage. Mr. O'Brien stated that they knew about the small animals but were not aware of the odors until the hot summer months. Mr. O'Brien stated that his son and daughter-in-law lived on the property. Mr. O'Brien stated that the animal shed was located immediately adjacent to his driveway and presented a visual as well as offensiveness to his property.

Chairman Smith stated that there was a letter in opposition in the file which stated basically the same thing as Mr. O'Brien. Mr. DiGiulian inquired of Mr. Covington as to the reading of the Code. He indicated that as he read the Code, the rabbits would be allowed. Mr. Covington stated that if the rabbits were commonly accepted pets they were allowed. However, the Zoning Administrator had interpreted that they were not.

Mr. DiGiulian stated that he would like some comment from the County Attorney's Office on whether the BZA had the right to vary the two acre requirement under the Code. Chairman Smith stated that the Board would have to defer the decision and in doing so it would allow Ms. Ardis the opportunity to listen to the tapes and participate in the decision.

Chairman Smith inquired of the applicant if one goat would be sufficient to furnish the milk for the children. He stated that the applicant could not keep as many goats as he would like, particularly when $\frac{1}{2}$ gallon was all the milk required. Mr. Eckert stated that the goats do not give milk all the time.

This matter was deferred for decision until November 27, 1979 at 9:15 P.M.

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10:30 ROBERT GOODLOE HARPER, DAVID M. & KRISTIN H. GILMORE & CONSTANTINE
 A.M. G. YEONAS, appl. under Sect. 18-401 of the Ord. to allow resubd.
 into 8 lots with proposed lots 7 & 8 having width of 40 ft.[±] & 50 ft.
[±] respectively, (150 ft. min. lot width req. by Sect. 3-106), located
 1101 Saville La., 22-4((1))7B, 7C, 7D & pt. of 8, Dranesville Dist.,
 8.0 acres, R-1, V-254-79.

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Mr. Richard Scalise, an attorney, represented the applicants. He stated that six of the proposed lots would have frontage on an extension of the road and the other 2 lots would have frontage on Saville Lane. Mr. Scalise stated that the variance request was to permit the lots to have less than the required minimum frontage of 150 ft. as required by the Ordinance. Mr. Scalise stated that it was the applicants intent to incorporate lots 7 & 8 in order to provide both frontage and access. The road would be vacated with the subdivision of the property. Mr. Scalise stated that a public street was impractical in this location. He stated that the citizens do not want Basil Road extended to Saville Lane. The developer has gone to considerable expense to plan the driveways for lots 7 & 8 in order to preserve all of the large trees and preserve the overall setting of the land. He stated that this would provide the best overall plan for the subdivision of the property. Mr. Scalise informed the Board that there were at least 5 lots in the immediate area with similar types of access. He indicated that the authorization of this variance would not be detrimental to the surrounding property and would further the use of the land.

There was no one to speak in support of the application. Minerva Andrews, an attorney, represented Dr. Stuart when she spoke in opposition to the request. She indicated that he owned property adjacent to the 40 ft. strip on the north side of the property. Ms. Andrews stated that Dr. Stuart strongly opposed the variance on lot 7. She presented the Board with letters from 4 neighbors also in opposition. She informed the Board that there were a number of neighbors present at the hearing who were in opposition and she asked them to stand. (Approximately 10 people stood up.)

Ms. Andrews informed the Board that Dr. Stuart bought his property in 1961. His deed included access to the 40 ft. strip. The old right-of-way was set up in 1912 but has not been used for 50 years. Dr. Stuart began landscaping the strip and planted azalae and several other plants and trees. Mr. DiGiulian inquired who owned the 40 ft. strip. Ms. Andrews stated that Mr. Harper bought the property in 1964. In May of 1978, Mr. Harper asked Dr. Stuart to release his rights to the land. Mr. Harper had indicated that the strip would only be used as acreage and would never be used for a driveway or access. Mr. DiGiulian inquired if there was any property that had the right to use this access. Ms. Andrews stated that the access was established for the old Downs tract further up. She indicated that there was another access so that this access was not needed. Ms. Andrews stated that Dr. Stuart had allowed his right to be revoked with the assurance that there would not be a driveway put there. She stated that Dr. Stuart feels a deep sense of betrayal. She stated that the plants were almost like children to him. She stated that Dr. Stuart does not own the land but has a tremendous amount of work at stake.

According to Ms. Andrews, Mr. Yeonas bought the property from the Gilmores in order to subdivide all of the property to make a total of 8 acres. The outlot A is held in the name of Olympic Development Corp. Chairman Smith inquired about outlot A and was told by Mr. Scalise that the staff had advised the application be left as was filed. Chairman Smith indicated that it should have been amended.

Mr. Yaremchuk stated he had some questions for Ms. Andrews as he was confused. Ms. Andrews stated that Mr. Harper had purchased the property to have a house built on it and was allowed the use of the strip for access by right. Dr. Stuart had planted all the trees in that strip. In 1978, he was given a verbal promise that no driveway would be located in that strip. When Dr. Stuart tried to contact Mr. Harper, he was told it was out of his hands. Mr. Harper had sold the property to Mr. Yeonas who was not aware of the promise. Mr. Yaremchuk inquired if as an attorney, would Ms. Andrews ever advise anyone to plant shrubs on someone else's property. Ms. Andrews stated that she lived on a lot in the country and her husband has done the same thing. She informed the Board that the strip was too narrow to use as a public street. In response to Mr. Yaremchuk's question, she stated that she would never advise her clients to plant expensive shrubs on someone else's property.

Ms. Andrews stated that this was a case where a developer was coming in trying to get the most possible density out of a tract of land. She stated that it could be subdivided in a reasonable way all the lots could be served by Basil Road. Basil Road would provide safer access than Saville Lane. She stated

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Saville Lane was never built to state standards and was not a safe road. It has deep ditches and is very rolling and was not as safe as Basil Road. Ms. Andrews stated that the denial of the variance would not deprive the Yeonas Company. She stated that there was not any hardship other than trying to get the maximum density.

Ms. Andrews stated that Mr. Neumeyer had offered to sell a portion of his property. This would provide an additional 110 ft. of frontage in order for the applicants to meet the required frontage on Saville Lane. She stated that alternatives were available. Ms. Andrews indicated that there was nothing wrong with wanting to make the most money possible but stated that this plan would have an adverse effect on the property and the environment.

Ms. Andrews stated that the natural drainage on lot 7 and half of lots 5 & 8 flow onto Dr. Stuart's property. It comes down the swale and right onto Dr. Stuart's yard. It forms a gully which Dr. Stuart constantly has to fill. She indicated that there are a number of springs on the property so that the area is soggy. The property is now covered with brush and underbrush except in the back of the right-of-way where there are huge trees. She stated that the runoff would be greatly increased and the impact on Dr. Stuart would be substantial.

Ms. Andrews stated that this variance did not meet the Code requirements of Sect. 18-406.6. In addition to the increased runoff, there would be the siltation control which would be difficult to handle. She stated that lot 7 served to provide a \$50,000 profit to Mr. Yeonas. To Dr. Stuart, it was an area to be treasured. She stated that the best solution would be to leave the land in its natural state to prevent runoff and asked the Board to deny the variance request on lot 7.

Dr. H. D. Stuart of 1027 Saddle Lane stated that he purchased his property in 1961 with the understanding that it was County land and he stated that he had planted on it not knowing that it was owned by a private individual. In 1978, Mr. Harper came to him to sign the release. He had purchased the property in 1964. Dr. Stuart stated that there was an old elm on that strip. When he contacted the County, he had been informed that the property was County land but not maintained by the County. He was advised that he would have to cut the elm down at his own expense.

Mr. Barnes asked if Dr. Stuart had ever asked Mr. Harper for a written agreement about the strip of land. Dr. Stuart stated that he had not asked for anything in writing. He stated that he had repeatedly asked Mr. Harper about the land and was told it was strictly for acreage. Mr. Yaremchuk inquired as to how much land Dr. Stuart owned. In response, he stated he owned 1.3 acres. Mr. Yaremchuk inquired as to why he had planted on that strip. Dr. Stuart stated his property has underground springs. He stated that he was not trying to screen his property but only planted the shrubs for aesthetics. He stated that he spent \$2,000 to \$3,000 on the strip initially. Dr. Stuart stated that some of the plants are too big to move now.

The next speaker in opposition was Mr. William Neumeyer of 1033 Saddle Lane. He informed the Board that he has lived at this address for 25 years. A number of years ago, he had sold one acre, lot #1. A number of years ago, Mr. Neumeyer had wanted to purchase the strip known as the Downs right-of-way and was told by Mr. Downs no way. Mr. Downs had indicated that the strip would never be used. Dr. Stuart's house was built at the time Mr. Neumeyer moved there. Some of the landscaping was started at that time. Mr. Neumeyer stated that this variance would ruin the neighborhood. He stated that he did not see the need for three exits and was forced to give that 50 ft. right-of-way. He stated that he thought the property would be developed into the road going in there. Mr. Neumeyer stated that the 40 ft. outlet was not needed and would destroy Dr. Stuart's property and the Walter's property on the other side.

The next speaker in opposition was David Dickerson of 1122 Basil Road. He stated that he was the victim of a cement swale that overflows. He stated that there is no drainage and no sewerage. He was at the bottom of the hill and would get a lot of water off of the property. He inquired if there was a storm sewer plan provided in the request.

The next speaker was Sally Kilcullem of Saddle Lane. She stated that she objected to the variance as it would rob the neighborhood of some of the

beauty there. In addition, over a period of time, it would decrease Dr. Stuart's property value and rob him of his privacy.

The next speaker in opposition was Kasimir G. Stapko of 1001 Saville Lane. He stated that the drainage and the safety had been discussed. He informed the Board that there was a hill at the 50 ft. right-of-way. He stated that it provided a blind view. There are two driveways already on this side of the road. A third driveway would be disastrous particularly in winter. He stated that cars would be stranded and would not be able to get up the hill from their driveways during the winter months. He stated that the road was very old and could not handle any more driveways.

During rebuttal, Mr. Scalise stated that the site distance was adequate. He informed the Board that Mr. Harper did not promise that a road would not be built in the strip. What he had said was that every attempt would be made to prevent a public right-of-way from being built in that strip. Mr. Harper did not intend to develop the property. He held it for investment purposes. There was a revokable license. Mr. Scalise confirmed that Mr. Neumeyer had offered to sell some property. They had attempted to negotiate to buy some land to provide the frontage on Saville Lane but Mr. Neumeyer was not willing to negotiate or to even speak to them.

With respect to drainage, Mr. Scalise stated that their engineer had provided for adequate drainage in the preengineering plan. There would not be any further runoff from Basil Road. Mr. Scalise stated that they were willing to keep any additional water from Dr. Stuart's property. He stated that they would relocate the shrubs and build an attractive home next to Dr. Stuart's property. Mr. Scalise stated that the granting of the variance would not be inconsistent with the area. He stated that there was not any opposition to having the property developed. If the variance were not granted, it would create an undue hardship on the builder. Mr. Scalise stated that this was the best use of the property.

Mr. DiGiulian inquired as to why the lots could not be pipestemmed on Basil Road. Mr. Scalise stated that the property was being developed conventional under the R-1 zoning category. He stated that they did not wish to cluster the subdivision. He further stated that a cluster subdivision would also require a variance. In addition, if the lots were cluster, they would have to build smaller houses because the lots would be smaller and would be more difficult to develop and less attractive. The engineer stated that this plan met the sight distance requirement. He indicated that it was not the best in the world but that the driveway was adequate.

Page 6, November 6, 1979 Board of Zoning Appeals
ROBERT GOODLOE HARPER, DAVID M. & KRISTIN H.
GILMORE & CONSTANTINE G. YEONAS

R E S O L U T I O N

In Application No. V-254-79 by ROBERT GOODLOE HARPER, DAVID M. & KRISTIN H. GILMORE & CONSTANTINE YEONAS under Section 18-401 of the Zoning Ordinance to allow resubdivision into 8 lots with proposed lots 7 & 8 having widths of 40 ft. & 50 ft. (150 ft. min. lot width required by Sect. 3-106), on property located at 1101 Saville Lane, tax map reference 22-4((1))7B, 7C, 7D & pt. of 8, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 8.0 acres.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Ms. Ardis being absent).

Page 7, November 6, 1979, Recess

At 12:20 P.M., the Board recessed for lunch. At 1:10 P.M., the Board reconvened to continue with the scheduled agenda.

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Page 7, November 6, 1979, Scheduled case for

10:40 A.M. FRANCES G. MASEMER, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 8 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1538 Chain Bridge Road, West McLean Subd., 30-4((2))(4)40 & 41, Dranesville Dist., 9,798 sq. ft., R-3, V-255-79.

Frances G. Masemer of 1317 Kirby Road in McLean, informed the Board that in July he had asked the County if he could build a house on two 25 ft. lots. He stated that he was informed that he could build his house. Mr. Masemer stated that he went ahead and ordered the house after being told he could build it. In response to questions from the Board, Mr. Masemer stated that it was a pre-fab house. Chairman Smith inquired if the applicant was proposing to construct the additional house on two of the lots. Mr. Masemer stated that it would be constructed on lots 40 & 41. Mr. DiGiulian inquired of Mr. Covington about the staff report which indicated that the setbacks had changed in April of 1979. He asked when Mr. Masemer had been to the County. Mr. Masemer stated that he was there in June. Chairman Smith stated that apparently someone on the staff had not been informed of the change in the Ordinance.

Mr. Covington informed the Board that these were substandard lots. He stated that the setback had changed several times during the last year.

Mr. Korte spoke in support of the application. He informed the Board that he had prepared the plat and wanted to confirm what the applicant had stated. The applicant had gotten plans to build a 30 ft. wide house which would have conformed to the Zoning Ordinance prior to the amendment in April. Then the setback was changed which increased the setback for the side yard.

There was no one else to speak in support. Ms. Elizabeth Ross spoke in opposition to the request. She stated that she would like more information before she stated she was against the application. She stated that the lot was not identified in her notice. She stated that she owns lots 1, 2 & 3 across the street. Ms. Ross asked where the access to the building would be. If it was from Chain Bridge Road, she stated that she had no objection. Mr. Korte informed Ms. Ross that Mr. Masemer owned 3 lots on the corner and indicated that they could come in with an easement to the side street. Chairman Smith stated that was not indicated on the plats and it should have been if that was what the applicant proposed. Chairman Smith stated that he assumed that if a variance were granted, the applicant would be required to use Chain Bridge Road.

The next speaker was Richard A. Dove, Jr. He stated that he owned the property adjacent to Mrs. Masemer's property. Mr. Dove stated that he would like to have more information with respect to the building that Mrs. Masemer was proposing to construct. Mrs. Masemer stated that it was a wooden frame house 30 ft. x 55 ft. She stated that it was prefab house ordered from Canada.

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Mr. Dove informed the Board that it was his understanding that the house was a prefab much like a log cabin.

Mr. Dove stated that he wished to register his objections because he understood that the driveway would be off of Springvale Avenue instead of Chain Bridge Road. He indicated that there was not enough right-of-way on Rt. 123 to get into the property. He stated that he opposed any other access to the property. Chairman Smith stated that if a variance was granted, it would have to have access from Rt. 123. Mr. Dove stated that a variance to the 12 ft. setback requirement would set a precedent for the area. Chairman Smith stated that the variance request was from the lot adjoining property still owned by Mrs. Masemer. Any impact would be existing on her own property. Mr. Dove stated that in this neighborhood that a building of this type would be undesirable and would decrease the property values. He stated that the property from Rt. 123 to Meadowbrook was projected for townhouses. Chairman Smith stated that the house would be an expensive as any other house in the area because the 2x6 boards were expensive. Mr. Dove was shocked that the Chairman felt that a frame dwelling would be more expensive than the brick dwellings already there. Chairman Smith stated that at today's prices it was more expensive. Mr. Dove stated that he objected to the road coming in from Springvale Avenue because it would be adjacent to his property. Chairman Smith assured Mr. Dove that he would not support the variance unless it comes off of Rt. 123.

During rebuttal, Mrs. Masemer stated that she wanted to use Rt. 123 for access as it would afford less impact. She stated that she really and truly felt that a driveway from Springvale Road would be more safe. Mr. DiGiulian inquired if Rt. 123 was heavily travelled and was informed by Mrs. Masemer that it was. Mr. DiGiulian noted that there was over 200 ft. of frontage on Springvale Road. Ms. Masemer stated that she had been informed that a driveway could be built over the sewer line. Chairman Smith inquired as why the house was located so far back. Ms. Masemer stated that they needed a back yard for the house that was existing.

R E S O L U T I O N

In Application No. V-255-79 by FRANCES G. MASEMER under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 8 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 1538 Chain Bridge Road, tax map reference 30-4((2))(4)40 & 41, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 9,798 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including substandard lots and has an unusual condition in that the Ordinance was amended after the applicant ordered 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.

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

RESOLUTION

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1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 9, November 6, 1979, Scheduled case for

10:50 A.M. DAVID D. & ANNA J. MATTHEWS, appl. under Sect. 18-401 of the Zoning Ordinance to allow 6 ft. fence to remain in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-105), located 9915 Brightlea Dr., Edgelea Woods Subd., 48-1((7))1, Providence Dist., 11,978 sq. ft., R-2, V-256-79.

Mr. David D. Matthews of 9915 Brightlea Drive in Vienna stated that prior to having his fence installed, he had contacted the Building Department and the Zoning Ordinance to inquire as to what was required to build a fence. He stated that he was told that the Zoning Ordinance had a side yard and a front yard. Mr. Matthews stated that he was not made aware that a corner lot has two front yards instead of one front and one side yard. He was made aware when the Zoning Inspector came by and informed him of the violation. Mr. Matthews stated that the 6 ft. fence was necessary in order to keep his property from being abused. Mr. Matthews stated that the cost of moving the fence would be about \$800. Mr. Matthews stated that the fence was installed in the rear of his home and does not obstruct the vision for site distance. He stated that the fence was installed in good faith and understanding.

Mr. Matthews stated that he had talked to his neighbors and no one objected. Because of the cost of moving the fence and to extend the split rail fence, Mr. Matthews asked the Board to allow the fence to remain as is. In response to questions from the Board, Mr. Matthews stated that the fence was constructed by Long Fence Co. Chairman Smith inquired if the applicant had instructed the fence company to place the fence at this location. Mr. Matthews stated that the fence company had inquired if the owner had contacted the Zoning Office and he told them he had. He stated that the fence did not require a building permit. He could not remember who he had talked to in the Zoning Office about the setbacks. Chairman Smith inquired if Long Fence Co. had informed him at any time that the fence did not meet the setback requirements. Mr. Matthews stated that they had not and that they constructed the fence where he had indicated. He had informed the fence co. that he had called the County. Mr. Matthews stated that he thought the County looked up the lot when they were answering his questions.

Chairman Smith stated that this was the second application for a fence in the same subdivision. The other variance had been denied. It was a similar situation.

Mr. Sidney L. Wiggins of 9914 Brightlea Drive in Vienna spoke in favor of the application. He stated that he was familiar with the problems that Mr. Matthews had encountered and was supporting the variance.

There was no one to speak in opposition. However, the file contained a letter in opposition from Tony Sarro, President of the Edgelea Woods Civic Association. The letter claimed that the applicant was made aware of the improper setback.

Mr. Matthews stated that he had considerable problems with the house next door and the kindergarten which was why he had put up the fence. He stated that the architectural review board was given his application and they sat on it for three weeks. After the fence was installed, the review board made him aware of the corner lot requirement. Chairman Smith stated that there was another letter in opposition from Shirley Cooper who lived three doors down the street. Mr. Matthews stated that she was a new resident. He stated that he has lived in the subdivision since it was built. He stated that the boat Mr. Cooper referred to was housed in his garage. Mr. Matthews informed the Board that ever since he moved in he has had problems with horses being ridden into his yard and problems from the Oakton High School kids. Mr. Yaremchuk inquired if Mr. Wiggins had a similar situation and was informed

that he did. Mr. Matthews informed the Board that the fence does not interfere with the intersection at all. He stated that there was 10 to 12 ft. easement between his lot and the next lot. The state has put a barricade there and the kids party at this location. As far as traffic, the fence does not interfere.

Mr. Yaremchuk stated that in his neighborhood there was a 3½ ft. hedge which takes his life in his hands everytime. It has been there for years and it is right against the curb. He stated that it was a very dangerous situation. Mr. Yaremchuk stated that from the pictures it would appear that the fence did not interfere with visibility.

Chairman Smith inquired as to the topographic reason for requesting this variance. Mr. Covington stated that the hardship was the lot configuration as this was a corner lot. Chairman Smith stated that he did not feel that this property had any particular hardship that anyone else in the County would not share. He stated that apparently Mr. Matthews did not explain to the County that he had a corner lot when he called about the fence. Mr. DiGiulian stated that it was true that Mr. Matthews did not tell whoever he was talking to that he had a corner lot but he probably was not aware that it made any difference.

Mr. Yaremchuk stated that he was in a dilemma. He indicated that normally he was against fences on a corner lot. He stated that he did not like them to stick out like sore thumbs. He stated that if the Board grants one, he did not know whether they should grant other ones.

Mr. Barnes stated that he had looked at the property and agreed with the person who indicated that the fence sticks out like a sore thumb. He stated that the fence stood too high.

R E S O L U T I O N

In Application No. V-256-79 by DAVID D. & ANNA J. MATTHEWS under Section 18-401 of the Zoning Ordinance to allow 6 ft. fence to remain in front yard (4 ft. maximum height for fence in front yard required by Sect. 10-105) on property located at 9915 Brightlea Drive, tax map reference 48-1((7))1, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 11,978 sq. ft.

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

11:00 A.M. SIDNEY L. JR. & JANET S. WIGGINS, appl. under Sect. 18-401 of the Ord. to allow 6 ft. high fence to remain in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-105), located 9914 Brightlea Dr., Edgelea Woods Subd., 48-1((7))90, Providence Dist., 12,513 sq. ft., R-3, V-257-79.

011

Mr. Sidney Wiggins of the above address informed the Board that prior to erecting the fence, he had called the Office of Comprehensive Planning and inquired about the Zoning requirements with respect to fences. He was told that a fence could be no more than 4 ft. high in a front yard and not more than 7 ft. in the rear. No mention was made about the corner lot situation and Mr. Wiggins stated that he was not aware of it. He informed the Board that he lives on a corner lot. Mr. Wiggins stated that because his house sits lower than Edgelelea Drive, it puts his bedroom area on the same level as Edgelelea Drive. He stated that the noise from the traffic was bad. Mr. Wiggins informed the Board that his fence does not cause any safety hazard. Mr. Wiggins stated that there is a steep slope at this location and the children like to play there. He stated that there was a possibility that someone could get hurt. He showed the Board a plat of the area where the 6 ft. fence was located.

If the fence were to be moved back, it would have to be moved back to the corner of his house. This area has a very steep slope. He stated that it would be very easy for the children to climb over it. Mr. Wiggins stated that if he were to put in a swimming pool, it would be easy for the children to get in because of the slope. Mr. Wiggins showed the Board pictures that indicated that Edgelelea Road was on the same level as his house. The house is located 30 ft. from the road.

Chairman Smith stated that he could still have a fence between his house and the road and meet the setbacks. Mr. Wiggins stated that the fence was an obstruction to the noise. If it were moved to the bottom of the slope, it would not obstruct the traffic noise. He requested the Board to grant the variance.

Mr. Matthews of 9915 Brighlea Drive spoke in favor of the application. He informed the Board that Mr. Wiggins did have an extreme situation on the hill. He stated that the children constantly slide down that hill and indicated that Mr. Wiggins would be liable for any injury to the children. Chairman Smith stated that a 4 ft. fence would still answer the problems. Mr. Matthews stated that you can't keep the children off of a 4 ft. fence. He stated that a 6 ft. fence was better and stated that he had tried it before.

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

R E S O L U T I O N

In Application No. V-257-79 by SIDNEY L. & JANET S. WIGGINS under Section 18-401 of the Zoning Ordinance to permit 6 ft. fence to remain in front yard (4 ft. maximum height for fence in front yard required by Sect. 10-105) on property located at 9914 Brightlea Drive, tax map reference 48-1((7))90, 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 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 12,513 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.

Page 12, November 6, 1979
 SIDNEY L. JR. & JANET S. WIGGINS
 (continued)

Board of Zoning Appeals

R E S O L U T I O N

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0.

 Page 12, November 6, 1979, Scheduled case for

11:10 DR. & MRS. SALVADORE J. BELLOMO, appl. under Sect. 18-401 of the
 A.M. Ord. to allow construction of deck 16.6 ft. from rear lot line
 (19 ft. min. rear yard req. by Sect. 3-307 & Sect. 2-412), located
 9528 Rockport Road, Concord Green Subd., 38-1((17))19, Centreville
 Dist., 10,503 sq. ft., R-3, V-258-79.

Dr. Salvatore Bellomo stated that he needed a variance in order to construct a deck at the rear of his house. He stated that his lot was unusually shaped as the rear has a steep slope and the lot is trapezoid in shape. Dr. Bellomo stated that the deck would not adversely affect the surrounding property owners. The proposed deck would not cause any problems to the rear lot lines. In addition, the deck would provide for additional fire exits on the second floor and would provide for the further use of the back yard for the three children. Dr. Bellomo stated that the deck would provide a harmonious space for the enjoyment of his family.

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

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Board of Zoning Appeals

DR. & MRS. SALVADORE J. BELLOMO

R E S O L U T I O N

In Application No. V-258-79 by DR. & MRS. SALVADORE J. BELLOMO Under Section 18-401 of the Zoning Ordinance to allow construction of deck 16.6 ft. from rear lot line (19 ft. minimum rear yard required by Section 3-207 & Section 2-412) on property located at 9528 Rockport Drive, tax map reference 38-1((17))19, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 10,503 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

11:20 PETER H. & IRINA M. PFUND, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of addition to existing dwelling to 12 ft. from
side lot line (15 ft. min. side yard req. by Sect. 3-207), located
10419 Pearl St., The Timbers Subd., 77-2((2))226, Annandale Dist.,
13,750 sq. ft., R-2, V-260-79.

013

Mr. Peter H. Pfund stated that he and his wife resided at 10419 Pearl Street in Fairfax. He stated that they were seeking a variance, the nature of which was contained on page 9 of the staff report. He informed the Board that he and his wife purchased the property in 1973. He indicated that they would like to extend their property in order to house the belongings of their parents who were preparing to move into a senior citizen community.

Mr. Pfund stated that he was informed in March that the setback requirement was 12 ft. Based on the information given to him, he hired an architect to work up the plans. He stated that the plans were drawn to meet his specifications and needs. On August 29th, his wife was informed that the setback requirements had changed in April as the Board of Supervisors amended the Ordinance and changed the 12 ft. setback to 15 ft. Mr. Pfund stated that they have made an application for a variance to be able to build the addition in the manner in which it was designed. He showed the Board two models of what the addition would look like. The larger model showed considerable detail concerning the addition. It showed the Board how the new setback would affect his design. Mr. Pfund stated that if the variance were not approved, the plans would have to be completely redone. He stated that it was quite possible that any alternative plan would adequately meet the use that he had in mind.

Mr. Pfund stated that he had sent notice to the surrounding property owners and no one had objected to the variance request. He informed the Board that the addition would blend in with the rest of the house and the design of the other homes in the area. He stated that this variance would not change the character of the area.

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

Page 13, November 6, 1979
PETER H. & IRINA M. PFUND

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-260-79 by PETER H. & IRINA M. PFUND under Section 18-401 of the Zoning Ordinance to allow construction of addition to existing dwelling to 12 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 10419 Pearl Street, tax map reference 77-2((2))226, 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 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 13,750 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and the Ordinance was amended while plans were in progress.

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

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

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

R E S O L U T I O N

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 14, November 6, 1979, Scheduled case for

11:30 A.M. L. F. JENNINGS, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 27 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-307), located 6913 Ridgedale Court, Southridge Subd., Dranesville Dist., 30-4((42))7, 10,527 sq. ft., R-3, V-263-79.

The Board passed over the application as there was no one in the audience to present the case.

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Page 14, November 6, 1979, Scheduled case of

11:40 A.M. ALLENE R. MEYER, appl. under Sect. 18-401 of the Ord. to allow enlargement and enclosure of carport to 8.2 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8021 Greenley Blvd., West Springfield Subd., 89-2((2))145, Springfield Dist., 11,681 sq. ft., R-3, V-264-79.

Mr. Charles Meyer of 8021 Greenley Blvd. stated that his wife was seeking relief in order to enclose the carport and extend it easterly to the side lot line. They were just recently married and decided that an enclosed garage and a home work area would make the home much more livable. Mr. Meyer stated that originally the side setback was 8 ft. and now is 12 ft. since the amendment to the Ordinance. Mr. Meyer stated that they did not believe it would be practical to build on the westerly side of the house. There is 42 ft. there but a shed like projection would be necessary and it would be an obvious addition. He stated that they can't build an addition to the rear of the house because of the way the roofline projects. Mr. Meyer stated that none of the neighbors object to the variance. In fact, the nearest neighbors thought it was a good idea.

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

Page 14, November 6, 1979,
ALLENE R. MEYER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-264-79 by ALLENE R. MEYER under Section 18-401 of the Zoning Ordinance to allow enlargement and enclosure of carport to 8.2 ft. from side lot line (12 ft. minimum side yard required by Section 3-307) on property located at 8021 Greenley Boulevard, tax map reference 89-2((2))145, 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 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 11,681 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.

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Page 15, November 6, 1979
 ALLENE R. MEYER
 (continued)

Board of Zoning Appeals

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 15, November 6, 1979, Scheduled case for

11:50 A.M. KENNETH & BERNICE MORELAND, appl. under Sect. 18-401 of the Ord. to allow subdivision into lots with proposed lot #8 having 20 ft. width (100 ft. min. lot width req. by Sect. 3-206), located 9714 Old Mill Road., Spring Lake Farms Subd., 88-1((2))9, Springfield Dist., 5.37687 acres, R-2, V-271-79.

As the required notices were not in order, the Board deferred the variance application until December 4, 1979 at 12:15 P.M.

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Page 15, November 6, 1979, Scheduled case for

12:00 NOON HOWARD N. JR., & DOROTHY K. STEELE, appl. under Sect. 18-401 of the Ord. to allow construction of a living space addition to dwelling to 8 ft. from side lot line & a ramp to 4 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207) & 11 ft. min. side yard for ramp req. by Sect. 2-412, located 9313 Booth St., Mount Vernon Grove Subd., 110-3((2))(G)174 & 175, Mt. Vernon Dist., 15,000 sq. ft., R-2, V-278-79.

Mr. Howard Steele of 9613 Booth Street thanked the BZA for granting him an out-of-turn hearing on his variance application. He informed the Board that his daughter had been paralyzed in an auto accident and would be in a wheelchair for the rest of her life. He indicated that he had talked to a lot of people about the remodeling of his house and came to the conclusion that it did not lend itself to modification. The most feasible thing was to add an addition onto the side of the house. Mr. Steele stated that the addition would be inconspicuous but it would require a variance in order to build it. A ramp would be necessary for the wheelchair and would come within 4 ft. of the side lot line. The actual addition would only be 8 ft. from the side lot line. Mr. Steele stated that all of his neighbors supported the variance. He stated that the addition would not affect anyone but himself. He stated that if there were anywhere else on the property to build, he would not be asking for a variance.

In response to questions from the Board, Mr. Steele stated that one of his problems was that his daughter needed to be on the first floor level of the house. He indicated that this was the only area where he could achieve that.

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

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Board of Zoning Appeals

HOWARD N. JR. & DOROTHY K. STEELE
 R E S O L U T I O N

In Application No. V-278-79 by HOWARD N. JR. & DOROTHY K. STEELE under Section 18-401 of the Zoning Ordinance to allow construction of a living space addition to dwelling to 8 ft. from side lot line & a ramp to 4 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207 & 11 ft. minimum side yard for ramp required by Sect. 2-412) on property located at 9313 Booth Street, tax map reference 110-3((2))(G)174 & 175, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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Board of Zoning Appeals

HOWARD N. JR. & DOROTHY K. STEELE

(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 November 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 15,000 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 16, November 6, 1979, Scheduled case for

12:10 VIRGINIA A. PAIST, appl. under Sect. 18-401 of the Ord. to allow
P.M. construction of addition to existing dwelling to 7 ft. from side
lot line (12 ft. min. side yard req. by Sect. 3-307), located 2610
Occidental Dr., Dunn Loring Woods Subd., 49-1((9))(N)35, Providence
Dist., 10,675 sq. ft., R-3, V-273-79.

Mrs. Curtis informed the Board that she represented Mrs. Paist in the variance application. She stated that a 5 ft. variance was requested to the 12 ft. setback requirement. The property is pie-shaped which makes it difficult for any addition of a carport and the extension of the dining room and a family room. She stated that it was necessary to increase the dining room which was unusable at this time. The family room was necessary as there are three teenagers in the home. In addition, a back-up heating system was being installed.

There was no one else to speak in favor of the application. The following persons spoke in opposition. Mr. Drus of 2608 Occidental Drive stated that he was given notice of the variance hearing but objected to the letter not stating what the hearing was about. Mr. Drus stated that his house was at a much lower level than the Paist house. He was concerned that the proposed addition might affect the visibility from his home. In addition, he stated that the proposed addition would detract from the value of his property. He stated that he would like to talk to Mrs. Paist about her application.

Mr. Bob Hoge of 2614 Occidental Drive stated that he came to the hearing neither for or against the application. He stated that he wanted some information. After hearing the opposition, he had some questions to be clarified. He asked if the applicant was adding an addition to the present rec room or completely replacing it. He also asked if the dining room could be expanded in width without bothering the current zoning rules. Finally, Mr. Hoge asked if the additions could be made to the rear rather than the side.

In response, Mrs. Curtis stated that there was a setback of 40 ft. off of Cedar Lane in this area. Anything built there would be very close to the highway. Mrs. Curtis stated that the existing rec room was downstairs along with two bedrooms. They were requesting an extra room and wanted all of the bedrooms on the same level or at least within one or two steps. As far as

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adding on the carport, Mrs. Curtis stated that it would be an open structure and could be there by right. She indicated that they were staying within the roofline as they did not want to put any water on the Drus property.

017

Mr. DiGiulian stated that only a small corner of the family room came into the setback area. Mrs. Curtis stated that they only needed 5 ft.

R E S O L U T I O N

In Application No. V-273-79 by VIRGINIA A. PAIST under Section 18-401 of the Zoning Ordinance to allow construction of addition to existing dwelling to 7 ft. from side lot line (12 ft. minimum side yard required by Section 3-307) on property located at 2610 Occidental Drive, tax map reference 49-1((9))(N)35, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 10,675 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that there are two front yard setbacks.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

12:20 P.M. B & N EDUCATORS, INC. T/A THE FAIRFAX ACADEMY OF EARLY LEARNING, appl. under Section 3-303 of the Ord. to amend S-4-77 to permit change of permittees, additions of land area, building and parking, increase in maximum no. of students to 275, change in hours of operation to 6:30 A.M. to 6:30 P.M., and change in ages of the children to 2 years through 12 years, located 820 S. Carlyn Springs Rd., 62-1((2))6, Mason Dist., 1 acre, R-3, S-145-79. (Deferred from July 31, 1979).

Mr. William H. Hansbarger, an attorney in Fairfax, represented the applicant. He stated that they were seeking an amendment to certain limitations of the special permit S-4-77 granted on February 8, 1977. Mr. Hansbarger stated that the name of the application had changed from Mr. & Mrs. Brill to B & N Educators T/A The Fairfax Academy of Early Learning. In addition, they were asking for an increase to 275 children and a change in the hours of operation from 6:30 A.M. to 6:30 P.M. The final change requested was a change in the ages of the children from 2 to 8 years to 2 to 12 years.

018

Chairman Smith asked for a copy of the Health Department report which would indicate that the school does have the facilities for the increase in children. Mr. Hansbarger stated it was in the file. In response to further questions from the Board, Mr. Hansbarger stated that the buildings do meet the setbacks.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-145-79 by B & N EDUCATORS, INC. T/A THE FAIRFAX ACADEMY OF EARLY LEARNING under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-4-77 to permit change of permittees; additions of land area, building and parking; increase in maximum number of students to 275; change in hours of operation to 6:30 A.M. to 6:30 P.M.; and change in ages of children to 2 years to 12 years, on property located at 820 S. Carlyn Springs Road, tax map reference 62-1((2))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 6, 1979; and deferred from July 31, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 1 acre.
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 for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 275, ages 2 to 12.
8. The hours of operation shall be 6:30 A.M. to 6:30 P.M., five days a week.
9. All other provisions of S-4-77 not affected by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 19, November 6, 1979, Scheduled case for

12:30 WINIFRED W. MAUSER & MARY L. SEIBERT, appl. under Sect. 18-401 of
P.M. the Ord. to allow 6 ft. high fence to remain in front yard (4 ft.
max. height req. by Sect. 10-105), located 7625 Webbwood Ct., North
Springfield Subd., 79-2((2))(65)10G, Annandale Dist., 13,282 sq. ft.
R-3, V-239-79.

As the fence contractor had not shown to discuss the problem with the fence,
the Chairman asked the Clerk to contact the County Attorney's Office about
getting a subpoena. The Board deferred the matter until December 11, 1979 at
12:15 P.M.

//

Page 19, November 6, 1979, Passed over case of

11:30 L. F. JENNINGS, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of dwelling to 27 ft. from front lot line (30 ft.
min. front yard req. by Sect. 30307), located 6913 Ridgedale
Court, Southridge Subd., Dranesville Dist., 30-4((42))7, 10,527
sq. ft., R-3, V-263-79.

Mr. Charles E. Runyon, an engineer in Falls Church, represented the applicant.
He stated that they have been working on this subdivision since 1972 trying to
align the right-of-way that the Highway Department and the County couldn't
come to grips with. Finally, the problem was solved by building a cul-de-sac.
Mr. Runyon stated that the sewer on the rear of the pie-shaped cul-de-sac on
their side of the road restricted one of the lots in the placement of a house.
Mr. Runyon stated that they were asking for a variance on that portion of the
house. It would be a 3 ft. variance and would only be for a small portion of
the building.

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

Page 19, November 6, 1979

Board of Zoning Appeals

L. F. JENNINGS

R E S O L U T I O N

In Application No. V-263-79 by L. F. JENNINGS under Section 18-401 of the
Zoning Ordinance to allow construction of dwelling to 27 ft. from front lot
line (30 ft. minimum front yard required by Section 3-307) on property located
at 6913 Ridgedale Court, tax map reference 30-4((42))7, County of Fairfax,
Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the
following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by
the Board on November 6, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 10,527 sq. ft.
4. That the applicant's property has an unusual condition in the location
of the existing easement on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclu-
sions of law:

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

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

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

020

R E S O L U T I O N

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 20, November 6, 1979, After Agenda Items

Loyola Federal Savings and Loan Association: The Board was in receipt of a letter from Mr. George Wirth, of the 3-E Development Company, requesting an extension of the variance granted to Loyola Federal Savings and Loan Assoc.

Mr. Barnes moved for a 180 day extension on each of the variances granted. Mr. DiGiulian seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

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Page 20, November 6, 1979, After Agenda Items

APPROVAL OF BZA MINUTES: The Board was presented with the minutes of the meeting of December 12, 1978. Mr. Barnes moved that the Board approve the Minutes for December 12, 1978 as amended. Mr. DiGiulian seconded the motion. The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

// There being no further business, the Board adjourned at 2:59 P.M.

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

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: _____ Date

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

021

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 13, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

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

The Chairman called the scheduled 10 o clock case.

10:00 DANIEL JOHN JENKINS, appl. under Sect. 18-401 of the Ord. to allow
A.M. enclosure of existing carport to 10.3 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3411 Spring Dr., Valley View Subd., 92-2((19))137, Lee Dist., 20,855 sq. ft., R-2, V-270-79.

Mr. Daniel James Jenkins represented his father, Daniel John Jenkins. He resided at 8000 Chanute Place in Falls Church. He informed the Board that his father's house already had a carport on the side of the house. The back slopes off. He indicated that there was not anyway in which to build on the slope. The same was true for the side of the house. Mr. Jenkins stated that since the carport was existing, they proposed to enclose it. He stated that there would not be any problems with it.

Chairman Smith informed Mr. Jenkins that he had to have a topographic reason for requesting a variance. Mr. Jenkins stated that the land sloped off in the back. Mr. DiGiulian stated that the land sloped off from the house to the rear. In addition, the plat showed that the lot was long and narrow. Mr. Jenkins stated that there was 200 ft. behind the house. Chairman Smith asked if the applicant had anything else to add to his statement. Mr. Jenkins stated that the plat showed the situation.

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

Page 21, November 13, 1979 Board of Zoning Appeals
DANIEL JOHN JENKINS

R E S O L U T I O N

In Application No. V-270-79 by DANIEL JOHN JENKINS under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to 10.3 ft. from side lot line (15 ft. minimum side yard required by Section 3-207) on Property located on 3411 Spring Drive, tax map reference 92-2((19))137, 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 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 20,855 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has exceptional topographic problems.

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

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

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

R E S O L U T I O N

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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

Mr. Yaremchuk seconded the motion.

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

Page 22, November 13, 1979, Scheduled case for

10:10 CHARLES A. WHITFIELD, appl. under Sect. 18-401 of the Ord. to allow
 A.M. subdivision into 2 lots each of which would have a width of 25.09 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11314 Chapel Rd., Charles A. Whitfield Subd., 76-4((2))6B, Springfield Dist., 8.85695 acres, R-1, V-276-79.

Mr. Charles Johnson represented Mr. Whitfield. He stated that they were requesting a variance because of the unusual topographic conditions and the irregular lot shape. The lot was almost 9 acres. Mr. Johnson stated that it was extremely long and narrow. In order to develop the property with one or two additional lots, it was necessary to request a variance. The variance request would be in effect for a pipestem lot. Mr. Johnson stated that if the property was developed under a different system, it would require a public street to be constructed which would be quite a bit more disruptive to the ecology because of the topographic conditions on the property. For that reason, the applicant was seeking a variance.

Chairman Smith inquired as to the ownership of lot 1 adjoining Chapel Road. Mr. Johnson stated that Mr. Eugene Laurence owned that lot. Mr. Whitfield has owned lot 6B for 10 years. Mr. Johnson stated that Mr. Whitfield had sold lot 1 to Mr. Laurence. Chairman Smith noted that there were other lots with similar situations in the area. He stated that all of the lots in that area shared the same characteristics.

There was no one else to speak in support of the application. Mr. Raymond Chavez spoke in opposition. He stated that he owned lot 7 along with Mr. Sonnenberg. He asked the Board for clarification on the variance before they approved it. Mr. Chavez stated that the applicant was only seeking two additional lots in the back of the property. Chairman Smith noted that this would make three lots out of the original one tract of land. Mr. Chavez inquired if Mr. Whitfield was only subdividing the back into two more lots and was informed that was the request. Mr. Chavez inquired if the division line indicated where it would be staked out on the property. Chairman Smith stated that the lots would not be staked out until the subdivision was granted.

Mr. Yaremchuk inquired if it was determined that lot 1 came out of the original tract of land. He stated that the applicant wants another lot. Mr. Yaremchuk stated that he had a problem because he thought it should be divided into two lots because the property was long and narrow but he did not feel that it should be three lots. He indicated that it would set a precedent and he had a problem with that.

Mr. Barnes inquired if the other lot was already built on and was told it was. Mr. Barnes inquired as to the other lots. Mr. Johnson stated that lot 1 was built on and lot 5 was built on. He stated that he did not know about the other lots.

Mr. Yaremchuk stated that he could not support a motion for three lots.

R E S O L U T I O N

In Application No. V-276-79 by CHARLES A. WHITFIELD under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, each of which would have a width of 25.09 ft. (150 ft. minimum lot width required by Section 3-106 on property located at 11314 Chapel Road, tax map reference 76-4((2))6B, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

023

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 8.85695 acres.

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

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

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

Mr. DiGiulian seconded the motion.

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

Page 23, November 13, 1979, Scheduled case for

10:20 JACK M. & DREAMA G. SHIRLEY, appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of two car garage addition to dwelling to 11.4 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207) located 1630 Courtland Rd., Hollingdale Subd., 102-2((5)) (5)15, Mount Vernon Dist., 20,282 sq. ft., R-2, V-275-79.

Mrs. Dreama Shirley of 1630 Courtland Road informed the Board that her lot was irregular in shape. It was narrow and long. The house was built up a hill with a retaining wall. She stated that it had a carport which they wished to extend to make a two car garage. At present, it is a single car carport.

Chairman Smith stated that the plats indicated that there was a garage. Ms. Ardis stated that the pictures showed a carport. Chairman Smith inquired as when it was constructed and was informed it was 13 years old. Ms. Shirley stated that they purchased the home in August of 1979. She stated that the plats were prepared for this application. Chairman Smith stated that the garage was only proposed. He inquired if Mr. White, the engineer, had gone out to the property before he did the survey. Ms. Shirley stated that he had and indicated that he did the survey for the settlement. Chairman Smith stated that what the applicant wanted to do was extend the carport and enclose it into a two car garage.

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

R E S O L U T I O N

In Application No. V-275-79 by JACK M. & DREAMA G. SHIRLEY under Section 18-401 of the Zoning Ordinance to allow construction of two car garage addition to dwelling to 11.4 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 1630 Courtland Road, tax map reference 102-2((5)) (5)15, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 20,282 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

Page 24, November 13, 1979
 JACK M. & DREAMA G. SHIRLEY
 (continued)

Board of Zoning Appeals

R E S O L U T I O N

024

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

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

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

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

Mr. Barnes seconded the motion.

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

 Page 24, November 13, 1979, Scheduled case for

10:30 A.M. LLEWELYN & MARY L. WILLIAMS, appl. under Sect. 18-401 of the Ord. to allow construction of a 2 car garage addition to dwelling to 7.6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 9522 Baccarat Dr., Somerset Subd., 58-3((13))30, Annandale Dist., R-3, 10,871 sq. ft., V-281-79.

Mr. Llewelyn Williams of 9522 Baccarat Drive informed the Board that his carport had been blown away in the tornado that struck on September 5th. Since they lost the carport, they decided to convert the carport into a two car garage when they began the reconstruction. Mr. Williams stated that his subdivision has 45 homes with 42 of them having garages. Mr. Williams stated that there would be a distance of 22 ft. between the garage and his neighbor's nearest structure. His neighbor, Mr. Curtin, has lived next door since 1972.

Chairman Smith inquired as to what had happened to the carport. Mr. Williams stated that it had been blown away during the tornado. Mr. DiGiulian inquired if Mr. Williams' property rose at the rear of the house and was informed that it did. Mr. Yaremchuk inquired if the only thing that had blown away was the carport. Mr. Williams stated that the storm had also taken the side of the house.

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

 Page 24, November 13, 1979
 LLEWELYN & MARY L. WILLIAMS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-281-79 by LLEWELYN AND MARY L. WILLIAMS under Section 18-401 of the Zoning Ordinance to allow construction of two car garage addition to dwelling to 7.6 ft. from side lot line (12 ft. minimum side yard req. by Sect. 3-307) on property located at 9522 Baccarat Drive, tax map reference 58-3((13))30, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 10,871 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:

R E S O L U T I O N

025
THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

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

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

Mr. Yaremchuk seconded the motion.

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

Page 25, November 13, 1979, Scheduled case for

10:40 DANNY L. & BONITA L. FINK, appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of storage room addition to dwelling to 7.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 9204 Alyssom Way, Long Branch Subd., 69-4((12))40, Annandale Dist., 9,817 sq. ft., R-3, V-277-79.

Mr. Danny Fink of 9204 Alyssom Way stated that his lot had converging lot lines towards the rear of the structure. This affected the carport on the side lot line. In response to questions from the Board, Mr. Fink stated that he has owned his property for five years. He indicated that this was not a new subdivision. However, several new homes had been built recently.

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

Page 25, November 13, 1979
DANNY L. & BONITA L. FINK

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-277-79 by DANNY L. & BONITA L. FINK under Section 18-401 of the Zoning Ordinance to allow construction of storage room addition to dwelling to 7.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 9204 Alyssom Way, tax map reference 69-4((12))40, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 9,817 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.

R E S O L U T I O N

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

Mr. DiGiulian seconded the motion.

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

Page 26, November 13, 1979, Scheduled case for

10:50 WILLIAM J. MCKAY, JR., appl. under Sect. 18-401 of the Ord. to
 A.M. allow construction of addition to dwelling to 15 ft. from side
 lot line (20 ft. min. side yard req. by Sect. 3-107), located
 7130 Constantine Ave., Beverly Forest Subd., 90-3((8))13, Spring-
 field Dist., 23,709 sq. ft., R-1, V-278-79.

Mr. William J. McKay, Jr. of 7130 Constantine Avenue in Springfield told the Board that he contacted the County and was told that the setback requirements was 20 ft. to build and that they were expecting a change in August to 15 ft. as long as there was a total of 40 ft. Mr. McKay stated that based on that information, he and his wife hired an architect to draw up several schemes for an addition to the house. The only one that would work for them was an addition to the end of his house. On the side that they want to build is a carport. They plan to take out the carport and add the addition. Mr. McKay stated that he wants to build in two stages since he has to do all of the work himself. The first stage was a stairwell to the basement. He stated that he has already done all of the digging by himself. In addition to the stairwell, the heating system had to be removed for the addition. Mr. McKay stated that the heating system was 23 years old and had never been touched. He stated that he had to move all of the ductwork and the furnace. Mr. McKay informed the Board that he had gone to considerable time and expense to complete the moving of the heating system in order to enable him to put the driveway there. When he completed the first section of his building process, he went to the County to obtain a building permit for the other part of the addition. He stated that he was denied a building permit as the Ordinance had changed back during that time.

Mr. McKay stated that he had architectural schemes and site plans that were dated February 1979 where the architect had noted Stage 1 and Stage 2 of the additions because of the time it would take him to complete the work. Mr. McKay stated that this was the first home he had looked at and the only one he had looked at when he was searching for a house. He stated that he liked the neighborhood. He was planning on a large family. The house is only a two bedroom home with a small kitchen. He stated that he wanted four bedrooms with two baths and wanted all of the utilities located in the basement. He showed the Board a picture of another home in that area that had the addition similar to what he was proposing. He stated that most of the homes in the area do have additions.

In response to questions from the Board, Mr. McKay stated that he was doing all of the work himself. Mr. Yaremchuk informed the applicant that he did a good job of presenting his case.

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

Page 26, November 13, 1979
 WILLIAM J. MCKAY, JR.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-272-79 by WILLIAM J. MCKAY, JR., under Section 18-401 of the Zoning Ordinance to allow construction of addition to 15 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107), on property located at 7130 Constantine Avenue, tax map reference 90-3((8))13, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution.

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

WHEREAS, following proper notice to the public, a public hearing was held by the Fairfax County Board of Zoning Appeals on November 13, 1979; and

026

R E S O L U T I O N

027

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 23,709 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

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

Mr. Barnes seconded the motion.

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

Page 27, November 13, 1979, Scheduled case for

11:00 MARK M. & CLAUDIA T. MEKARU, appl. under Sect. 18-401 of the Ord.
A.M. to allow conversion of carport to garage 8 ft. from side lot line such that total side yards would be 16.9 ft. (8 ft. min. & total side yard of 20 ft. req. by Sect. 3-307), located 5604 Mt. Burnside Way, Signal Hill Subd., 78-2((14))12, Annandale Dist., 9,147 sq. ft., R-3, V-279-79.

Mr. Jerry Emory of Gaithersburg, Maryland represented the applicants. He stated that the justification for the request was that the carport was existing and they wanted to convert it into a garage. He stated that there was not any other location on the property that was suitable for the garage. The house is located in a cluster development and the shape of the lots in the development are such that the homes are located right at the minimum setback. Mr. Emory stated that they believed by enclosing the carport, it would add to the value of the house and the neighborhood. He stated that there are variances which have been granted for the same reason in the area. In summary, the shape of the lot, the location of the house on the lot and the neighboring structures are such that this was the only practical location for the garage.

In response to questions from the Board, Mr. Emory stated that Mr. & Mrs. Mekaru have owned the property for 1 1/2 years. Mr. Barnes asked what was on lots 126 and 128, a garage or a carport. Mr. Emory stated that if they were the adjacent lots, they only had a carport. Mr. DiGiulian stated that from looking at the plat, it appeared that only the front corner and a portion of the side would extend into the setback area. He inquired as to the distance from the rear of the garage. Mr. Emory stated that the lot was about 100 ft. deep. On the other side of the house, there was approximately 9 ft. to the side lot line. Mr. Emory stated that the garage met the 8 ft. minimum side yard. The problem was that the total side yards was only 16.9 ft. instead of the required 20 ft. Mr. DiGiulian stated that the property has diverging lot lines and that it appeared that the back corner of the garage was about 10.5 ft. from the side lot line.

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

028

In Application No. V-279-79 by MARK M. & CLAUDIA T. MEKARU under Section 18-401 of the Zoning Ordinance to allow conversion of carport to garage to 8 ft. from side lot line such that total side yards would be 16.9 ft. (8 ft. minimum and total side yard of 20 ft. required by Sect. 3-307), on property located at 5604 Burnside Way, tax map reference 78-2((14))12, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 13, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 9,147 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and including diverging lot lines.

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

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

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

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

Mr. Yaremchuk seconded the motion.

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

Page 28, November 13, 1979, Scheduled case for

11:10 GREAT FALLS SWIM AND TENNIS CLUB, INC., appl. under Sect. 3-103
A.M. of the Ord. to amend existing S.U.P. for swim & tennis club to permit additional tennis court, located 761 Walker Road, 13-1((1))27, Dranesville Dist., 5.5244 acres, R-1, S-267-79.

The Board was in receipt of a letter from the applicant requesting a deferral of the special permit application to allow them time to file for a variance. The Board moved to defer the application for a period not to exceed 90 days.

//

Page 28, November 13, 1979, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of the BZA Minutes for December 19, 1978. Mr. Barnes moved that the Board approve the Minutes as amended. Ms. Ardis seconded the motion and it carried by a vote of 5 to 0.

//

Page 28, November 13, 1979, After Agenda Items

(20) Neil JAMES & CATHERINE McDONALD: Mrs. McDonald had contacted the Clerk to the Board regarding the possibility of constructing a floodlight on her property that was under a special permit as an antique shop. She wanted to put a lamppost in the front yard on Chain Bridge Road and would attach a floodlight at the base of it. The reason for the request was that there had been several breakins on the property and they felt the light was necessary for the protection of their property. It was the consensus of the Board that the applicant provide a site plan showing the exact location of the lamppost, and the height of it along with the area to be flooded.

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Page 29, November 13, 1979, Scheduled case for

11:20 REALTY GOSPEL CHURCH, appl. under Sect. 3-103 & 3-203 of the Ord. to
A.M. allow addition in land area for parking for existing church located
5937 Franconia Rd., 81-4((3))1A & 1B, Lee Dist., 3.666 acres, R-1 &
R-2, S-269-79.

029

As the required notices were not in order, the Board deferred the application until December 11, 1979 at 12:30 P.M. In addition, it was noted that a variance application had to be advertised.

//

Page 29, November 13, 1979, Recess

At 11:25 A.M., the Board recessed the hearing. The Board reconvened at 11:50 A.M. to continue with the scheduled agenda.

//

Page 29, November 13, 1979, Scheduled case for

11:30 WALDEN GLEN SWIM CLUB, INC., appl. under Sect. 8-400 of the Ord.
A.M. to amend special permit (S-85-74) for community recreation
facilities to permit reduction of parking space for 103 to 144 and
construction of 2 tennis

As the required notices were not in order, the Board deferred the application until December 4, 1979 at 12:30 P.M.

//

Page 29, November 13, 1979, Scheduled case for

11:40 LOUIS L. ODDENINO, appl. under Sect. 18-401 of the Ord. to allow
A.M. subdivision into two lots, one of which would have a proposed width
of 11 ft. and the other a width of 65.26 ft. (80 ft. min. lot
width req. by Sect. 3-306), located 6058 Munson Hill Rd., Munson
Hill Subd., 51-4((3))45, Mason Dist., 33,290 sq. ft., R-3,
V-255-79.
(Deferred from October 16, 1979 for decision and written testimony
only. Applicant is to furnish detailed plan as to proposed use of
subdivision.)

Chairman Smith stated that the deferral of the application had also been to allow the absent Board members an opportunity to review the file and listen to the tapes in order to participate in the decision. Mr. DiGiulian informed the Board that he had reviewed the file and listened to the tapes of the hearing. In addition, he went to look at the property.

Chairman Smith inquired if the applicant had a plan. Mr. Oddenino stated that the plan was to subdivide the property and build a new house. He stated that they would either sell both lots or build a new house in the rear. Mr. Yaremchuk stated that from listening to the tapes, the people were about 79 or 89 years old. Mr. Oddenino stated that his parents were 59 and 55 years of age. Mr. Yaremchuk stated that they did not have any immediate plans for the property. He stated that if the variance were granted, that the people would not just let it sit there. Mr. Oddenino stated that if the variance were granted, they would have to build within one year which was their plan. Mr. Yaremchuk stated that the property was for the applicants' retirement. He stated that he did not have any problem with the subdivision. Mr. DiGiulian stated that he only wanted assurance that the subdivision would be forthcoming.

Page 29, November 13, 1979
LOUIS L. ODDENINO

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-225-79 by LOUIS L. ODDENINO under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots of which one has a proposed width of 11 ft. and the other a width of 65.26 ft. (80 ft. minimum lot width required by Sect. 3-306), on property located at 6058 Munson Hill Road, tax map reference 51-4((3))45, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

R E S O L U T I O N

030

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 13, 1979; and deferred from October 16, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 33,290 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

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

Mr. DiGiulian seconded the motion.

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

Page 30, November 13, 1979, Scheduled case for

11:50 A.M. LUIS GUINOT, JR., appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 7 ft. from side lot line (20 ft. min. side yard required by Sect. 3-107), located 7366 Clifton Rd., 86-1((5))8, Springfield Dist., 1.886 ac., R-2, V-231-79. (Deferred from October 16, 1979 for decision only.)

Chairman Smith stated that this variance had been deferred as there was not a full Board present at the hearing on October 16, 1979. The absent members were prepared to participate in the decision.

R E S O L U T I O N

In Application No. V-231-79 by LUIS GUINOT, JR. under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 7 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107), on property located at 7366 Clifton Road, tax map reference 86-1((5))9, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 13, 1979 and deferred from October 16, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 1.886 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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.

031

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

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

Mr. Barnes seconded the motion.

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

Page 31, November 13, 1979, Scheduled case for

12:00 P.M. MOUNT VERNON-LEE ENTERPRISES, INC., appl. under Sect. 3-203 of the Ord. to permit school of special education, located 5614 Old Mill Rd., 110-1((1))4B, Mt. Vernon Dist., 5.0029 acres, R-2, S-237-79. (Deferred from October 16, 1979 for Notices.)

Mr. Joseph Hemelings, the Director of the School, informed the Board that this was a rehabilitation center for multi-handicapped adults. He stated that the school would be a satellite building in a church. There are about 22 people on the waiting list. According to the fire code, they cannot accommodate non-ambulatory people in the present building. The new satellite building would meet the fire code requirements.

In response to questions from the Board, Mr. Hemelings stated that all of the people at the school were adults that came from the school system. He indicated that they would have a staff ratio of 1 to 5. The hours of operation would be 8 A.M. to 4 P.M., five days a week.

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

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-237-79 by MOUNT VERNON-LEE ENTERPRISES, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to permit school of special education on property located at 5614 Old Mill Road, tax map reference 110-1((1))4B, 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 13, 1979 and deferred from October 16, 1979 for notices; 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 5.0029 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

R E S O L U T I O N

032

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
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 30 with 6 teachers.
8. The hours of operation shall be 8 A.M. to 4 P.M., five days a week.
9. This permit is granted for one year with the Zoning Administrator empowered to grant three one-year extensions upon presentation of lease prior to expiration date.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Page 32, November 13, 1979, Work Session, POLICY

The Board met with Mr. Covington, Ms. Gwinn, Ms. Lipa, Mr. Wykcoff and Mr. Gurski to discuss the Planning Commission's 30 day notice requirement for pulling BZA applications. After discussion of the problems involved in pulling the cases, it was jointly decided that the BZA would notify the Planning Commission of pending applications on a weekly basis as they are filed. The Planning Commission would have 30 days from the date the application was filed in which to decide whether it merited a public hearing. If the Planning Commission voted to hear the BZA application, they would notify the BZA immediately. If the BZA had already scheduled its public hearing, it would consider deferral of the application until a date after the Planning Commission hearing or it could hear the application but defer action until receipt of the Planning Commission's recommendation.

// 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

APPROVED: _____ Date _____

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

033

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 20, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman called the meeting to order at 10:20 A.M. Mr. Barnes led the meeting in prayer.

The Chairman called the scheduled 10 o'clock case.

10:00 A.M. MAURICE P. BART, appl. under Sect. 18-401 of the Ord. to allow subd. into 5 lots having widths ranging from 62.76 ft. to 75.43 ft. (100 ft. min. lot width req. by Sect. 3-206), located 5000 Bellerive Terrace, 110-4((1))1, Mt. Vernon Dist., 5.9909 ac., R-2, V-230-79. (Deferred from October 16, 1979 for decision of full Board.)

Mr. William H. Gordon of William H. Gordon Associates in Reston represented the applicant. He stated that Mr. Bart was requesting a variance of the lot frontage for 5 lots. The zoning is R-2. The required lot frontage was 100 ft. Mr. Gordon stated that they were requesting a variance of 36 ft., 32 ft., 37 ft., 36 ft. and 24 1/2 ft. on these five lots. He stated that the merits of the case were heard by the Board in October. However, Mr. Gordon stated that he had some additional information to present to the Board. Chairman Smith stated that he would not allow any new hearing on this case. He would only allow something that was not or could not have been stated at the previous hearing. Mr. Gordon informed the Board that he had not presented the case previously. Someone from his office had presented the case in October. Chairman Smith stated that the Board had deferred this case as there was not a full Board.

Mr. Gordon stated that under the current Zoning Ordinance, they would be required to extend the cul-de-sac further on the plan than was shown. This would amount to a good deal of fill on the site which would cause a problem for most of the trees on the property. At this point, Mr. Gordon was interrupted by the Chairman as he was presenting the case. The Chairman stated that he would not allow a new presentation unless the Board had some questions on the case. Mr. Yaremchuk stated that he had listened to the tapes and was prepared to vote in the matter. Mr. DiGiulian stated that he was ready to vote on it. Mr. Gordon stated that two things were not presented before. One of the adjacent landowners to the subject property had written a letter in support of the application. Chairman Smith accepted it for the record.

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

Page 33, November 20, 1979 Board of Zoning Appeals MAURICE P. BART

R E S O L U T I O N

In Application No. V-230-79 by MAURICE P. BART under Section 18-401 of the Zoning Ordinance to allow subdivision into 5 lots having widths ranging from 62.76 ft. to 75.43 ft. (100 ft. minimum lot width required by Sect. 3-206) on property located at 5000 Bellerive Terrace, tax map reference 110-4((1))1, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 16, 1979 and deferred for decision until November 20, 1979; and

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

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-3.
- 3. The area of the lot is 5.9909 acres.
- 4. That the applicant's property has exceptional topographic problems.

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

R E S O L U T I O N

034

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

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

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

Mr. Yaremchuk seconded the motion.

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

Page 34, November 20, 1979, Scheduled case for

10:10 A.M. SCANLIN FARMS INCORPORATED, appl. under Sect. 3-103 of the Ord. to permit continuation of previously granted special permit for riding school and boarding stables with change in name of permittee, change in hours of operation to 7 A.M. to 10 P.M., seven days a week, and for a new term of years as allowed by Ordinance, located Richmond Highway, 109-2((1))2, Mt. Vernon Dist., 54.7 ac., R-1, S-234-79. (DEFERRED FROM OCTOBER 16, 1979 FOR NOTICES.)

The required notices were in order. Chairman Smith noted that the special permit had expired prior to the applicant requesting the change. Mr. Thomas Scanlin of 8516 Cherry Village Lane was the owner of Woodlawn Stables. He informed the Board that he had acquired the stables in August of 1978. He got a lease from the Historical Society. He had been assured by the lessee that the special permit was in order. Mr. Scanlin stated that there was a misunderstanding on his part. The original operators had not followed through and gotten the occupancy permit. Mr. Scanlin stated that he was unaware of that.

Chairman Smith questioned the applicant since he was applying under a corporate name as to whether the file contained a copy of the State Corporation papers. Mr. Knowlton informed the chairman that was not part of the submission requirements. Chairman Smith stated that it should be made a part of the requirements in order to establish that it's a domestic corporation. He indicated that it was a normal request. Mr. Scanlin stated that he was incorporated. It's a Virginia Corporation established in October of 1978. Chairman Smith asked for a copy of the the corporate structure and was told by Mr. Scanlin that he did not have a copy with him. Mr. Scanlin stated that the corporation was set up in such a way that they could sell stock but they do not.

Chairman Smith inquired as the National Trust for Historical Preservation since they were the landowners. He stated that it might alleviate some of the problems with the special permit if it were in their name. He indicated that it was something to think about for the future. This would allow a continuing use. Mr. Scanlin stated that he had a lease with the National Trust. The previous operators stopped in March of 1978. He acquired the lease in October of 1978. At that time, there were only 3 or 4 horses and no riding school was in operation. Since that time, there are 25 horses and 25 boarders. He stated that they offer riding lessons through the day, every evening and on Saturday and Sunday. They have held small horse shows and have had polo games.

Chairman Smith inquired as to why they were changing the hours until 10 o'clock at night. Mr. Scanlin stated that they have an indoor lighted hall. In good weather, they have the riding classes outside. He indicated that they sometimes ride at night and use the indoor hall. Mr. Yaremchuk inquired as to the charge per lesson. Mr. Scanlin stated that the classes are made up of 8 or 9 people. They charge \$90 for an hour per week for ten weeks. Mr. Scanlin stated that he had 7 riding instructors, primarily men.

Mr. Barnes and Mr. Scanlin discussed at great length the housing of the horses and the shelter provided on the property as well as the feeding. Mr. Barnes stated that he would personally visit the property to see for himself how the horses were kept.

Mr. Scanlin gave the Board the background on how he became involved with the operation. He stated that it was quite by accident. He had stopped by to get a load of manure and found out the stable was no longer being operated because of a dispute over the lease. He informed the Board that he was planning to get out of the service and would be able to spend more time there.

Mr. Barnes inquired as to the number of horses to be kept on the property. Chairman Smith stated that the Ordinance would allow three horses per acre but the Board had a policy of not more than one horse per acre in the pasture. Mr. Scanlin stated that the entire property was 54 acres but that he only had a 20 acre pasture. Chairman Smith asked for Mr. Barnes' recommendation in the maximum number of horses to be kept on the property. Mr. Barnes indicated that he felt the applicant would have plenty of room for 64 horses. He stated that not all of the horses would be let out of the stall at one time anyway. Mr. Barnes inquired as to the number of stalls. Mr. Scanlin stated that he had 57 individual stalls. In addition, he had a 20 acre pasture. Chairman Smith stated that 60 horses would be the maximum at any one time. Mr. Scanlin stated that 64 horses was not enough. He stated that he had a 20 acre polo field. Mr. Yaremchuk stated that three horses per acre on the 40 acres would be good enough.

Page 35, November 20, 1979
SCANLIN FARMS INCORPORATED

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-234-79 by SCANLIN FARMS, INC., under Section 3-103 of the Fairfax County Zoning Ordinance to permit continuation of previously granted special permit for riding school and boarding stables with change in name of permittee; change in hours of operation to 7 A.M. to 10 P.M., seven days a week; and for new term of years as allowed by the Ordinance, on property located at 8907 Richmond Highway, tax map reference 109-2((1))2, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing by the Board of Zoning Appeals held on November 20, 1979; and deferred from October 16, 1979 for Notices; 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 54 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of horses shall be 120.

035

036

8. The hours of operation shall be 7 A.M. to 10 P.M., seven days a week.
9. The number of parking spaces shall be 30 as shown on the site plan.
10. This permit is granted for a period of three years with the Zoning Administrator empowered to grant three (3) one-year extensions.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 36, November 20, 1979, Scheduled case for

10:20 A.M. DAVID C. MOLUMBY, appl. under Sect. 18-401 of the Ord. to allow subd. into 5 lots with proposed lots 4 and 5 each having width of 10 ft. (150 ft. min. lot width required by Sect. 3-106), located 4151 Beulah Rd., 19-3((1))33, Dranesville Dist., 10,084 sq. ft., R-1, V-212-79.
 (Deferred from October 16, 1979 for decision of full Board.)

Mr. William Donnelly, an attorney in Fairfax, represented the applicant. He stated that he had submitted a letter to the Board concerning some requested information from the last hearing. The information was the result of some issues that were raised at the last hearing. Mr. Donnelly stated that they did not intend to go into the detailed engineering that they have now gone into. He indicated that they have made a few minor revisions to the plat which were so minor that they did not need to be advertised.

Chairman Smith stated that some of the Board members had already heard the case. He inquired if Mr. DiGiulian or Mr. Yaremchuk had any questions of Mr. Donnelly. Mr. DiGiulian asked for the highlights of the case. Mr. Donnelly stated that this was an application for a variance for a 5 lot subdivision. He stated that there were several issues about the safety of the pipestem driveways and a concern relating to sight distance. The final issue was the buildable area of the property because of the floodplain. Mr. Moran had submitted a plat stating that there was not enough land to locate the houses because of the floodplain. Mr. Donnelly went over the letter he had submitted point by point for the Board's benefit.

There was no one to speak in support of the application. Mr. Bill Hall of 1459 Beulah Road spoke in opposition. He indicated that hardship was the only grounds on which to grant a variance and he did not believe the applicant had established any hardship. Without a variance, the applicant could still build three homes. They were only requesting a variance in order to get 5 lots. He stated that it was a little difficult to see the hardship from 3 lots to 5 lots.

During rebuttal, Mr. Donnelly addressed the Code as to hardship. Chairman Smith stated that the Code stated that in order to grant a variance, the applicant could not make reasonable use of the property without a variance. Mr. Donnelly stated that the Board must decide. The property is zoned R-1 and they have 10 acres. They could have 10 lots. Mr. Donnelly stated that they have an engineering problem and so could not develop into 10 lots. He stated that they were only asking for 5 lots which was much lower than the density allowed. If they were to lose two more lots, it would be an unreasonable restriction on the land. The property is already zoned for 10 lots. The 5 lots would be larger than one acre. He stated that they were only asking for $\frac{1}{2}$ the density allowed.

Page 36, November 20, 1979

Board of Zoning Appeals

DAVID C. MOLUMBY

R E S O L U T I O N

In Application No. V-212-79 by DAVID C. MOLUMBY under Section 18-401 of the Zoning Ordinance to allow subdivision into five lots with proposed lots 4 & 5 each having a width of 10 feet (150 ft. minimum lot width required by Sect. 3-106) on property located at 4151 Beulah Road, tax map reference 19-3((1))33, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 16, 1979; and deferred for decision until November 20, 1979; and

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

R E S O L U T I O N

037

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 10.084 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has exceptional topographic problems.

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

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

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

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

Mr. Barnes seconded the motion.

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

Page 37, November 20, 1979, Scheduled case for

10:30 A.M. JOHN & MARIAN HERBERT, appl. under Sect. 18-401 of the Ord. to allow construction of free-standing carport up to front boundary of lot (15 ft. min. setback from public street right-of-way line req. by Sect. 6-307), located 11405 Purple Beech Dr., 26-2((2))(5)10, Centreville Dist., PRC, 13,295 sq. ft., V-290-79.

Ms. Marian A. Herbert of 11405 Purple Beech Drive informed the Board that the topography of her lot from the street made it very difficult to build the carport further back on the property. She stated that when they bought the house they did not have any money to build the carport so they built the parking pad instead. If they moved the pad back, they would have to tear up the shrubs, the trees, etc. which would be quite difficult. The parking pad is already located in the front yard and is ready to have the carport built on it. Chairman Smith inquired as to how the applicant would get out of the carport without backing into the street. Mrs. Herbert stated that they used the parking pad now. Chairman Smith stated that it was open and she could see the street. He asked why she could not move it out of the setback area. Mrs. Herbert stated that her property drops very steeply. In addition, there was a wall there and the land would have to be built up. The lights and the path would have to be removed also. Mrs. Herbert stated that her house was on several levels because of the topography. In response to questions from the Board, Mrs. Herbert stated that the house was on a lower level than the street. She indicated that it was about 30 ft. or more from the street and sits down about 10 ft. lower than the street. She stated that she parks her car on the pad and walks down to the house. Mr. DiGiulian inquired if it would be impossible to build a carport closer to the house. Ms. Herbert replied that nothing was impossible. She stated that it would involve a lot of removal of trees. In addition, there was a lighted path that would have to be removed.

Ms. Ardis inquired if the carport would have open walls. Mr. DiGiulian stated that he would have to know the topographic problems before he could support the variance. He stated that he could not see the problems from the photographs. Chairman Smith indicated that it appeared from the photos that there was enough room to construct the carport out of the setback area. Mrs. Herbert stated that when the pad was in, it was allowed under the Ordinance. Chairman Smith stated that there was not any objection to the pad. Mrs. Herbert stated that there was not any front setback requirement when they constructed the pad. Mr. Knowlton conformed that under the old Zoning Ordinance, there was no front setback requirement for the PRC zone. Mr. Knowlton stated that he would be interested in knowing how many other properties in the area had garages or carports in the front setback area. Mrs. Herbert stated that she was not sure. She believed there was one across the circle.

038

There was no one else to speak in favor of the application. Mr. Richard William, Jr. stated that he was a neighbor to the west of the subject property. In addition, he represented the property owners to the east. He stated that they were in opposition to the plan to construct a carport on the existing pad. He stated that based on his knowledge of the 35 homes, this was the only structure for the housing of cars that would be requiring a variance from the Zoning Ordinance. He stated that his letter indicated that the carport would obstruct their view of the lake. The carport would also abutt a sidewalk that ran along their common property line. He stated that it would be more of a garage than a carport and that it would hinder sight distance. He stated that a recessed carport although more expensive and difficult to build would be more practical in the long run. In response to questions from the Board, Mr. Williams stated that some of the 35 homes in the area do have garages or carports but they do not exceed the 15 ft. setback requirement. Chairman Smith stated that this carport would certainly obstruct the view of the driveway located alongside it.

During rebuttal, Mrs. Herbert stated that her husband had talked to every neighbor about the carport. She stated that the night before the hearing, her daughter had received a telephone call from Mr. Williams. She stated that he had handed her a letter that was hastily written. She stated that she was not familiar with the plans and had never talked before a group of people before. She stated that she knew very little about the plans. She stated that her husband was away on a business trip and asked that perhaps a deferral be granted until he returns. Mr. Yaremchuk stated that if the applicant were an architect, this was the first time he had seen a carport placed on the front property line. He stated that this was a little chaotic. Chairman Smith stated that it would certainly block the view for the next door neighbor. He stated that he could not support the variance for construction on the front property line. He stated that it was not considered good planning from a safety point of view. Mr. DiGiulian stated that if there were no other place on the lot, he would consider it. However, he was not convinced that it could not be placed elsewhere on the property.

R E S O L U T I O N

In Application No. V-290-79 by JOHN & MARIA N. HERBERT under Section 18-401 of the Zoning Ordinance to allow construction of free-standing carport up to front boundary line (15 ft. minimum setback from public street right-of-way required by Sect. 6-307) on property located at 11405 Purple Beech Drive, tax map reference 26-2((2))(5)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 20, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is PRC.
3. The area of the lot is 13,295 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. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 39, November 20, 1979, Scheduled case for

10:40 A.M. IN RECONSIDERATION OF MR. & MRS. GERALD WALDMAN, appl. under Sect. 18-401 of the Ord. to allow subd. into 2 lots, one of which has width of 80 ft. and the other a width of 15 ft. (100 ft. min. lot width req. by Sect. 3-206), located 4719 Trotting La., 70-1 ((1))15A, Annandale Dist., 36,947 sq. ft., R-2, V-299-78.

039

For information regarding the reconsideration hearing, please refer to the verbatim transcript contained in the file. The Board deferred decision of the matter until December 18, 1979.

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Page 39, November 20, 1979, Scheduled case for

10:50 A.M. JAMES N. & KIM S. WILKINSON, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 17.2 ft. from front property line (30 ft. min. front yard req. by Sect. 3-307), located 11023 Pumpkin Pl., Westmore Knolls Subd., 57-1((27))13, R-3, 19,093 sq. ft., V-283-79.

Mrs. Kim S. Wilkinson informed the Board that she was requesting a variance for a two car garage to be attached to the existing house. A variance was necessary because of the irregular shape of the property. She stated that the garage was needed for the protection of the cars and would increase the value and appreciation of their property and the property around them. She stated that they have a carport existing now which they plan to screen in. Mrs. Wilkinson stated that the proposed location of the garage was the most practical one.

Mr. DiGiulian inquired as to whether the applicant was planning to extend the garage 23 ft. from the carport so that there would be a total distance of 33.6 ft. from the house. The Chairman was concerned about the present carport having a two car garage extending from it. Mrs. Wilkinson stated that the present carport would be screened in for a breezeway between the house and the proposed garage. She stated that the carport was very small. In response to questions from the Board, Mrs. Wilkinson stated that they have owned the property since July 16, 1979. She stated that it was a new subdivision. Mr. DiGiulian noted that there was a line of trees on Rust Road. Mrs. Wilkinson stated that they would not be taking down any trees. She stated that the trees were about 20 ft. away.

There was no one else to speak in support of the application and no one to speak in opposition. Chairman Smith noted that the subdivision was new and the request was for a 23 ft. garage which was a rather large structure. Mrs. Wilkinson stated that the garage would be attached to the house and would not set out by itself. Chairman Smith informed the applicant that she was asking for a 13.8 ft. variance. He indicated that if she incorporated the existing carport as part of the two car garage, she could build it without a variance. He stated that 22 ft. would be adequate for a two car garage. He stated that this was a new subdivision and he was not sure how many others have the same condition.

Ms. Ardis stated that she tended to agree with the Chairman that if the carport was used for part of the garage, a variance would be minimal. She stated that she could not see the hardship since the applicant had just purchased the property. Mrs. Wilkinson stated that they own three cars. She stated that her husband has a car which he was restoring. The house is very small. She stated that they want the garage for partial storage. She stated that if the garage was shortened, they would not be able to pull the cars in. She stated that the steps extend into the area. Chairman Smith stated that the steps did not show on the plat. Mrs. Wilkinson stated that they had a door put on the side of the house and there was a step which extended 2 ft. into the carport area. She stated that the builder built the door before they bought the property. Chairman Smith stated that this was a large lot and only seemed like a small house to the applicant.

Mrs. Wilkinson stated that most of her lot was in front yards where they could not construct anything. Her property was surrounded on three sides by streets. Chairman Smith noted that she could incorporate the carport into a garage. Mr. Barnes stated that the applicant has to show a hardship. Ms. Ardis stated that she did not believe there was any hardship for the entire application. She indicated that she would support it if the applicant would incorporate the carport into the garage request. Chairman Smith noted that all the applicant needed was an extra 12.4 ft. which would require a very minor variance. Chairman Smith stated that the setback requirement was 30 ft.

R E S O L U T I O N

040

In Application No. V-283-79 by JAMES N. & KIM. S. WILKINSON under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 17.2 ft. from front property line (30 ft. minimum front yard req. by Section 3-307) on property located at 11023 Pumpkin Place, tax map reference 57-1((27))13, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 20, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 19,093 sq. ft.
4. That the applicant's property has an unusual condition in boundaries of the subject property.

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART (to allow construction of 23 ft. garage incorporating existing 10.6 ft. carport so that variance would be 2.6 ft. to allow building to extend to 27½ ft. from the front property line) with the following limitations:

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 40, November 20, 1979, Scheduled case for

11:00 CHARLES W. BESLEY & CLARENCE E. SISSON, appl. under Sect. 18-401
A.M. of the Ord. to allow subdivision into six (6) lots with proposed lots 5 & 6 each having width of 6.00 ft. (100 ft. min. lot width req. by Sect. 3-206), located 10333 Zion Dr., 68-4((1))54, Springfield Dist., R-2, 3.57 acres, V-282-79.

Mr. William H. Gordon, an engineer in Reston, represented the applicant. He stated that the variance that they were requesting was for two lots with less than the required 100 ft. frontage for lots 5 & 6. The property was rezoned and the development was planned in accordance with the plats submitted with the variance application.

In response to questions from the Board, Mr. Gordon stated that the property is now zoned R-2 and was rezoned from R-1. The Master Plan allows 1 to 2 dwelling units per acre. Chairman Smith noted that the plan was requesting a total six houses. Mr. Gordon informed the BZA that the plan that was submitted for the variance was the same plan used for the rezoning and was approved by the County staff. In response to further questions, Mr. Gordon stated that he did not know when the applicants had acquired ownership of the property but believed it was recently. The rezoning had taken place in June of 1979.

The staff was asked if there were any proffers made in connection with the rezoning. Mr. Knowlton stated that he did not know. Mr. DiGiulian examined the plats that was submitted with the rezoning and the one for the variance. He stated that they were the same except for a change in the location of a pipestem driveway which had been relocated for sight distance.

041

Mr. DiGiulian inquired of Mr. Gordon if he had seen Preliminary Engineering comments. Mr. Gordon stated that he had no problem with their suggestion but stated that he would not want to be restricted to them. Mr. DiGiulian was concerned with the comments from Preliminary Engineering and stated that he would like clarification before deciding the variance. He indicated that if Preliminary Engineering was aware of some problem with the property that the Board was not aware of, he would like to know about it.

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

The Board deferred the matter until December 4, 1979 at 12:45 P.M. for a clarification of design review comments. They left the record open for Mr. Gordon to make further comment.

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Page 41, November 20, 1979, Scheduled case for

11:10 A.M. CLAUDIA DEVERALL, appl. under Sect. 18-406 of the Ord. to allow garage addition to a dwelling to remain 7.0 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 2730 Pioneer Lane, 49-2((1))119, Providence Dist., R-3, 23,579 sq. ft., V-284-79

Ms. Claudia Deverall of 2730 Pioneer Lane in Falls Church stated that the basis for the variance was that a mistake had been made. She stated that she was not aware that the garage was built in violation of the Zoning Ordinance until it was built.

In response to questions from the Board, Ms. Deverall stated that a building permit was applied for by Mr. Young of All Craft Construction. She stated that she had never looked at the plat. Ms. Deverall stated that the garage was enclosed. There is a screened porch between the garage and the house. Chairman Smith noted that according to the plat attached to the building permit, the garage was to be constructed 17 ft. from the property line. Ms. Deverall stated that Mr. Young had told her that he was not the one that completed the building permit application form. Chairman Smith inquired as to who had drawn the plat submitted with the building permit application. She stated that Mr. Young's partner had drawn the plat. She stated that Mr. Young was present to answer any questions the Board might have.

Mr. Howard F. Young of 2732 N. Harrison Street in Arlington stated that he was a partner in All Craft Construction Co. He indicated that his partner has since resigned and left the Country. It was his job to make the drawings and apply for the building permit. Mr. Young stated that he was not aware of the situation until afterwards. Mr. Young stated that it was his partner's duty to submit applications for building permits and to do the actual construction. He indicated that his function was selling and other things. His partner had acquired the permit. Mr. Young stated that he believed everything was on the up and up. He stated that he was as shocked as everyone else when he found out that the garage was in violation of the Ordinance.

Mr. Barnes informed the Board that he had grown up with Mr. Young and that this was the first time he had ever been to the BZA. He stated that Mr. Young was an honest man. Chairman Smith inquired as to the location of the partner. Mr. Young stated that he was in Iceland. He stated that he was a good mechanic and had a chance to go back and build some houses. He left in September and has not been heard of since. Mr. Young stated that his partner handled all of the construction and he handled all of the paperwork. Mr. Young informed the Board that he has never constructed anything in violation of the Ordinance. He stated that he had never told his partner to construct anything in violation of the Ordinance either.

Mr. Barnes stated that he believed that this was an honest mistake. Mr. Yaremchuk stated that we are all human and everyone makes mistakes. Ms. Deverall presented the Board with a letter from one of her neighbors who did not object to the variance. Chairman Smith made it a part of the record.

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

042

Mr. Yaremchuk made the following motion:

In Application No. 284-79 by CLAUDIA DEVERALL Under Section 18-401 of the Fairfax County Zoning Ordinance to allow garage addition to dwelling to remain 7.0 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 2730 Pioneer Lane, tax map reference 49-2((1))119, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notices to the public, a public hearing was held by the Board of Zoning Appeals on November 20, 1979; 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 conclusion 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 limitation:

THIS approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. DiGiulian seconded the motion.

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

Page 42, November 20, 1979, Scheduled case for

11:20 TERRY ALLEN & PATTY SUE ABELL, appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of a garage addition to dwelling to 3.0 ft. from side lot line, such that total side yard would be 15.4 ft. from side lot line, (8 ft. min. but total of 20 ft. min. side yard req. by Sect. 3-307), located 14919 Jaslow St., Chalet Woods Subd., 53-2((3))80, Springfield Dist., R-3(C), 10,763 sq. ft., V-286-79.

Mr. Terry Abell of 14929 Jaslow Street in Centreville stated that he was applying for a variance to widen his single car garage into a two car garage having a total width of 22 ft. In addition, his driveway would be widened in the vicinity of the garage but he would not change the access to the street. Mr. Abell stated that this structure would permit the parking of both of his cars. He stated that the lot next to his was a corner lot and the house sets at quite a distance than was typical for this area.

In response to questions from the Board, Mr. Abell stated that he had owned his property for three years. Chairman Smith noted that the subdivision was cluster. Mr. Abell stated that his subdivision was about 10 years old. Mr. Abell stated that some of the homes in the area have carports and some have car pads. Mr. Abell stated that one of the reasons he needed a variance was because of the chimney which stuck out 2 ft. 8 in. into the carport.

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

Page 42, November 20, 1979
TERRY ALLEN & PATTY SUE ABELL

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-286-79 by TERRY ALLEN & PATTY SUE ABELL under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to 3.0 ft. from side lot line such that total side yard would be 15.4 ft. (8 ft. min. but total of 20 ft. min. side yard req. by Sect. 3-307) on property located at 14919 Jaslow Street, tax map reference 53-2((3))80, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

043

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 20, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 10,763 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

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

Mr. Barnes seconded the motion.

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

Page 43, November 20, 1979, Scheduled case for

11:30 A.M. CLAIRE E. BROU, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 1.6 ft. from side lot line (7 ft. min. side yard req. by Sect. 2-412 & 3-307), located 7110 Merrimac Dr., Broyhill's McLean Estates, 30-1((12))40, Dranesville Dist., R-3, 12,026 sq. ft., V-291-79.

Ms. Claire E. Brou of 7110 Merrimac Drive in McLean stated that the justification for the variance was that the lot and the house was laid out in such a manner that would not allow the construction of a carport. She informed the Board that she was a hemiplegic and needed shelter for her car in addition to a place where she could exit the car out of the weather. She stated that her request would only be an extension of the parking pad since the house was constructed 20 years ago.

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-291-79 by CLAIRE E. BROU under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling 1.6 ft. from side lot line (7 ft. minimum side yard required by Sect. 2-412 & 3-307) on property located at 7110 Merrimac Drive, tax map reference 30-1((12))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 November 20, 1979; and

R E S O L U T I O N

044

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 12,026 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

 Page 44, November 20, 1979, Scheduled case for

11:40 HOWARD B. & MABEL M. COFFMAN & AL FAGAN, appl. under Sect. 18-401
 A.M. of the Ord. to allow subd. into 2 lots, one of which would have
 width of 15 ft. (100 ft. min. lot width req. by Sect. 3-206),
 located 4036 Maple Ave., Holly Park Subd., 58-3((6))22, Annandale
 Dist., R-2, 109,028 sq. ft., V-287-79.

Mr. Bob Swann of 10604 Warwick Avenue in Fairfax represented the applicants. He stated that the property was located just outside the City of Fairfax. It was a 2½ acre parcel that the Coffmans have owned for 30 years. They cannot keep up the property but they want to continue to live in their house. Mr. Swann stated that the subdivision of this property would provide a pipestem access for the lot. Mr. Swann stated that it would be a lot more desirable if the property were divided horizontally than vertically. He stated that the Coffmans would have to relocate their septic. The contract purchaser for the other lot was Mr. Fagan who was present at the hearing. Mr. Fagan would much rather have a square shaped lot rather than a long and narrow one. There was a contract on the property and Mr. Fagan wanted to go to settlement as soon as possible.

Chairman Smith stated that only the property owner had a hardship. Mr. Swann stated that there would not be any further division of the property.

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

 Page 44, November 20, 1979, Board of Zoning Appeals
 HOWARD B. & MABEL M. COFFMAN & AL FAGAN
 R E S O L U T I O N

In Application No. V-287-79 by HOWARD B. & MABEL M. COFFMAN & AL FAGAN under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, one of which would have width of 15 ft. (100 ft. min. lot width required by Sect. 3-206) on property located at 4036 Maple Avenue, tax map reference 58-3((6))22, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 20, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 109,028 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing drain field on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

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

Page 45, November 20, 1979, Scheduled case for

11:50 REHEARING: MATTHEW N. & PATRICIA A. SMITH & ROBERT R. DELUCA, appl.
A.M. under Sect. 18-401 of the Ord. to resubdivide into 5 lots such that proposed lots 2, 3 & 4 each have width of 6 ft. (80 ft. min. lot width req. by Sect. 3-306), located 7510 Masonville Dr., Providence Dist., 60-1((1))22 & 23, 2.61± ac., R-3, V-261-79.

Chairman Smith stated that the applicant had asked for a rehearing of the variance. Ms. Marilyn Moore was the agent for the applicants. In addition, the Board had asked for comments from Preliminary Engineering with respect to the request. Mr. DiGiulian stated that after reading the comments and reviewing the application, he was convinced that the applicant could only get three lots by running a street through the middle of the property unless you tore down the existing house. Ms. Moore stated that the applicant did not wish to tear down the house.

Chairman Smith reminded the Board that the earlier hearing had resulted in a denial of the application. Any change would be considered a reconsideration of the original decision.

Page 45, November 20, 1979 Board of Zoning Appeals
MATTHEW R. & PATRICIA A. SMITH
& ROBERT R. DELUCA
R E S O L U T I O N

In Rehearing of Application of V-261-79 by MATTHEW R. & PATRICIA A. SMITH & ROBERT R. DELUCA under Section 18-401 of the Zoning Ordinance to allow resubdivision into 5 lots such that proposed lots 2, 3 & 4 each have widths of 6 ft. (80 ft. minimum lot width required by Sect. 3-306) on property located at 7510 Masonville Drive, tax map reference 60-1((1))22 & 23, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals ~~adopt the following~~ resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 20, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 2.61 ± acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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 presented new information to the Board which indicated that if a public street were built on the subject property that a maximum of three lots would be allowed. This was directly contrary to information before the Board on the date of its last hearing which indicated all six lots would be obtained by use of a public street. The applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

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

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

Mr. Barnes seconded the motion.

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

Page 46, November 20, 1979, After Agenda Items

Dr. Harvey Braaf: The Board was in receipt of a letter from Mr. Charles Shumate requesting an out-of-turn hearing for Dr. Harvey Braaf. The Board granted the request and scheduled the hearing for January 8, 1980.

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Page 46, November 20, 1979, After Agenda Items

Great Falls Village Green Day School: The Board was in receipt of a request from the Great Falls Village Green Day School regarding a change in condition no. 7 of their special permit to read: Maximum of 42 students at any one time rather than 42 students per four hour session.

Ms. Ardis moved to approve the request. Mr. Barnes seconded the motion. The motion passed by a vote of 5 to 0.

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Page 46, November 20, 1979, After Agenda Items

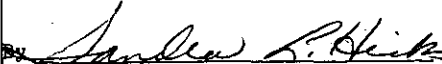
Peter & Wilhemina Klaassen: The Board was in receipt of a request from Mr. Peter Klaassen asking permission from the Board to change a fence on the property for the day care center. It was the consensus of the Board not to allow any change in the construction or the operation of the use until the case was out of court.

//

Page 46, November 20, 1979, After Agenda Items

Mr. Yaremchuk informed the Board that a member of the Zoning Office was a recipient of the A. Heath Onthnak Award. He stated that the Board should write a letter to Mr. Don Smith congratulating him of this honor.

// There being no further business, the Board adjourned at 2:25 P.M.


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


DANIEL SMITH, CHAIRMAN

APPROVED: _____
Date

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

047

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, November 27, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman opened the meeting at 8:15 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8 o'clock case:

8:00 P.M. RECONSIDERATION OF S-958-68, COMMONWEALTH SWIM CLUB, INC., appl. under Sect. 30-7.2.6.1.1 of the previous Zoning Ordinance, to reconsider conditions relative to the after hours parties that were granted with the original permit, on property located at 9818 Commonwealth Blvd., Kings Park West Subd., 69-3(5)B, Annandale Dist., 5.48539 ac., R-2, S-958-68.

Mr. Kendrick Sanders, an attorney in Fairfax, represented the applicant. Chairman Smith stated that this matter of a reconsideration came about after the Board had rendered a decision to rescind the after hours parties. Mr. Sanders stated that he was not sure as to what had occurred. He stated that the Board was seeking a reevaluation of the conditions relative to the after hours parties. Chairman Smith stated that the Board had issued the special permit earlier. Apparently, the zoning inspectors had found some discrepancy in the operation. Mr. Sanders stated that after that time, the Board had held a hearing and discussed the matter. The zoning inspector had investigated one of the parties. This review was to determine whether the after hours parties would be allowed for the coming season. Mr. Sanders stated that it was their belief that the club should be under the existing Ordinance pertaining to the after hours parties. He stated that the club was willing to comply with those requirements. Mr. Sanders stated that was the issue to be decided by the BZA.

Chairman Smith inquired if Mr. Sanders was aware of the five points that Mr. Kennedy had found the club to be in violation of in June. Mr. Sanders stated that there were some allegations that were made that had been discussed at the last hearing before the Board. He stated that he believed he had addressed them sufficiently at that time. He stated that the club does not attempt to operate to irritate anybody. Chairman Smith inquired if the conditions were cleared up. Mr. Sanders stated that to his knowledge there was only one additional after hours party after the last discussion with the BZA. He stated that he had not received word of any complaints. Chairman Smith inquired if the applicants were aware of the Zoning Administrator's recommendation in connection with the change with respect to the after hours parties and asked if the club was in agreement with it. Mr. Sanders stated that the club was in agreement. He stated that they recognized that even with the best intentions, on occasion something uncontrollable could occur. However, with only six pool parties allowed per season, they were talking about a minimum of time. He stated that he hoped that the club could control that time during the parties. He stated that the club wants to be treated like any other pool in the area and does not want any special treatment.

Mr. Ronald Shell spoke at the hearing. He stated that he had appeared before the Board in opposition to the tennis court issue. By way of background, he indicated that he was not in opposition to the pool parties. Chairman Smith advised Mr. Shell that the tennis courts were not under question at this time. Mr. Shell asked the Chairman to allow him to explain. He stated that he had come to the meeting on the tennis court because they were concerned about the nuisance value. He stated that they tried to introduce the problems at that meeting and were told that it was under a special use permit and to exercise the proper channels. He stated that he obtained a copy of the special use permit and determined that the club was not operating under the conditions specified by the Board. Because of that, he stated that he had lodged complaints. He stated that he was not interested in stopping the pool parties as he felt that they were a valuable service. He stated that he was only asking that the club comply with the special use permit. At the last hearing, members of the Board of the club had acknowledged that they were not complying with the special use permit. Chairman Smith inquired as to what way the club had violated the special permit. Mr. Shell stated that they were in violation with respect to the parking, noise and security. Chairman Smith stated that this was not the proper place for him to document the complaints. He stated that was under the control of the Zoning Enforcement Branch of the County. Chairman Smith stated that Mr. Kennedy was the inspector. Mr. Shell stated that was not what they were told at the last hearing. He told the Board that they were not here as adversaries. He

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stated that he came to say that he was not opposed to the parties. However, the community expected the pool to comply with the special permit as set forth in the conditions of the granting. Mr. Shell stated that he was tired of being intimidated. He stated that they were a very small minority. All they wanted the club to do was comply with the use permit. The club had acknowledged that they are not in compliance with respect to the parking. Mr. Shell stated that he wanted to emphasize that. He stated that he had offered to assist the club in enforcing the provisions. He stated that what he wanted from the Board was some guidance to insure that the club would comply with the conditions.

Chairman Smith stated that he had tried earlier to advise Mr. Shell that the Zoning Enforcement Branch was the agency to be made aware of any irregularities or nuisances that occur that are not within the confines of the use permit. Mr. Shell inquired as to whom he would write to and was informed to write to the Zoning Administrator, Mr. Yates. Mr. Yaremchuk inquired as to how big a problem existed. Mr. Shell stated that the problem was not the parties. He stated that at the last BZA meeting, there was some indication that the pool was under review by the Enforcement Branch so that the last party was controlled. He stated that the party was handled well. There was no excessive noise. However, from that party on, the control went down and there was noise. Mr. Yaremchuk inquired as to the number of people at the pool party. Mr. Shell stated that the problem was not the number of people at the party but the lack of control over the party. Mr. Yaremchuk inquired as to how the pool would control someone throwing beer bottles on their way home. Mr. Shell suggested that the pool hire a police officer. Mr. Yaremchuk stated that Mr. Shell's argument seemed to be with the people who run the parties. Mr. Shell stated that the pool can control the parties as they had demonstrated that fact. What he wanted was assurance that they would comply with the use permit. Mr. Yaremchuk inquired as to why the pool handled the parties well on one instance and not on another. Mr. Shell stated that the party that was held after the last BZA meeting had adult supervision. The pool hired guards. Mr. Shell stated that the operation of the pool on a day to day basis needs to be controlled. He stated that the loudspeaker should not be too loud. He also stated that there was no reason for the parking in the community. Mr. Shell stated that he was not interested in making the club give up their parties. He only wanted assurance that they would comply with the requirements. He stated that he thought that the BZA was the forum to which these problems would be addressed. Ms. Ardis asked for specific dates as to the times the problems have occurred and was informed by Mr. Shell that they were documented.

The next speaker was John Peterson of 5102 Walport Lane. He told the Board that the club was having problems around June 26th. Ms. Ardis asked for dates after the July 10th. Mr. Peterson stated that on August 25th the noise at the pool was loud and went on until after midnight. He stated that he called the club president of the pool association to ask that the noise be cut down and was told that he was unaware that a party was going on but afterwards the noise subsided and it was cut down, Mr. Peterson stated that his request to cut down the noise was made after midnight.

Mr. Yaremchuk queried Mr. Sanders regarding the pool parties. He asked if there were teen parties. Mr. Sanders stated that teenagers could be out on the streets in the community and not be a part of the pool association. Mr. Sanders stated that the president of the club lives very close to the pool and is aware of the situation there. He was awakened by Mr. Peterson who complained about the noise. The noise was stopped at midnight. Mr. Yaremchuk inquired if drinking was allowed at the parties and was told it was not allowed. Mr. Yaremchuk inquired about the parking in the cul-de-sac. Mr. Sanders stated that the members were advised that the special permit does not allow parking in the cul-de-sac. In response to who runs the parties, Mr. Sanders stated that the same people basically run the parties time and time again. Mr. Yaremchuk inquired as to why there was control sometimes and not at other times. Mr. Sanders stated that it was difficult to pin down as to what level or lack of control there was. He stated that what may be irritating to some may not be irritating to others.

Chairman Smith stated that the permit was granted in 1968 and that the Board had granted some of the clubs permission for after hours parties at their request. He stated that the Board did not have any major concern with those parties until the question was addressed earlier by the Zoning Administrator wherein all of the clubs were notified of the policy.

Mr. Yaremchuk stated that the club has been there since 1968 and it has only been recently that they were having problems. He stated that they have a fairly good track record. Mr. Sanders stated that there are new houses that were constructed adjacent to the pool which were not part of the Kings Park Subdivision and therefore, not eligible to join the club. There were no other questions.

R E S O L U T I O N

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Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-958-68 by COMMONWEALTH SWIM CLUB, INC. under Section 30-7.2.6.1.1 of the previous Fairfax County Zoning Ordinance to reconsider conditions relative to the after hours parties that were granted with the original permit, on property located at 9818 Commonwealth Boulevard, tax map reference 69-3((5))B, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing by the Board of Zoning Appeals held on November 27, 1979; and

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

- 1. That the owner of the subject property is the applicant.
- 2. The present zoning is R-2.
- 3. That the area of the lot is 5.48539 acres.
- 4. That compliance with the Site Plan Ordinance is required.

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

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

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

- 1. This approval is granted to the applicant only, and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. The 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 of use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether 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. Unless otherwise qualified herein, extended hours for parties or other activities or outdoor community swim clubs or recreational 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. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

8:30 P.M. IN RECONSIDERATION OF TYSONS BRIAR, INC. T/A CARDINAL SWIM AND RACQUET CLUB, appl. under Sect. 30-7.2.6.1.1 of the Ord. to amend special use permit to construct tennis courts, located 9117 Westerholme Way, 28-4((1))47, 1.0 acres, Centreville Dist., RE-1, S-134-78.

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For details of the reconsideration hearing, please refer to the verbatim transcript located in the file in the Clerk to the Board of Zoning Appeals' Office.

Page 50, November 27, 1979
TYSONS BRIAR, INC. T/A CARDINAL SWIM
RACQUET CLUB

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-134-78 by TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM AND RACQUET CLUB under Section 30-7.2.6.1.1 of the previous Fairfax County Zoning Ordinance to amend Special Use Permit to construct tennis courts on property located at 9117 Westerholme Way, tax map reference 28-4((1))47, 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 27, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 1.0 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, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of 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 two hundred (200).
9. This permit is granted based on option "B" - modified to limit the parking lot on the one acre parcel to a maximum of sixty (60) spaces--to be set back a minimum of 75 ft. from the northerly property line and supplemental planting be provided to the satisfaction of the Director of Environmental Management within the 75 ft. strip.
10. Subject to receipt of new plats in accordance with the above.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

9:00 GREENBROOK CORPORATION, appl. under Sect. 3-103 of the Ord. to
P.M. permit continued operation of a nursery school, located 12410 Lee
Jackson Highway, 45-5(1)9, Centreville Dist., R-1, 6,595 sq. ft.,
S-285-79.

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Mr. Jerry Guston of the Greenbrook Corp. informed the Board that the school was located at 12410 Lee Jackson Highway. He stated that the special permit which had been granted previously had now expired and that they were trying to acquire a new permit. He stated that there would be a maximum of 60 children at any one time. He stated that the ages of the children were 3 to 5 and that the hours of operation were from 9 A.M. to 12 noon, five days a week until May. Mr. Guston stated that the school has been in operation since April of 1973. Mr. Barnes stated that there has not been any complaints on the school and stated that the Board should go ahead and grant it.

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

Page 51, November 27, 1979 Board of Zoning Appeals
GREENBROOK CORPORATION

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-285-79 by GREENBROOK CORPORATION under Section 3-103 of the Fairfax County Zoning Ordinance to permit continued operation of a nursery school on property located at 12410 Lee-Jackson Highway, tax map reference 45-4(1)9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 27, 1979; and

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

1. That the owner of the subject property is the Presbyterian of Potomac, Inc. and that the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 6.595 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be sixty (60) at any one time, ages three to five.

R E S O L U T I O N

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8. The hours of operation shall be 8 A.M. to 1 P.M., five days a week, Monday through Friday, during school months September through May.

9. This permit is granted for a period of three (3) years, with the Zoning Administrator empowered to grant three (3) one-year extensions.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 52, November 27, 1979, Scheduled case for

9:15 P.M. RICHARD F. & BETTY J. HARRIS, appl. under Sect. 18-401 of the Ord. to allow the keeping of up to 8 goats plus chickens and rabbits on approximately .86 acres with enclosure shelter located closer than 100 ft. to the lot line (2 acres min. area for keeping livestock & max. 10 such animals per acre req. by Sect. 2-512 and 100 ft. min. distance to property line req. by Sect. 10-105), located 8215 Little River Turnpike, 59-4(1)8, Annandale Dist., .8621 acres, R-2, V-252-79.
(Deferred from November 6, 1979 for decision.)

Chairman Smith stated that two questions were involved in this application. One was pertaining to the variance to allow less than two acres of land for the keeping of livestock and the other was to the setback of 100 ft. for the housing of the livestock. Mr. Barnes stated that the applicant had a lot of foliage and a lot of screening and would not be much problem. Mr. Eckert reminded the Board that the only animals to be kept there would be the goats. Mr. Eckert stated that the applicants were asking permission for up to 8 goats to be kept over the winter because the kids would not be weaned immediately. At present, there are only two mature goats and two younger ones. Mr. Eckert stated that four milkers would be sufficient to meet the family's milk needs. He reminded the Board that the Harris children need the goat milk. Ms. Ardis stated that it was not clear to her from the last hearing as to how long it took a goat to become a milker. She was informed that it took a year. Chairman Smith inquired if any of the milk was sold and was told it was not. Chairman Smith stated that four goats would provide 4 gallons a day. Mr. Covington stated that would taper off as the whole flock would not be in peak milking at one time.

Chairman Smith stated that under the hardship section of the Ordinance, there had to be a reason for granting the variance. He inquired of the applicant if he had given any thought to the Ordinance as to how this could be granted. Mr. Barnes stated that the hardship was that the children needed the goat's milk. Mr. Yaremchuk inquired as to why the application was scheduled for a hearing if it did not have justification for the variance. Chairman Smith stated that a lot of youngsters are allergic to the cow's milk but stated that was not a hardship under the Zoning Ordinance.

Ms. Kelsey stated that the Board can vary any section of the Ordinance except those provisions from which they are precluded from varying. She stated that there are no preclusion to this section so that was the reason the application was accepted by the staff. Ms. Kelsey stated that it was up to the Board to determine whether the applicant met the conditions under Sect. 18-401 of the hardship section for the land or the buildings. She stated that the Ordinance only addressed the land or the buildings or topographic hardships. She stated that the Ordinance does not address this particular need. Mr. Covington stated that this request related to the land and the buildings. Mr. Yaremchuk stated that the Ordinance cannot address everything that might come before the BZA.

Ms. Ardis inquired if the buildings could be moved back. Mr. Eckert stated that it could be moved. Mr. Covington stated that the number of animals met the animal unit per acre requirement. The only problem was the total area of the property. Ms. Ardis stated that the adjacent property was over three acres and she inquired as to the owner of it. Mr. Eckert stated that it was owned by the Church of the Nazarene. Ms. Ardis inquired if there was a lot of similar size adjoining or adjacent to the Harris property. Mr. Eckert stated that their lot was the smallest and was slightly trapezoid. Ms. Ardis inquired as to how small the next size lot was in the subdivision and was informed it was more than two acres.

Mr. Yaremchuk moved that the Board not schedule something that they cannot grant. Chairman Smith stated that if the property was grandfathered in some way then that was the way it should have been handled. He stated that in his opinion, he disagreed with the Zoning Administrator. He stated that

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there are certain sections of the Ordinance and this one in particular where you do not keep animals on any less than two acres. He stated that the Board does not have the authority to vary it because there was not any topographic hardship. Mr. Yaremchuk stated that the Chairman has had a lot of experience on the Board having served for more than 25 years. He stated that he agreed with the Chairman but he moved that the Board ask for a legal opinion from the County Attorney's Office. Mr. Barnes seconded the motion.

Mr. Eckert stated that the last continuation of the hearing had been to get an opinion from the County Attorney's Office. He stated that he did not mind the continuation as long as we could get an opinion from the County Attorney's Office.

This matter was deferred again until December 18, 1979 at 9:15 P.M. for decision only.

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Page 53, November 27, 1979, After Agenda Items

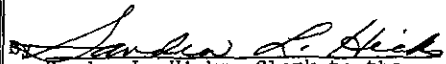
APPROVAL OF MINUTES: The Board was in receipt of the Minutes for January 9, 1979. Mr. DiGiulian moved that the Board approve the Minutes as amended. Mr. Barnes seconded the motion and it passed by a unanimous vote.

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Page 53, November 27, 1979, Letter of Congratulations

Chairman Smith stated that the Board had asked the Clerk to draft a letter of congratulations to Don Smith of the Zoning Office for being an A. Heath Onthank Award recipient. Chairman Smith reviewed the letter and signed it on behalf of the Board.

// There being no further business, the Board adjourned at 10:45 P.M.


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


DANIEL SMITH, CHAIRMAN

APPROVED: _____
Date

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

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 4, 1979. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Barbara Ardis (John DiGiulian was absent.)

The Chairman opened the meeting at 10:25 A.M. led with a prayer by Barnes.

The Chairman called the scheduled 10:00 case.

10:00 A & A HOMES, INC./KINGSTON CHASE HOMEOWNERS, ASSOC., appl. under
A.M. Sect. 3-303 of the Ord. to permit community swimming pool and recreation area, located 10-2((4))C1 & 10-4((14))E1, Kingston Chase Subd., Dranesville Dist., 4.9207 acres, R-3, S-241-79. (Deferred from October 23, 1979 for notices and for statement of representation from homeowners.)

Chairman Smith announced that there were only four Board members present and if anyone would like to request a deferral of their application or on the decision they could do so. Mr. Hugh Gregor, an attorney, represented the applicant. The required notices were in order. Mr. Gregor informed the Board that since the last hearing, there had been a meeting with the homeowners in order to familiarize them with the plans up for approval. He stated that this was a subdivision known as Kingston Chase. There are 538 lots. The construction had started in 1973. At present, there are three builders building homes in the different sections. They are Miller and Smith; Yeonas and A & A Homes, Inc. The pool has already been planned for the area; however there had never been enough residents in the area to support it until the present time. Mr. Gregor stated that there are plans to go forward and build the pool as shown on the site plan. He stated that there was adequate parking. There are 70 parking spaces provided and only 30 spaces are required. In addition, there are bicycle racks to be provided. The pool has been promised to the homeowners. He stated that they hoped to begin construction in the spring. Mr. Antigone was present to speak at the hearing. He was president of the A & A Homes.

In response to questions from the Board, Mr. Gregor stated that the pool would have 538 members of the community. He stated that the homes were all single family dwellings. The hours of operation for the pool would be seven days a week from Memorial Day through Labor Day. The homeowners association would control the pool. The normal closing for the pool would be 9 o'clock at night. The homeowners would set up the rules of operation. In response to further questions, he stated that the hours would be 9 A.M. to 9 P.M., seven days a week. Chairman Smith noted that the plats called for hours of operation from 8:30 A.M. to 9:30 P.M. with a total membership of 538 families.

Mr. Gregor stated that the landscaping shown on the site plan was not the type planned for the pool. He stated that the landscaping would be submitted to Site Plan Review. He stated that what was on the plat was just to show that they planned some type of landscaping.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mr. Freeland Young stated that he lived east of the pool. He stated that he had no objection to the pool as such but was concerned about the screening, sound barriers and the traffic that would be created, lights from the cars, etc. Mr. Young stated that the parking was located 10 to 12 ft. from the property line. He stated that he has belonged to another pool for a long time. He felt that the applicant should give consideration to the residents and that the parking be properly setback. He stated that he had other areas of concern with respect to the amount of water flowing through the area. He stated that there was no flood control for the water and the runoff coming down through the area. He stated that would be a serious factor for the children coming and going as there was a big drainage ditch which has increased because of the water. He stated that the water flows on his property with no erosion control. Chairman Smith advised Mr. Young to contact Site Plan regarding the water. Mr. Young stated that he contacted the Board of Supervisors, Mr. Coons and Col. Smith but nothing had been done to his knowledge. He stated that Supervisor Shacochis had made a motion that something be done about the water.

Chairman Smith noted that there was an easement for a drainage channel. Mr. Young stated that the runoff had increased tremendously and it was all being dumped on him. Chairman Smith advised him he would have to work that out with Public Works. Chairman Smith inquired if Mr. Young had any recommendations to

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make with respect to setback, etc. Mr. Young stated that a minimum of 25 ft. would be normal. Chairman Smith noted that the parking met the setback for the zone. Mr. Covington stated that the Board would impose any additional setback that it felt would make the use more compatible with the area. Chairman Smith stated that he did not see any place to put it. He stated that the number of parking spaces being provided was minimal for the use. He stated that with 538 family memberships, there would be somewhere around 1500 to 1600 using the pool. Mr. Young stated that more parking should be provided west of Hiddenbrook Drive to increase the setback. Chairman Smith stated that the applicant was apparently reserving that area for future parking or future tennis courts to be constructed at a later date. He stated that the Board was only concerned with the pool at this time as the other was not a part of the application. Chairman Smith stated that the screening would have to meet the standard screening requirements. He stated that the parking area would require a solid fence along that area. Chairman Smith stated that the staff had checked the plat and the parking met the setbacks for the zone. Chairman Smith stated that a solid fence would be the best separation but would not do much for the sound. Mr. Young stated that it would not help with the lights. He stated that A & A Homes had agreed to build a chain link fence along the boundary lines. Chairman Smith stated that the chain link fence would be more durable. Mr. Young stated that if the solid wood fence was kept up, it would be better. If not, it would become a problem in about ten years. Mr. Covington stated that the applicant could use a chain link fence interlaced with slats. Mr. Young stated that would be helpful also.

The next speaker in opposition was Demond Mauck of the Kingston Chase Civic Assoc. He stated that the Kingston Civic Assoc. was different from the homeowners assoc. Mr. Mauck stated that he had talked with the property owners and they were finally in accord that they would like to have the pool. He stated that as the homeowners do not control anything at this point, it should be made known that they do not want the liability of the water or storm retention through the construction process of the pool. Chairman Smith stated that the homeowners would acquire liability when the property is conveyed to them. He stated that was not a matter for the Board but was a legal contract between the contractor, the builder and the civic association. Mr. Mauck stated that they were concerned about the parking as they did not know whether it would be adequate or not. He stated that the parking was split and he was concerned about children having to walk across the drainage area. Chairman Smith stated that was a matter that the civic assoc. and the builder would have to address.

Chairman Smith inquired if the homeowners were involved or represented in the homeowners assoc. at this point. Mr. Gregor stated that the homeowners assoc was still under the control of Miller & Smith; Yeonas & A & Homes, Inc. Mr. Antigone, President of A & A Homes, Inc. stated that the builders have tried to have homeowners representation with the architectural control. There were two members who served for a period of two years but were not serving on the committee at this time. Chairman Smith inquired if the builders still owned the land and Mr. Antigone stated they did. He stated that they had agreed to convey the land to Kingston Chase later on. Chairman Smith inquired as to how Mr. Antigone had become president and was informed it was because he had formed the corporation. Chairman Smith inquired as to why the homeowners do not have representation on the association. Mr. Antigone stated that his development was all single family dwellings with over 100 families living there. Chairman Smith stated that out of 100 families, there ought to be some representation. Mr. Antigone stated that they have tried to have meetings. He stated that it was an uphill struggle to get anyone interested in the meetings. Chairman Smith inquired as to how the builders plan to convey the land to the homeowners and when they plan to do so. Mr. Antigone stated that they expect to have the conveyance in the spring. He stated that the construction of the pool would not begin until February. Chairman Smith inquired if it was bonded and was informed that there was money set aside but it was not bonded.

Mr. Yaremchuk inquired of Mr. Antigone as to what would be done to Mr. Young's property line with respect to screening. Mr. Gregor stated that they would provide landscaping between the pool and the property. When Mr. Yaremchuk inquired as to what Mr. Gregor meant by landscaping, he was informed that they would put in the required screening. Mr. Gregor stated that the plan has to be approved by Site Plan Control. Mr. Yaremchuk stated that Mr. Young had a large tract of land and he was interested in exactly what was proposed. Mr. Yaremchuk stated that he was not sure that a fence was the best thing and that perhaps more trees could be required. Mr. Gregor stated that Mr. Young sold the property to them. Mr. Yaremchuk inquired of Mr. Young as to how far

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his house was from the property line. Mr. Young stated that his brother's house was 50 ft. from the property line. He stated that his house was 200 ft. from the property line. Mr. Yaremchuk inquired if there were any trees on Mr. Young's property. Mr. Young stated that most of the trees have died because of the water and the flooding. Mr. Young stated that he wanted to comment on Mr. Gregor's comments about selling the property. Mr. Young stated that the farm belonged to his father and he had no control over it. Mr. Yaremchuk stated that the pool should be shielded from the neighboring houses. Mr. Gregor stated that they would screen out lights. He stated that he would talk to Mr. Young and come back with a site plan.

Chairman Smith stated that perhaps this should be deferred until the applicant came back with a site plan showing a fence along the property line. Mr. Covington stated that this was a community use and would require type D or F screening under the Ordinance. Mr. Covington stated that a fence was required along the property line according to the Ordinance. Chairman Smith stated that a fence was required around the pool. Chairman Smith stated that perhaps the Board should specify which type of screening was preferred. Chairman Smith suggested a 6 ft. high chain link fence interwoven with slats. Mr. Yaremchuk stated that this property was acreage and he did not feel that the fence would serve any purpose. Mr. Gregor stated that the pool has to have a high fence around it. He stated that they would have to comply with the chain link if it was required by the Ordinance.

Mr. Yaremchuk stated that since the homeowners were mentioned in the application but are not represented, he felt that the application should be deferred until the Board could get some representation from the group that would be the ultimate users of the pool. He stated that the Board was having some problems now where the builder never really transferred control. Mr. Gregor stated that it was a requirement of the County that they transfer control. Chairman Smith stated that he was concerned about representation in the association. He understood that the builder could not convey but he stated that out of 100 families living there, there should be someone willing to work with the builders at the planning stage. Mr. Gregor stated that they had informed the homeowners because the Board had asked them to; they had put up a handbill and handed it out door to door and they had held a meeting. Mr. Gregor stated that they had answered the question that they had and he stated that the Board should now move on with the project as the money was now available. He stated that before there were not enough families to support the pool. The number of homes have doubled now. Mr. Yaremchuk stated that was reasonable. Mr. Gregor stated that they would have to come back with a site plan later on.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-241-79 by A & A HOMES, INC./KINGSTON CHASE HOMEOWNERS, ASSOC. under Sect. 3-303 of the Fairfax County Zoning Ordinance to permit community swimming pool and recreational area on property located at tax map reference 10-2((4))C1 & 10-4((14))E1, 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 4, 1979 and deferred from October 23, 1979 for Notices; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 4.9207 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

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

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

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

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

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The maximum number of memberships shall be 538 families at 100% participation.

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

9. The number of parking spaces shall be 70.

10. Unless otherwise qualified herein, extended hours for parties or other activities of outdoor community swim clubs or recreation associations shall be governed by the following:

(A) Limited to six (6) per season.

(B) Limited to Friday, Saturday and pre-holiday evenings.

(C) Shall not extend beyond 12:00 midnight.

(D) Shall request at least 10 days in advance and receive prior written permission from the Zoning Administrator for each individual party.

(E) Requests shall be approved for only one (1) such party at a time, and such requests will be approved only after the successful conclusion of a previous extended-hour party or for the first one at the beginning of a swim season.

(F) Requests shall be approved only if there are no pending violations of the conditions of the Special Permit.

(G) Any substantiated complaints shall be cause for denying any future requests for extended-hours 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. Barnes seconded the motion.

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

Page 57, December 4, 1979, Scheduled case for

10:15 PILAR G. R. STUMBAUGH, appl. under Sect. 3-103 of the Ord. to
A.M. permit renewal of special permit for child care center, located
2558 Flint Hill Rd., Five Oaks Subd., 38-1((1))30 & 30A, Centre-
ville Dist., 1.145 ac., R-1, S-253-79.

Mr. Patrick Gallagher represented the applicant. He informed the Board that the special permit had been heard the year before and was granted for a one year period. He stated that the applicant had spent a lot of money to get the property in accordance with the County requirements. Mr. Gallagher stated that Mrs. Stumbaugh began operation of the day care center and has 32 children enrolled at the present time. She operates Monday through Friday from 7 A.M. to 7 P.M. He stated that pickup and delivery of the children was by private vehicle. The surrounding property has mature trees and shrubs. There is a

fenced play area in the rear. He stated that the applicant meets all of the requirements of the Health Department. He stated that the original staff report had indicated that the special permit be granted for a two year period and then after than for an indefinite period. Mr. Gallagher stated that instead, they were only granted a special permit for a one year permit and now they have come back to the Board for a renewal with an indefinite period. Mr. Gallagher stated that Mr. Phillips was the property owner and that Mrs. Stumbaugh was the lessee.

In response to questions from the Board, Mr. Gallagher stated that this was a privately operated school and was not a corporation. The Health Department had approved the center for a maximum of 60 children and only 32 are now enrolled. The ages of the children are from infant or three months through four years. Mr. Gallagher stated that he was not sure whether the applicant kept infants of less than three months at present.

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

Page 58, December 4, 1979 Board of Zoning Appeals
PILAR STUMBAUGH

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-253-79 by PILAR G. STUMBAUGH under Section 3-103 of the Fairfax County Zoning Ordinance to permit renewal of special permit for child care center on property located at 2558 Flint Hill Road, tax map reference 38-3(1)30 & 30A, 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 4, 1979 and deferred from October 30, 1979 for notices; and

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

1. That the owner of the subject property is E. Lakin Phillips and that the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 1.145 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

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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 maximum number of children shall be 60; ages 3 months to 4 years.
- 8. The hours of operation shall be 7 A.M. to 7 P.M., Monday through Friday.
- 9. The number of parking spaces shall be 7.
- 10. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one-year extensions.
- 11. This permit is subject to all other conditions of S-171-78 not altered by this resolution.

Mr. Barnes seconded the motion.

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

Page 59, December 4, 1979, Scheduled case for

10:30 A.M. RICHARD L. MURPHY, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport to garage to 10.4 from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 1904 Baton Dr., Tiburon Subd., 28-3((11))84, Centreville Dist., R-2, 15,121 sq. ft., V-288-79.

Mr. Richard Murphy of 1904 Baton Drive stated that his request for the enclosure of the carport was to allow more convenient parking of the car on his property and to have a garage which many of the homes in the area already have. Chairman Smith inquired as to the number of people having open double carports and was informed about 30%. He stated that the homes are all split level and have either a single or double carport. He stated that he has owned the property for six months. Chairman Smith inquired as to the topographic reason for requesting the variance as the Board could not grant a variance for a matter of convenience. Mr. Murphy stated that the purpose of this request was to enclose the carport to provide shelter from the weather during inclement seasons. Mr. Yaremchuk stated that from looking at the plat, it appeared that the applicant had an unusual condition in the location of the building on the property. In addition, the carport was already at this location and there was no other place on the property to put it. Chairman Smith stated that about 50% of the homes in that subdivision have the same problem. Mr. Yaremchuk stated that they should also apply for a variance. He stated that this garage would be an asset to the community.

Ms. Ardis inquired if the applicant had discussed his plans with the owner of lot 83 and was told that person had no objections. Mr. Murphy stated that based on approval of this variance, the neighbor would probably apply for his own variance. Ms. Ardis inquired as to the neighbor's name and was told it was Mr. Maloney.

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

R E S O L U T I O N

In Application No. V-288-79 by RICHARD L. MURPHY under Section 18-401 of the Zoning Ordinance to permit enclosure of carport to garage to 10.4 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 1904 Baton Drive, tax map reference 28-3((11))84, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice the public, a public hearing was held by the Board on December 4, 1979; and

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

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-2.
- 3. The area of the lot is 15,121 sq. ft.
- 4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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R E S O L U T I O N

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

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

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

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

Mr. Barnes seconded the motion.

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

Page 60, December 4, 1979, Scheduled case for

10:40 MR. & MRS. F. SHEILD McCANDLISH, appl. under Sect. 18-401 of the
A.M. Ord. to allow construction of deck addition to residence to 6.7 ft. from side lot line (9 ft. min. side yard req. by Sect. 2-412 & 3-207) located 3806 Lakeview Terrace, Lake Barcroft Subd., 61-3((14))116, Mason Dist., R-2, 14,600 sq. ft., V-289-79.

Mr. Carson Lee Fifer, an attorney, represented the applicants. He presented the Board with a waiver from a property owner who had not been properly notified of the hearing. Ms. Ardis moved to accept the waiver. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Mr. Fifer also presented the Board with a petition in support of the variance application. He stated that the property was an extremely steep lot. In addition, it was a pie-shaped lot. He stated that there was a 20 ft. fall to the lake. This was the area in which the applicants proposed to build a small deck. It would be just a small continuation of the patio. Mr. Fifer stated that this area was the only flat piece of ground. There was a small area next to the lake that has a deck for a boat to be attached. He stated that area served a purpose when it did not flood. However, there was a steep climb back and forth from the house.

Mr. Fifer stated that the lot immediately next door was vacant. The requested variance was only for 3 ft. extending the 9 ft. setback area. He stated it was a very minimum variance.

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

Page 60, December 4, 1979

MR. & MRS. F. SHEILD McCANDLISH

R E S O L U T I O N

In Application No. V-289-79 by MR. & MRS. F. SHEILD McCANDLISH under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to residence to 6.7 ft. from side lot line (9 ft. minimum side yard required by Sect. 2-412 & Sect. 3-207) on property located at 3806 Lakeview Terrace, tax map reference 61-3((14))116, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 4, 1979; and

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

R E S O L U T I O N

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1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 14,600 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including pie-shaped and has exceptional topographic problems.

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

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

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

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

Mr. Yaremchuk seconded the motion.

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

Page 61, December 4, 1979, Scheduled case for

10:50 ALFRED E. & CAROLYN ROBERTS & ROBERT A. MCGINNIS, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 20 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-407), located 7116 Arlington Blvd., Woodley North Subd., 50-3((5))(5)30B, Providence Dist., R-4, 9,112 sq. ft., V-292-79.

As the required notices were not in order, the Board deferred the hearing until January 8, 1980 at 11:45 A.M.

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Page 61, December 4, 1979, Recess

At 11:35 A.M., the Board recessed for lunch. The Board reconvened at 12:20 P.M. to continue with the scheduled agenda.

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Page 61, December 4, 1979, Scheduled case for

11:00 PETER R. TOEPFFER, appl. under Sect. 18-401 of the Ord. to allow construction of a two-story addition to dwelling to 80 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), located 6105 Edgewood Dr., Belle Haven Subd., 83-3((14))12, Mt. Vernon Dist., R-4, 9,000 sq. ft., V-293-79.

As the required notices were not in order, the Board deferred the application until January 8, 1980 at 12:00 Noon.

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Page 61, December 4, 1979, Scheduled case for

11:10 JOHN K. LEROHL, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 9.3 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 4609 Eaton Place, Sunny Ridge Estates Subd., 82-3((17))(G)26, Lee Dist., R-3, 10,560 sq. ft., V-294-79.

Mr. John Lerohl stated that he wanted to build a single garage on his property. He stated that it could be attached to the house or in the back yard but the controlling factor was the terrain of the property. He stated that his lot was large and rectangular. The front yard is flat. The back

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 JOHN K. LEROHL
 (continued)

yard is flat. He stated that his problem was a ridge or a hill that rises up about 9 ft. He stated that he has a two story house that was built into the hill. You have to enter on one level and exit on another level. Mr. Lerohl stated that his problem was that if the garage was in the back yard, he would have to build the driveway up the hill. He stated that it would be dangerous backing down the long hill. He stated that the most logical place to construct the garage was to attach it to the house.

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

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 JOHN K. LEROHL

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-294-79 by JOHN K. LEROHL under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 9.3 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 4609 Eaton Place, tax map reference 82-3((17))(3)26, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 4, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 10,560 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

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

Page 62, December 4, 1979, Scheduled case for

11:20 HAROLD E. BAILEY, appl. under Sect. 18-401 of the Ord. to allow
 A.M. continued keeping of a horse on 1.1 acres (2 acres. min. for keeping
 of livestock req. by Sect. 2-512), located 11320 Henderson Rd.,
 Henderson Woods Subd., 95-2((3))2, Springfield Dist., R-1, 1.095
 acres, V-295-79..

Mr. Harold Bailey of 11320 Henderson Road stated that his lot consisted of a rectangle which was completely cleared except for a few trees. He stated that his house was near the front of the property. The rear portion of the property was open. The barn was located at the right rear of the lot. The fence encompassed the barn. Mr. Bailey stated that he was not aware of the

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limitation of the keeping of horses until he had received a violation notice. Mr. Bailey stated that the horse was kept up daily. The droppings are confined to the paddock area. Mr. Bailey stated that the horse belonged to his 12 year old daughter. He indicated that he closely monitored the area where the horse was kept. Mr. Bailey stated that this was the first time he had any complaints about the horse.

In response to questions from Mr. Barnes, Mr. Bailey stated that he has had the horse since 1975. Ms. Ardis inquired as to how long the applicant had owned the property and was told since 1975. She inquired if Mr. Bailey had called to inquire about the amount of land necessary for the keeping of a horse. Mr. Bailey stated that he never bothered to check and no one had ever told him.

Chairman Smith noted that the barn did not meet the setback requirements and inquired if the applicant had obtained a building permit. Mr. Bailey stated that the barn was a small shed that was on the property. The builder had moved it to the rear property line for him before he purchased the house. He stated that he was not aware that it did not meet the setback requirements. Mr. Bailey stated that he had added the two stalls on each side of the shed. One is used for the storage and the other is used for the horse. Chairman Smith stated that the structure does not meet the setbacks for a barn. Mr. Barnes stated that was no problem since this was horse country. Chairman Smith stated that Ordinance required two acres for the keeping of horses.

Ms. Ardis inquired if the Board were to deny the variance for the horse as to whether the barn would still remain at its present location. Mr. Barnes stated that there was no way of moving it because of the trees. Chairman Smith stated that the applicant had built most of it without a building permit. Mr. Bailey stated that the shed was built by a carpenter in 1975. Because it was temporary in nature and not a permanent structure, a building permit was not required. Chairman Smith stated that this was not a temporary structure. Mr. Bailey stated that the surveyor had labeled it as a temporary building and he did not include it on the plats the first time. Mr. Bailey stated that he had to go back and get the surveyor to add it to the plats before coming to the BZA. Mr. Barnes stated that he thought it was okay but he did not know the surveyor, Mr. Kenneth Lester.

There was no one else to speak in favor of the application. Mr. James Carrol of 11322 Henderson Road spoke in opposition. He stated that he lived next door and that his main concern was not the barn but the horse. He stated that he did not dislike horses. However, the horse was not originally kept at this property but was boarded down the road on 50 acres. Mr. Carrol stated that the horse did not bother him at first. In fact, he stated that he enjoyed looking at the horse while it grazed. Mr. Carrol stated that when he first moved to his property, there were no flies. Every summer since then the flies have increased and have gotten worse. He stated that it was impossible to eat outdoors now. He stated that the property to the rear was owned by Mr. Lester but no one lived there. On the other side of Mr. Bailey, was also a vacant lot. However, Mr. Carrol stated that he was adjacent to Mr. Bailey's property and gets quite a few of the effects of the horse and the manure. He stated that if the manure was disposed of in some other place, it would eliminate the problem. He stated that every couple of years, the manure was distributed all over the yard. Mr. Carrol stated that his door was only 45 ft. from the property line. The odor was not appealing and the manure was appealing to the eye either. Mr. Carrol stated that if the horse would stay without the manure there would not be any problem. He stated that since the horse had arrived, he had attempted to have a peaceful coexistence and tried to get used to the situation. However, the situation had not gotten any better. Mr. Carrol stated that he had thought that after a while, there would be a lack of interest in the horse.

Mr. Yaremchuk inquired as to how long Mr. Carrol had lived next door and was informed that he moved in August of 1975. Mr. Yaremchuk stated that he had not had any experience with horses and inquired of Mr. Barnes if the horse helped to breed the flies. Mr. Barnes stated that the only thing that would breed the flies was the manure piled in an exposed place. He stated that the droppings in the pasture did not breed the flies. Mr. Barnes informed Mr. Carrol that he had two acres and did not give away a lot of manure. Mr. Carrol stated that the problem was that these are only one acre lots and the houses are too close together. Mr. Barnes inquired as to how close Mr. Carrol's house was from the barn and was informed it was about 125 to 150 ft. Mr. Barnes stated that he piles his manure in the winter. During the summer, he lets the horses out. In order to prevent flies, Mr. Barnes stated that he used a fly spray where he piled the manure. He stated that eliminated the

Page 64, December 4, 1979
 HAROLD E. BAILEY
 (continued)

problem with the flies and kept them away from the house. He stated that there are still flies around but they were not too much of a problem. Mr. Barnes stated that he does this for his own house and has never had any complaints about it. Chairman Smith inquired as to how many acres Mr. Barnes had and was told 3.5 acres.

There was no one else to speak in opposition. During rebuttal, Mr. Bailey showed the Board some pictures of the area. He asked the Board to note that there was not any manure in the grass. He stated that he used it for the garden and spread it around in the garden. Mr. Bailey stated that he has never had any complaints before. He stated that he does pile the manure behind the barn. However, he removed it in the spring and spread it around. Mr. Bailey stated that he has a pool in the back yard and if there was a large amount of flies, he would be the first one to get rid of the horse. Mr. Bailey stated that he believed that the reason Mr. Carrol was concerned was because he had recently built a garage next to the side lot line. Mr. Bailey stated that he had checked into it and asked Mr. Carrol not to build up to the property line. He stated that was the main reason Mr. Carrol was before the Board today.

Chairman Smith inquired as to why the applicant did not think he had to comply with the Ordinance if he expected his neighbor to comply. Mr. Bailey stated that he did believe in complying with the Ordinance. However, his neighbor had built a permanent structure next to his property line which was different than a horse in a temporary building that could be changed very quickly. Mr. Yaremchuk stated that the neighbor's garage did not have anything to do with this variance.

Page 64, December 4, 1979
 HAROLD E. BAILEY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-295-79 by HAROLD E. BAILEY under Section 18-401 of the Zoning Ordinance to allow continued keeping of a horse on 1.1 acres (2 acres minimum for keeping of livestock required by Sect. 2-512) on property located at 11320 Henderson Road, tax map reference 95-2((3))2, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 4, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 1.095 acres.

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Barnes).

Page 64, December 4, 1979, Scheduled case for

11:30 A.M. ROBERT CLARK, appl. under Sect. 18-401 of the Ord. to allow horse barn to remain 13.3 ft. from side lot line (40 ft. min. side yard for such structure req. by Sect. 10-105), located 11825 Shady Mill Lane, Hidden Valley Subd., 36-1((8))1, Centreville Dist., R-E, 5.0 acres, V-296-79.

As the required notices were not in order, the Board deferred the hearing for a period of 60 days. The Board scheduled the matter for February 5, 1980 at 10:00 A.M.

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11:45 A.M. CONSTANCE L. GOLDBERG, appl. under Sect. 3-303 of the Ord. to permit operation of a home professional office (pediatrician) located 3814 Fort Hill Dr., Wilton Woods Subd., 82-4((28))7, Lee Dist., R-3, 14,733 sq. ft., S-297-79.

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Mr. Randy Lock of 437 N. Lee Street in Alexandria represented the applicant. He stated that the applicant, Mrs. Goldberg was a pediatrician. In response to questions from the Board as to where she was located at the present time, Mr. Lock stated that she did not practice anywhere. He stated that this home was her personal residence here she lives with her two small children. She wants to open up a part-time practice in her home.

Mrs. Goldberg informed the Board that she has remained at home since October 1978. She stated that she graduated from George Washington and had worked at Andrews Air Force Base as a full time staff pediatrician working in their clinic and the in-patient ward of the emergency ward. Mrs. Goldberg stated that she had tried to confine her hours to parttime work but the military was not convenient for parttime work. So she had made a decision to curtail her working hours to have time off to determine what she wanted to do. Mrs. Goldberg informed the Board that she has done a lot of work in child abuse and sexual abuse in Montgomery County and Prince Georges Hospital. She stated that many people have come to her to check their children and many parents have come to her with problems with their children. Mrs. Goldberg stated that at the end of many such calls, she decided to go through the proper channels to open a solo practice in her home. She stated that her children are 8 years old and 4 years old. She stated that she has been practicing what she preaches which was a family oriented relationship. She stated that she did not want to leave her children anymore. She wanted to be available to them as much as possible. Mrs. Goldberg stated that her daughter was in a preschool for 4 hours in the morning. She stated that she would be able to see patients for about three hours a day. Later when her daughter was in school fulltime, she could develop her practice further to a fulltime practice outside of her home somewhere nearby. Mrs. Goldberg stated that his special permit would allow her to set up a practice so that later she could go out on her own. She stated that many young people cannot afford the freedom to do this by themselves but indicated that she was fortunate to have a home and be able to work at home.

Mrs. Goldberg stated that she would make a small office and see routine pediatric patients in her home. She stated that if she put the office in the basement, it would not require too much change to the house. She stated that the economics of setting up a practice alone was very prohibitive. She stated that she did not believe a large practice was her calling. She stated that she wanted to fight at home. Mrs. Goldberg stated that she feels strongly that there is a need having had to provide many instances of medical advice to the residents. She stated that she wants her office only for the next two years and would only practice when her daughter was not at home. She informed the Board that she does not have the money to have someone cover the practice with her. She stated that she could provide immediate care and immediate house-calls. She stated that a true emergency could be by telephone or at the hospital. She indicated that she would not have any large equipment in her home or any drugs in the house. She indicated that she hoped to see up to 3 children per hour for 3 hours a day.

Ms. Ardis inquired if the applicant had read the staff report and wondered if she could comply with those requirements outlined in it. Mrs. Goldberg stated she had read it and would comply. Ms. Ardis inquired about the vehicle turn-around and the screening. Mrs. Goldberg stated that she would make room for the driveway.

Mr. Lock asked to make some additional comments to the Board. He emphasized that there would not be any outside changes whatsoever and no changes would be made to the garage. Chairman Smith stated that they were not allowed to make exterior changes. Mr. Lock stated that the nature of the practice would not create any problems. He stated that this property was located at the end of a cul-de-sac. He stated that he did not believe that the few patients would have any impact on the traffic. He presented the Board with a petition that was in support of the request. In addition, he presented the Board with letters from the neighbors on either side who were also in support of the request.

Mrs. Nancy Dupree of 3816 Fort Hill Drive spoke in support of the application. She informed the Board that she was the immediate neighbor. She stated that there was a need for this type of practice in the community. She stated that someone mentioned traffic but she did not believe there would be any problem at all. She stated that there would not be anyone on the street during the hours of operation. Mrs. Dupree stated that many people work and are gone all day. She stated that the number of patients would not create any traffic

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problem if they were established by a pattern. She stated that any emergency cases would go directly to the hospital. She informed the Board that this office would be a good use for the area.

There was no one else to speak in support of the application. Mr. Gene Key of 3815 Fort Hill Drive spoke in opposition. He stated that he was opposed and had a petition signed by 32 residents who would be affected by this application. Of the total number of signatures, 24 were on Fort Hill Drive, three on Pinebrook and five on Telegraph Road. The justification for the denial was based on the increase in traffic and street parking which would result in more accidents and risk to the area children. Since the property was at the end of the cul-de-sac, traffic would be travelling down the entire length of the street. There was a steep incline with poor visibility to the cul-de-sac. The property values would decrease. Mr. Key stated that a new home had just been completed in the area at \$265,000. The use would establish a precedent. He was also concerned since there were three other medical doctors on the street. In addition, there were several lawyers. He stated that any or all of them could believe that they had justification for a home professional office if this was granted. He stated that he was aware that each case was considered on its own merits but there would be the argument of equal treatment. He stated that the addition of a circular driveway would make this an office site rather than a residential site.

Mr. Key presented the Board with a sketch of the street and its intersection with Pinebrook and Telegraph. The houses were marked in red where the people opposing the use resided. The star was the proposed location of the office. Mr. Key stated that they felt it would be difficult for Mrs. Goldberg to open an office without upsetting the stability of the area.

The next speaker in opposition was Mr. Don Gregory of 3711 Fort Hill Drive. He stated that he was opposed and his two basic reasons were the traffic. He stated that this area was completely residential and the office would change the character of the area. He stated that he was opposed to any deviation from the residential character in this area.

The next speaker in opposition was Howard Henn of 3801 Fort Hill Drive. He stated that he wanted to reinforce the previous remarks. He stated that he had signed the petition in opposition as he was concerned about the precedent and the fact that the area was all comprised of professional people.

The next speaker in opposition was Mrs. Sherwood who stated that she had lived in the area for 11½ years. She stated that she worked and she concurred with everything stated previously.

During rebuttal, Mr. Lock stated that he would like the Board to question the witnesses as to what extent they had outlined the proposal when they were seeking signatures on the petition. Chairman Smith stated he would not get into that as the petition stood on its merit. Ms. Ardis stated that the wording of the petition would be examined by the Board. Mr. Lock stated that one witness had indicated that the traffic would become worse if Mrs. Goldberg expanded her office. Mr. Lock stated that Mrs. Goldberg had informed the Board that she would move her office if she expanded. He stated that she would not object to that being made a part of the conditions if the Board desired.

With respect to a precedent being set, Mr. Lock stated that all of the doctors and lawyers have offices downtown. If anyone contemplated having an office at home, the Board would consider it on its own merits. Mr. Lock stated that Mrs. Goldberg has two small children. Her husband is a lawyer. She would like to continue her calling and care for her children as well.

Mr. Yaremchuk inquired as to where the patients would park when they came to the office. Mrs. Goldberg stated that they would park in her driveway. She stated that her employee would walk to work. She stated that she wanted this office very much. She stated that if she was happy with the private practice and had a reasonable number of patients, she would move her office in about two years. Mr. Lock stated that the property values would not diminish.

Mrs. Kelsey reminded the Board that the Planning Commission had pulled the application and scheduled it for hearing on Thursday, December 6, 1979. Chairman Smith stated that the Board had indicated that they would hear the case but defer the decision as long as it was not longer than a week or so. Mr. Yaremchuk moved that the Board defer the application pending the Planning Commission recommendation. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 (Mr. Digiulian being absent).

The Board scheduled the application for decision on December 11, 1979 prior to the calling of the 10 o'clock case.

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12:00 BHP ASSOC. LIMITED PARTNERSHIP, appl. under Sect. 5-503 of the Ord.
NOON to allow operation of a veterinary hospital, located 77-1((3))part
of 64, Burke Centre Subd., I-5, 0.97636 acres, S-298-79.

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Mr. John T. Hazel, an attorney in Fairfax, stated that he was a partner and a property owner in this application. He represented the clinic which would be located on the site. He stated that the request was a very routine one. The I-5 property was bordered on the north by the Southern Railroad and the Burke planned residential community. He stated that the Burke Centre Parkway was located just around the bend from the subject property. In addition, the area in between was the shopping center which was presently under construction. Mr. Hazel stated that this would be a commercial use in the planned residential community. He stated that the veterinary hospital would be located here and that it was a routine request to allow the structure to be built.

In response to questions from the Board, Mr. Hazel stated that the proposed building would be 67 x 38. The architecture would be brick with a flat roof and have mansard details. The hours of operation would be 8 A.M. to 9 P.M., Monday through Saturday. Mr. Hazel stated that in a clinic there was an occasional need to respond to emergencies that take place after hours.

Mr. Barnes inquired if this was for small animals. Mr. Hazel assured him it was and stated there was no horse issue involved in this application. Mr. Hazel stated that this clinic was the same one as located at Pender operated by Mr. Johnson. Mr. Hazel stated that they treat all of his dogs. He stated that each of his children felt they were entitled to their own dog.

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

Page 67, December 4, 1979 Board of Zoning Appeals
BHP ASSOC. LIMITED PARTNERSHIP

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-298-79 by BHP ASSOCIATES, LIMITED PARTNERSHIP under Section 5-503 of the Fairfax County Zoning Ordinance to permit operation of a veterinary hospital on property located at tax map reference 77-1((3))part of 64, 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 4, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is I-5.
3. That the area of the lot is 0.97636 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

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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 employees shall be three to six with a maximum of three employees at any one time.

8. The hours of operation shall be 8 A.M. to 9 P.M., Monday through Saturday.

Mr. Barnes seconded the motion.

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

Page 68, December 4, 1979, Scheduled case for

12:15 P.M. KENNETH & BERNICE MORELAND, appl. under Sect. 18-401 of the Ord. to allow subd. into lots with proposed lot #8 having 20 ft. width (100 ft. min. lot width req. by Sect. 3-206), located 9714 Old Mill Rd., Springfield Lake Farms Subd., 88-1((2))9, Springfield Dist., 5.37687 acres, R-2, V-271-79.
(Deferred from November 6, 1979 for Notices.)

Mr. Moreland informed the Board that a variance had been granted previously for this subdivision. However, they had encountered delays with the trails and had failed to request an extension of time on the variance. At the last hearing, the Planning Commission had recommended that no entrance be made from Old Keene Mill Road. In order to comply with that request, one of the proposed lots would need a variance. Mr. Moreland stated that all of the lots are 1/2 acre or larger. The land surrounding the proposed subdivision are 1/2 acre lots. Mr. Moreland stated that they have complied with all of the County requirements and asked for approval of the variance.

Mr. Barnes inquired if this request was exactly the same as the previously approved variance request and was assured that it was. Mr. Yaremchuk inquired as to which of the 8 lots needed the variance and was informed it was lot 8. Lot 1 had frontage on Old Keene Mill Road.

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

Page 68, December 4, 1979
KENNETH & BERNICE MORELAND

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-271-79 by KENNETH & BERNICE MORELAND under Section 18-401 of the Zoning Ordinance to allow subdivision into 10 lots with proposed lot #8 having 20 ft. width (100 ft. minimum lot width required by Sect. 3-206) on property located at 9714 Old Mill Road, tax map reference 88-1((2))9, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 4, 1979; and deferred from November 6, 1979 for notices; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 5.37687 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:

R E S O L U T I O N

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

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

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

Mr. Barnes seconded the motion.

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

Page 69, December 4, 1979, Scheduled case for

12:30 P.M. WALDEN GLEN SWIM CLUB, INC., appl. under Sect. 8-4000 of the Ord. to amend special permit (S-85-74) for community recreation facilities, to permit reduction of parking space from 103 to 44 and construction of two tennis courts & wood deck, located 6126 & 6129 Harmon Pl., Cardinal Forrest Subd., Springfield Dist., 79-4((9))90, 91 pt., 14 P, 78,822 sq. ft., PRC, S-274-79. (Deferred from November 6, 1979 for Notices.)

The required notices were in order. Mr. John Campbell of Mill Drive, President of the Walden Glen Swim Club stated that the changes they have in mind were necessary for two reasons. One was to provide for a higher level of recreational activity in the community and to provide a recreational center which was more to the needs of the community and the club. He stated that Walden Glen has grown older and there is not as many children in the area. The people moving into the community do not have as many children. Mr. Campbell stated that their new plans are to build two tennis courts and to build a wooden deck adjacent to the club. These improvements would meet the general needs of the support of the club. He stated that this was not a new plan as they had discussed this over the year.

With respect to the parking reduction, the decreased number would more than meet the needs of the club. He stated that the club has run a vehicle check and very rarely does the parking exceed 30 vehicles. The biggest usage was on Sunday.

The following persons spoke in support of the application. Mr. David Johnson responded to questions from the Board and informed the Board that the club had withdrawn its request for tennis courts in 1978 as there was a misunderstanding over the position of the courts. There was some discussion about the parking at that time. He informed the Board that the club has full control of the parking.

Pearly Eaton of 6104 Harmon Place stated that one problem was there was a large number of people parking in the cul-de-sac next to the pool. The members were aware of the situation with respect to the special permit. He stated that the members were notified that it was illegal and the staff was instructed to encourage the members to park in the club lot. She stated that they have policed the area and gotten rid of the problem with the parking. One of the landowners who had objected previously to the parking attended the BZA hearing.

Chairman Smith inquired as to what the club planned to use the wooden deck for. Mr. Covington inquired about the setback for the tennis courts. Mr. Johnson stated that the tennis courts were set back 5 ft. from the property line to the edge of the courts. The courts were next to the buffered area that cannot be developed. The land was held in trust by Barbara Fried. Mr. Covington stated that the zone was PRC which required 16 ft. setback for dwellings. He stated that the tennis courts were allowed under the zone. He stated that the club was only required to have 32 parking spaces. Mr. Yaremchuk stated that the plan showed 44 spaces so the club would have adequate parking.

Mr. Johnson presented the Board with a letter of support from Mr. Furley. It was placed in the record. In addition, there was a letter from Supervisor Travesky. Chairman Smith inquired about the sun deck. Mr. Johnson stated that it would be used for picnics. At present, the area is all dirt and grass.

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Mr. Yaremchuk inquired as to the hours of operation and was informed they operated from 11 A.M. to 9 A.M. and on Sundays from 12 Noon to 9 P.M.

There was no one else to speak.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-274-79 by WALDEN GLEN SWIM CLUB, INC. under Section 8-400 of the Fairfax County Zoning Ordinance to amend special permit S-85-74 for community recreation facilities to permit reduction of parking space from 103 to 44 and construction of two tennis courts and wood deck on property located at 6126 & 6129 Harmon Place, tax map reference 79-4((9)90, 91 & part of 14P, 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 4, 1979 and deferred from November 13, 1979 for notices; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is PRC.
3. That the area of the lot is 78,822 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place of the property 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 300 families.
8. The hours of operation shall be 11:00 A.M. to 9:00 P.M.
9. The number of parking spaces shall be 44.
10. Unless otherwise qualified herein, extended hours for parties or other activities of outdoor community swim clubs or recreation associations shall be governed by the following:
 - (A) Limited to six (6) per season.
 - (B) Limited to Friday, Saturday and pre-holiday evenings.
 - (C) Shall not extend beyond 12:00 midnight.
 - (D) Shall request at least 10 days in advance and receive prior written permission from the Zoning Administrator for each individual party.

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(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-hours 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. All other conditions of S-85-74 not altered by this resolution shall remain in effect.

Mr. Barnes seconded the motion.

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

Page 71, December 4, 1979, Scheduled case for

12:45 P.M. CHARLES W. BESLEY & CLARENCE E. SISSON, appl. under Sect. 18-401 of the Ord. to allow subd. into six (6) lots with proposed lots 5 & 6 each having a width of 6.00 ft. (100 ft. min. lot width req. by Sect. 3-206), located 10333 Zion Dr., 68-4((1))54, Springfield Dist., R-2, 3.57 acres, V-282-79. (Deferred from November 20, 1979 for report from Preliminary Engineering).

Chairman Smith announced that the Board was in receipt of the requested report from Preliminary Engineering and read it into the record. Mr. William Gordon represented the applicants. He stated that they had the option of constructing separate driveways. The County was requesting that instead of separate driveways, that they limit the number of access onto Zion Drive and have a common driveway. He stated that he had to agree with Design Review. Chairman Smith stated that the Board would need a revised plat to show the new access. Mr. Gordon stated that the plat would be the same as it does not show the driveway. He stated that the pipestem was shown correctly. The easement would be different. Chairman Smith stated that the Board should have corrected plats in accordance with the recommendation from Preliminary Engineering. He stated that he wanted correct plats in the file. Mr. Gordon stated that the driveway was not shown on the plat; only the width of the pipestem. Chairman Smith stated that the width of the pipestem would be different. Mr. Gordon stated that the width of the pipestem would remain the same. Only the easement would be different. Chairman Smith stated that the recorded plats would be different than the ones shown to the Board. Mr. Gordon stated that they would be the same. Chairman Smith stated that if the plat submitted to the Board met with Site Plan's recommendation, then he would not quarrel with it.

Page 71, December 4, 1979
CHARLES W. BESLEY & CLARENCE E. SISSON

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-282-79 by CHARLES W. BESLEY & CLARENCE E. SISSON under Section 18-401 of the Zoning Ordinance to allow subdivision into six lots with proposed lots 5 & 6 each having a width of 6 ft. (100 ft. minimum lot width required by Sect. 3-206) on property located at 10333 Zion Drive, tax map reference 68-4((1))54, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 4, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 3.57 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. This approval is restricted to lots 1, 2, 5 & 6 having vehicular access restricted to the proposed single pipestem as shown on the plat.

Mr. Barnes seconded the motion.

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

Page 72, December 4, 1979, After Agenda Item

First Church of Christ, S-313-79: The Board was in receipt of a memorandum from the Planning Commission pulling the special permit application of the First Church of Christ. Chairman Smith stated that the Board would take the memo under advisement and after having heard the case, the Board would make a decision whether to defer the decision until the 10th of January until after the Planning Commission hearing.

// There being no further business, the Board adjourned at 2:20 P.M.

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

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

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

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 11, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

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

The Chairman called the deferred case scheduled for 9:50 A.M.

9:50 A.M. CONSTANCE L. GOLDBERG, appl. under Sect. 3-303 of the Ord. to permit operation of a home professional office (pediatrician), located 3814 Fort Hill Dr., Wilton Woods Subd., 82-4((28))7, Lee Dist., R-3, 14,733 sq. ft., S-297-79. (Deferred from December 4, 1979 for decision of full Board and for Planning Commission's recommendation.)

Chairman Smith announced that the Planning Commission recommended denial of the special permit application. The applicant was asking for a maximum of 9 to 12 patients per day with a total of 3 patients per hour operating Monday through Friday. In response to questions from the Board with respect to the parking, Ms. Goldberg stated that it had been suggested that she make a turn around facility for the parking. She stated that there would not be any more than two cars in her driveway. She stated that she was willing to make a turn around available. Chairman Smith stated that he would object to backing out of the driveway with this type of use.

There were no more questions from the Board.

Page 73, December 11, 1979 Board of Zoning Appeals
CONSTANCE L. GOLDBERG

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-297-79 by CONSTANCE L. GOLDBERG under Section 3-303 of the Fairfax County Zoning Ordinance to permit the operation of a home professional office (pediatrician) on property located at 2814 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 December 11, 1979; and deferred from December 4, 1979 for decision of full Board and receipt of Planning Commission's recommendation; 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 14,733 sq. ft.
- 4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

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It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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

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

6. Landscaping and screening 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.

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 two years.

10. A vehicle turn-around area shall be provided on site.

11. Landscaping as determined by the Director of Department of Environmental Management to be provided to soften the visual impact of the turnaround area.

Mr. Barnes seconded the motion.

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

Page 74, December 11, 1979, Scheduled case for

10:00 GEORGE M. KOMAR, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of detached garage 15 ft. high to 8 ft. from side lot line and 10 ft. from rear lot line (20 ft. min. side yard and 15 ft. min. setback from rear lot line req. by Sect. 3-107 & 10-105), located 9603 Bel Glade St., Floyd Park Subd., 48-3((17))9 Providence Dist., R-1, 21,7824 sq. ft., V-299-79.

Mr. George Komar of 9603 Bel Glade Street stated that he was seeking a variance because if he had to comply with the required standards, he would have to put the garage too far into the yard. In addition, the garage would prevent the construction of a pool in the future. Mr. Komar stated that they would also have to take down several large trees. He informed the Board that this was an old subdivision being 20 years old. He stated that the other lots have similar garages and his request would be in keeping with the community.

In response to questions from the Board, Mr. Komar stated that he has owned the property for 1 1/2 years. Chairman Smith inquired as to why the garage would not meet the side lot line restrictions and was informed it was because of the large trees. Chairman Smith stated that was not a topographic reason. Mr. Komar stated that he had approached the neighbors and they approve the variance. Chairman Smith stated that the applicant was seeking a 12 ft. variance from the side lot line. He inquired as to why the applicant could not move the building over 7 ft. and be 15 ft. from the side yard. Mr. Komar stated that if he moved the building it would infringe on an area to be used for an inground pool which was to be constructed at a later date and it would also necessitate the removal of some large trees.

Mr. DiGiulian inquired if the location of the existing deck and well would cause a problem if the building were moved over 20 ft. Mr. Komar stated that it would make it quite difficult. Mr. DiGiulian noted that the staff report indicated that the lot was substandard. Mr. Covington stated that the lot was substandard in area and in width. Mr. Komar stated that his property was zoned R-1 but the lot was only a 1/2 acre. Chairman Smith stated that the lots were developed in 1/2 acre because it was allowed at that time.

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

Page 74, December 11, 1979
GEORGE M. KOMAR

R E S O L U T I O N

In Application No. V-299-79 by GEORGE M. KOMAR under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 15 ft. high to 8 ft. from side lot line and 10 ft. from rear lot line (20 ft. minimum side yard and 15 ft. minimum setback from rear lot line required by Sect. 3-107 and 10-105)

R E S O L U T I O N

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on property located at 9603 Bel Glade St., tax map reference 48-3((17))9, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 11, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 21,7824 sq. ft.
4. That the applicant's property is a substandard lot and hardship in getting around deck and well at rear with driveway.

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

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

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

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

Mr. Yaremchuk seconded the motion.

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

Page 75, December 11, 1979, Scheduled case for

10:10 VINCENT A. & BERNICE GAEGLER, appl. under Sect. 18-401 of the
A.M. Ord. to allow construction of a dwelling to 8 ft. from each
side of property line (15 ft. min. side yard req. by Sect.
3-207), located 1855 Massachusetts Ave., Franklin Park Subd.,
41-1((13))(1)D, Dranesville Dist., R-2, 10,748 sq. ft.,
V-204-79.

As the required notices were not in order, the Board deferred the application until January 15, 1980 at 10:50 A.M.

//

Page 75, December 11, 1979, Scheduled case for

10:20 GERALD A. DUNN, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of addition to dwelling to side lot line (12 ft.
min. side yard req. by Sect. 3-307), located 3357 Gallows Rd.,
Holmes Run Subd., 59-2((6))(1)2, Providence Dist., R-3, 10,348
sq. ft., V-206-79.

Mr. Dunn of 3357 Gallows Road informed the Board that he was requesting a variance as he had no other reasonable alternative to construct a sun porch onto the living room area. There was a carport on the other side of the house. All of the utilities would have to be moved. He informed the Board that he was only requesting a variance for one corner of the addition. The house was situated at an angle and only one corner extended into the required setback area. He stated that if the structure were open, he would be able to build without a variance. He stated that what he proposed was a screened porch. Mr. Dunn stated that he had talked to all of his neighbors. Of the four nearest neighbors, three do not object to the request.

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

R E S O L U T I O N

In Application No. V-206-79 by GERALD A. DUNN under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.8 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 3357 Gallows Road, tax map reference 59-2((6))(1)2, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 11, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 10,348 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

This motion passed by a vote of 5 to 0.

10:30 A.M. MICHAEL JOHN MATHESON, appl. under Sect. 18-401 of the Ord. to allow construction of a deck addition to dwelling to 16.5 ft. from rear lot line (19 ft. min. rear yard req. by Sect. 3-307 & 2-412), located 6726 Pine Creek Ct., The Crosswoods Subd., 40-2((35))27, Dranesville Dist., R-3, 11,036 sq. ft., V-207-79.

Mr. Michael John Matheson of 6726 Pine Creek Court informed the Board that he had an unusual topographic condition in his back yard. He stated that his lot was located at the back of a cul-de-sac surrounded by County parkland. The park has a very steep drop of about 15 ft. As a result, the rear area was very narrow and very unsafe for young children. Mr. Matheson stated that he wanted to construct a large deck to make the rear yard usable. The deck would be safe for children. He stated that he had talked to his neighbors and they are in support of this request. He stated that he backed up to the parkland. The deck would be an open wooden structure.

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

R E S O L U T I O N

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In Application No. V-307-79 by MICHAEL JOHN MATHESON under Section 18-401 of the Zoning Ordinance to allow construction of a deck addition to dwelling to 16.5 ft. from rear lot line (19 ft. minimum rear yard required by Sect. 3-307) and 2-412) on property located at 6726 Pine Creek Court, tax map reference 40-2((35))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 all the requirements of all applicable State and County Codes and with the by-laws of 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 11, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 11,026 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Yaremchuk seconded the motion.

This motion passed by a vote of 5 to 0.

Page 77, December 11, 1979, Scheduled case for

11:00 WILLIS & VAN METRE, appl. under Sect. 3-2003 of the Ord. to
A.M. convert privately owned pool and other recreational facilities
to commercial facilities by allowing their use to nearby town-
house residents, located 2722 Arlington Blvd., 93-3((1))5,
Mt. Vernon Dist., R-20, 2.88005 acres, S-300-79.

Mr. Mike Giguere of Boothe, Prichard & Dudley, represented the applicant. He informed the Board that Willis & Van Metre owned the Mt. Vernon Square Apartments and townhouses. The swimming pool was located near the townhouses. The pool had been servicing families in the area for a number of years and has had no adverse effect. Mr. Giguere stated that the pool was requesting an expansion of the use in order that the townhomes built by Willis & Van Metre also be allowed to use the pool. He stated that it was not a commercial use. Mr. Giguere stated that because the additional users were within walking distance, it would not have any adverse impact on the parking situation.

Chairman Smith stated that there were a few requirements that this application did not meet. Chairman Smith inquired if he was correct in that this application meets the intent of the Ordinance although not the requirements. Mr. Covington stated it was explained in the staff report. Chairman Smith inquired about the parking and was informed by Mr. Covington that the pool was within walking distance. Chairman Smith inquired as to the number of families in the apartment complex and was informed there were 387 apartments. Chairman Smith stated that that sounded like a very heavy use just from the apartments.

Mr. DiGiulian stated that the staff report indicated that this was an application to convert from a privately owned to a commercial facility as they want to add the people from the townhouses. He inquired if there would be a fee.

Page 78, December 11, 1979
 WILLS & VAN METRE
 (continued)

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Mr. Giguere stated that a fee would be charged solely to cover the operating costs. This fee would apply to every homeowner. Mr. DiGiulian inquired if there was a fee charged to the apartment dwellers and was told it was already included in the rent.

Chairman Smith stated that if Wills & Van Metre sell memberships, then the apartments would not have any control over it. Mr. Giguere stated that the pool would be primarily operated by Wills & Van Metre. Mr. Covington stated that the pool was an accessory use for the apartments.

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

Page 78, December 11, 1979
 WILLS & VAN METRE

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-300-79 by WILLS & VAN METRE, under Section 3-2003 of the Fairfax County Zoning Ordinance to convert privately owned pool and other recreational facilities to commercial recreational facilities by allowing their use by nearby townhouse residents, on property located at 2722 Arlington Drive, tax map reference 93-3(1)15, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 11, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-20.
3. That the area of the lot is 2.88005 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of this condition 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 during summer season shall be 11:00 A.M. to 9:00 P.M., seven days a week.
8. This permit is granted for a period of 5 years.

Mr. DiGiulian seconded the motion.

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

Page 79, December 11, 1979, After Agenda Items

Mr. Ahari: The Board was in receipt of a request from Mr. Richard Schoppet, an architect, requesting an out-of-turn hearing for the variance application of Mr. Ahari. The Board granted the request and scheduled the application for January 22, 1980.

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Page 79, December 11, 1979, After Agenda Items

Peter Klaassen: The Board was in receipt of a request from Mr. Peter Klaassen to remove the fencing requirements on one property line since he had purchased the adjoining property and, instead, to extend the fence along the rear property line. This fencing arrangement had been approved by Mrs. Gruetter and the Gruetters had disposed of their court case against Mr. Klaassen. It was the consensus of the Board that a revised site plan would have to be submitted to Site Plan Control and approved by them before the BZA would accept or approve the plat.

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Page 79, December 11, 1979, Recess

The Board recessed for a few minutes and returned to continue with the scheduled agenda.

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Page 79, December 11, 1979, Scheduled case for

11:15 ELWYNNE & GARLAND GODLOVE, appl. under Sect. 3-403 of the Ord. to
A.M. allow family day care home for max. of 9 children, located 2906
Lawrence Dr., Fenwick Park Subd., 50-3((15))138,*R-4, 9,453 sq. ft.,
S-301-79.*Providence Dist.

Ms. Godlove of Falls Church informed the Board that she has been a child care provider for 14 years. In the past, she has not cared for that many children. At the present time, Ms. Godlove stated that she has six children, with three coming to her after school making a total of nine children. The three after school children do not count on the Virginia State licensing requirements because they are only at her home for four hours or less a day.

Chairman Smith stated that the applicant has six all day and three part-time children. Ms. Godlove stated that was correct. Chairman Smith noted that one of the problems was that the applicant did not meet the Ordinance requirements as far as delivery of the children. Ms. Godlove stated that there was room for four cars. She stated that the children do not all arrive at the same time. There are two spaces in the front of the house. In response to questions from the Board, Ms. Godlove stated that she has kept children for 14 years. One child has been coming to her for 12 years and two girls have been coming for six years. She stated that she also has two social service children from the County.

There was no one else to speak in favor of the application. The following persons spoke in opposition. Mr. George A. Freeman of 2856 Lawrence Drive in Falls Church informed the Board that he knew Mrs. Godlove has been keeping children over the years. He stated that he was sure that she enjoyed doing it. Mr. Freeman stated he did not object to the children but to the fact that the area was single family houses. He stated that he has lived at his home since 1927. He stated that his biggest concern was that she has been doing this all these years and now is required to get a license. He stated that the granting of the special permit would open the door to commercial in the area. He stated that there was nothing to say that the house was to be used for this purpose. The covenants do not allow anything but a single family dwelling use. He stated that he has a concern in this respect because he does not want the area to become commercialized.

Chairman Smith informed Mr. Freeman that the special permit would not change the zoning. It would be granted to the applicant only and was not transferable. It would not change the use from residential to any other type of use. It would just be a special permit to allow the applicant to keep the number of children that she was asking for. Mr. Freeman inquired if this was a new law and Mr. Covington stated that she was allowed to keep up to four children by right. Mr. Freeman stated that she was expanding now. Chairman Smith stated that the maximum number she was asking for was nine children. He stated that she would not be allowed to keep more than nine children at any one time on the premises. Mr. Freeman stated that when something like this is allowed, it opens the door to other things. Chairman Smith stated that the applicant has

to live there. Any changes that take place would have to be approved by the BZA. Mr. Freeman stated that he hoped the Board give some consideration to his statements because he was concerned about this being a single family area. He stated that was his primary concern.

The next speaker was Mr. Everett H. Lipp of 2922 Lawrence Drive who was opposed to the school because he believed it would weaken the residential status of the community. In addition, the street was very narrow and parking would be a hazard. He stated that Lawrence Drive was used by fire trucks and they could hardly get through now. Any additional parking would be a burden and a safety hazard.

During rebuttal, Mrs. Godlove stated that her driveway would permit four cars to enter and park. She stated that the parents do use the driveway. No one blocks the street. She stated that she has been doing this for 14 years. She stated that this was not a school. Ms. Godlove stated that parents beg her to take care of their child. She stated that both parents have to work in this County and there was not enough licensed day homes in Fairfax County. She stated that she has attended all of the classes given by the County and wants to continue her learning about babies. She stated that there are not day care homes for babies in Fairfax County. She stated that you can't put a baby in a day care center. Ms. Godlove stated that she charged a very small fee as she felt that the young parents need someone to take care of their children.

Mr. Yaremchuk inquired of Mr. Covington as to why Ms. Godlove was before the Board if she has been doing this for years. Mr. Covington stated that a permit was required now for more than five children. Chairman Smith stated that there would be a lot of times when the children were ill and the applicant would not have that many there at one time. He stated that there was a great need for day care and it was quite a problem in Fairfax County. Mr. Yaremchuk inquired as to the fee charged. Ms. Godlove stated that most people charge \$50 to \$60 a week for nine hours a day. However, she stated that she charged \$40 a week. If the child was on babyfood and milk, she asked for an extra \$10 a month. She stated that she supplies Pampers and saves the parents the expense. Mr. Yaremchuk inquired if the people were from her area and was told they were. Mr. Yaremchuk agreed that there was a need for this service.

Chairman Smith stated that the only thing that concerned him was the turn-around for the vehicles. He stated that it bothered him that the applicant does not have it and the parents would have to back out. Mrs. Godlove stated that most of the fathers back the car in to let the children out. She stated that in 14 years, there has never been an accident. Chairman Smith stated that the applicant was providing a very valuable service. He inquired if there was a violation notice on this since the applicant had been doing it for 14 years. He wondered as to why she was before the Board. Mrs. Godlove stated that her case worker had talked to her and convinced her that if she kept more than five children he would have to have a state license. She stated that she has passed the Fire Marshal inspection and the Environmental Management part of zoning. Chairman Smith inquired if Mrs. Godlove had ever had any complaints from the neighbors. Mrs. Godlove stated that she was very pleased as ten letters had gone out to her neighbors and not one of the ten people had come to the hearing to complain. She stated that they were the people who would be involved with the traffic and the noise. She stated that this was not a commercial use. She stated that she has six bedrooms and a large yard for the children to play in.

Mr. Lipp inquired as to why people could not utilize the churches and the nursery schools for child care. Chairman Smith stated that these places perhaps do not have room for infants. He stated that many nursery schools only take children two years and up.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-201-79 by ELWYNNE & GARLAND GODLOVE under Section 3-403 of the Zoning Ordinance of Fairfax County to allow family day care home for maximum of nine (9) children, on property located at 2906 Lawrence Drive, tax map reference 50-3((15))138, 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 11, 1979; and

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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-4.
3. That the area of the lot is 9,453 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

Mr. Barnes seconded the motion.

This motion passed by a vote of 5 to 0.

Page 81, December 11, 1979, Scheduled case for

11:30 A.M. TRINITY PRESCHOOL, INC., appl. under Sect. 3-203 of the Ord. to permit continued operation of preschool for max. of 34 children, with change in name of permittee and change in hours of operation to 9:15 A.M. to 12:15 P.M., located 1205 Dolley Madison Blvd., 30-2((1))39, Dranesville Dist., R-2, 7.308 acres, S-302-79.

Mr. James Boylan, an attorney in McLean, represented the applicant. He stated that they were requesting to change the name from Trinity Cooperative to Trinity Pre-School, Inc. The type of operation would be for children between the ages of 3 to 6. He stated that this request was only for a change in name. The school operates at the Trinity Methodist Church in McLean. The previously granted special permit was for 34 children and he was requesting that the number be renewed. He stated that they hoped to increase that to a higher level at a later date. There was only one paid employee at the present time. The parents of the cooperative participated in the activities of the school but there was only one paid employee. The hours of operation are from 9 A.M. to Noon. The use permit was granted for a three year period.

Chairman Smith stated that this was really a new permit because the preschool did not have a permit. Mr. Boylan stated that Trinity Preschool had a change in directors and they did not follow up on the permit. Chairman Smith inquired as to the type of lease they had with the church. Mr. Boylan stated

that he had a memo signed by the Pastor wherein Trinity Preschool, Inc. would pay \$100 a month for the use of the church. Chairman Smith stated that was just for the utilities and the heat and was not rent. He stated that would not even cover the electric bill. Mr. DiGiulian inquired as to the usual length of time for granting special permits for schools. Chairman Smith stated that it was three and three. Mr. Boylan stated that last special permit had been granted for a period of three years with one extension making a total of four years. Chairman Smith inquired if the applicant wanted to renew the permit every year. Mr. Boylan referred the matter to the President of the corporation. He stated that the use has been going on since 1956. He stated that they would want the special permit for as long as possible since it has been there since 1956. In response to further questions from the Board, Mr. Boylan stated that the ages of the children were from 3 to 6 with a total enrollment of 34 children.

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

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-203-79 by TRINITY PRESCHOOL, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to permit continued operation of preschool for maximum of 34 children with change in name of permittee and change in hours of operation on property located at 1205 Dolley Madison Blvd., tax map reference 30-2(1)39, 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 11, 1979; and

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

1. That the applicant is the lessee.
2. That the present zoning is R-2.
3. That the area of the lot is 7.308 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

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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 maximum number of students shall be 34, ages 3 to 6 years.

8. The hours of operation shall be 9:15 A.M. to 12:15 P.M.

9. All other requirements of S-129-72 shall remain in effect.

10. This special permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one year extensions.

Mr. Yaremchuk seconded the motion.

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

Page 83, December 11, 1979, Scheduled case for

11:45 MARY LASLEY, appl. under Sect. 3-203 of the Ord. to permit operation
A.M. of infant child care center, located 10504 Oak Place, Fairfax Acres, Subd., 47-4((3))42, Providence Dist., R-2, 23,518 sq. ft., S-303-79.

Ms. Mary Lasley of Fairfax thanked the Board for the opportunity to present her request. She stated that for the past three years she has been looking for a place to adapt for a child care center. She stated that she has been unable to locate one and had decided to build her own structure. She stated that the proposed location was one that she has been considering for quite some time. It was located off of Rt. 66 in the middle of a neighborhood which might cause some problems. She presented the Board with letters from the parents. She stated that she would build the facility in accordance with the County and State Codes. She stated she was building from the ground up. This facility would provide for infant child care.

Chairman Smith inquired if the applicant was now providing child care and was told she does it in her home. She stated that the proposed location was vacant land. She stated that she has a contract to purchase the property. In response to where she was presently operating, Ms. Lasley stated that she operates from her home at 3142 Seasmont Place in Herndon. Chairman Smith confirmed that the applicant was only going to open the child care center and not live there. Ms. Lasley replied that was her intent. With respect to the construction of the building, Ms. Lasley stated that it would be all concrete block with stucco or aluminum siding to finish it off or paint to make it compatible with the surrounding area. She stated that it would be a one-story building, 35 ft. by 58 ft. with a gable roof. She stated that she had submitted a photograph of the proposed structure for the file and that there was a projection of the building on the plats.

Mr. Yaremchuk inquired as to the length of time for the granting of the permit and asked Mr. Covington if five years with five one-year extensions would be reasonable. Mr. Covington stated that the applicant would have a hard time getting financing for the building if there was a time limitation. Chairman Smith stated that five years was the maximum. Ms. Lasley stated that she thought the permit could be granted indefinitely. Chairman Smith stated the permit would be to the applicant only.

Ms. Joyce Murphy spoke in favor of the application. She stated that Ms. Lasley keeps her son. Ms. Murphy stated that she had looked for a long time to find someone to care for her child. She stated that it was difficult to find someone to care for a child under the age of two years.

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

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-303-79 by MARY LASLEY under Section 3-203 of the Fairfax County Zoning Ordinance to permit operation of infant child care center on property located at 10504 Oak Place, tax map reference 47-4((3))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 December 11, 1979; and

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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 23,518 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only, and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children shall be 25.
8. The hours of operation shall be 7:00 A.M. to 6:00 P.M., Monday through Friday.
9. This permit is granted for an indefinite period.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 84, December 11, 1979, Recess

The Board recessed the meeting at noon for a period of five minutes. The Board reconvened the meeting at 12:05 P.M. to continue with the scheduled hearings.

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Page 84, December 11, 1979, Scheduled case for

12:00 RESTON HOMEOWNERS ASSOC., appl. under Sect. 3-103 of the Ord. to
 NOON allow community soccer field, located 11800 Sunrise Valley Dr.,
 11-3(1)8, Centreville Dist., R-1, 8.51 acres, S-305-79.

Mr. Richard Bonard of the Reston Land Association and the Reston Homeowners Association informed the Board that the subject area in question was to be used as a permanent soccer field. He stated that the area had not yet been zoned but it was covered by the Master Plan for PRC zoning. There were temporary fields in use there at the present time. A rezoning application was in the process to be heard in 1980. He stated that they had made a commitment to the people in Reston to have two fields ready for play at such time as the other fields are disturbed. Mr. Bonard showed the Board a map indicating where the fields would be located. The area to the east of the proposed site would be in for a rezoning in 1980. He stated that the use in question would be a permanent use and would become part of the planned community of Reston.

Mr. DiGiulian inquired if the applicant was aware of preliminary engineering comments that a standard deceleration lane be provided. Mr. Bonar stated that he was aware of the comment and had no objection. He stated that it would be taken care of. In response to the hours of operation, Mr. Bonar stated that it would be during daylight hours from about 9 A.M. to dusk. Chairman Smith stated that seemed a little early. Mr. DiGiulian stated that his sons' soccer teams begin at 8 A.M. Mr. Covington stated it would not be a problem because this was out in the boonies.

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

Page 85, December 11, 1979
RESTON HOMEOWNERS ASSOC.

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-305-79 by RESTON HOMEOWNERS ASSOC. under Section 3-103 of the Fairfax County Zoning Ordinance to allow community soccer field on property located at 11800 Sunrise Valley Drive, tax map reference 11-3(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 December 11, 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 8.51 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 8 A.M. until dark.
8. The number of parking spaces shall be 136.
9. A standard deceleration lane is to be provided on Reston Avenue.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

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Page 86, December 11, 1979, Scheduled case for

12:15 WINIFRED W. MAUSER & MARY L. SEIBERT, appl. under Sect. 18-401 of
P.M. the Ord. to allow 6 ft. high fence to remain in front yard (4 ft. maximum height req. by Sect. 10-105) located 7625 Webbwood Ct., North Springfield Subd., 79-2((2))(65)10G, Annandale Dist., 13,282 sq. ft., R-3, V-239-79.
(Deferred from October 16, 1979 for full Board and to have a fence contractor present. Further deferred from November 6, 1979 for subpoena of fence contractor.)

Chairman Smith inquired if the fence contractor was present. The Board was informed that Karen Harwood from the County Attorney's Office was in court.

Mr. DiGiulian commented with regard to the certified plats. He stated that the length of the house indicated 45 ft. but it scaled out to be 55 ft. He stated that there was not any setback shown on the plat from Long Pine Drive to the end of the house. Since the number shown on the plat did not match the house, he inquired if the applicant would check with the person certifying the plat.

The Board recessed the case until later in the day as the fence contractor was not present.

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Page 86, December 11, 1979, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes of January 17, 1979. The Minutes were unanimously approved as amended.

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Page 86, December 11, 1979, Scheduled case for

12:30 REALITY GOSPEL CHURCH, appl. under Sect. 3-103 of the Ord. to
P.M. allow addition in land area for parking for existing church, located 5937 Franconia Rd., 81-4((3))1A & 1B, Lee Dist., 3.666 ac., R-1 & R-2, S-269-79.
(Deferred from November 13, 1979 for notices and to allow advertising of variance.)

REALITY GOSPEL CHURCH, appl. under Sect. 18-401 of the Ord. to allow other than dustless surface for additional parking for existing church (dustless surface required by Sect. 11-102), located 5937 Franconia Rd., 81-4((3))1A & 1B, Lee Dist., 3.666 ac., R-1 & R-2, V-316-79.

Mr. Victor Ghent represented the applicants. He stated that the church was originally constructed in 1974. The new plats submitted showed the additional land acquired by the church. Mr. Ghent stated that at the time he did the plats, he was not aware that the entire piece of ground would come under the Ordinance since there was no permit from the BZA. The back of the church had some work performed on the driveway and the drainage by the Dept. of Public Works which was not reflected on the original plat. Mr. Ghent stated that the church acquired a parcel of ground with a house, a barn, etc. on it. They demolished all of the existing structures and gravelled the area. Two places had been left open covered with dirt. It was the intent of the church to cover these areas with shrubbery and plants. Mr. Ghent requested that the church be allowed to use this area for parking in its present status. He assured the Board that the church would put in the shrubbery. Mr. Ghent informed the Board that the gravelled area was used for overflow parking when the church has a big crowd at Christmas. Chairman Smith inquired as to the location of the existing parking. Mr. Ghent stated that it was on the as-built site plan and was a paved area.

Mr. DiGiulian inquired if there was ever a permit issued for the additional parking lot and was told there had not been. Mr. Ghent stated that the church had purchased the property and removed the structures and gravelled over the area. They did not change the grading. Mr. DiGiulian inquired as why the church could not put their overflow parking in the rear of the church. Mr. Ghent stated that the long range plan was for the church to have parking there. Public Works had put a storm sewer in back there and surplus dirt was left there.

Mr. Yaremchuk was concerned that the church had purchased the property and leveled the buildings without any kind of permit. He inquired as to how long the church had been parking there in violation of the Ordinance. Mr. Ghent stated he believed it had only been for a year. He indicated that the church was not aware of the restriction until the Zoning Inspector came by and informed them.

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There was no one else to speak in favor of the application. Mr. DiGiulian informed the Board that he had looked at the site and talked to Mrs. Lathem on the west side and Mr. Alexander on the other side. He stated that the fact that the parking was not paved was causing them some difficulty when the wind blows the dust across their property. Mr. DiGiulian stated that he was opposed to the granting of a variance to the dustless surface.

Chairman Smith stated that the Board could grant the additional land area and deny the request for the variance. Mr. DiGiulian stated that his other point was that Franconia Road was a heavily travelled road. He thought it would be better for the church to have all of the parking in the rear of the church.

Chairman Smith inquired if the church would want to withdraw the request for the parking since they were talking about putting in some additional parking in the rear. Mr. Yaremchuk stated that he was not inclined to vote for the additional land area since the church has been parking there in violation of the Ordinance. He stated that he lived on the Baldwin property, he would not want all of that dust right at his side yard. Mr. Yaremchuk stated that he was concerned about both applications, the dust and the use of the additional property.

Mr. DiGiulian inquired if the church was under a special permit at the present time. Chairman Smith stated they were not. Mr. DiGiulian stated that this would have a much bigger impact as proposed than when it was just a driveway.

Chairman Smith inquired if the applicant wanted some time to consider withdrawing the request or to have the parking reconsidered at a different location. Chairman Smith stated that they could revise the plats and move the parking to another location on the property as long as they did not exceed the number of parking spaces shown on the plats at the present time. Mr. Ghent stated that he did not know what the church would do with that piece of land. Mr. Ghent stated that in its present state, one of the things the parking did not do was create a drainage problem. He stated that an asphalt surface might do that. He stated that he had not examined it in that respect but in its present condition, the water was being absorbed into the ground. He indicated that he did not know what the church would do with the property. He stated that he had no objection to withdrawing the application as far as the dustless surface. However, he would have to get back with the church to update the plat to determine what the total parking was and to determine what the plans of the Department of Public Works were for the back of the property.

Mr. Yaremchuk stated that the Board could approve the additional land area. As to Mr. Ghent's comments as to what the church would do with the property, Mr. Yaremchuk stated that was not the Board's concern. He stated that the church had purchased the property and they could do what they want with it. Mr. Yaremchuk stated that if the Board approved the lot without dustless surface, some type of screening would have to be provided for the Baldwins to keep the lights from coming into their home. Chairman Smith stated that he believed the church would be required to put up a fence between the parking lot and the residential lot. Mr. Ghent stated that the Baldwins have an existing wire fence on their property. The church has put up a wooden fence in that area. Mr. Ghent assured the Board that the church has only been using that parking during daylight hours on Sundays on special occasions. He stated that there was plenty of parking around the church buildings. This parking was only an overflow lot.

Mr. DiGiulian stated that he did not know how you would enforce the overflow parking and keep it strictly for overflow. He stated it would be a lot easier for the people to come in off of Franconia Road and park in the front than to wind around in the back and it could easily become the major parking area.

Mr. Ghent asked the Board to allow him time to get back with the church to determine what they wanted to do with the applications.

Mr. L. P. Hoynacki of 6300 Villa Street spoke in opposition. He stated that his main objection was not to the parking situation in the front but the parking lot in the back. He stated that it seemed to be adequate. He stated that it has been disturbing to him for the last few years the way the property was being used. He indicated that the city dump looked better. He was concerned that if the church did not maintain the front parking lot any better than they did the back, he would be 100% opposed to it. Chairman Smith inquired as to what was wrong with the back parking lot. Mr. Loynacki stated that it looked like a city dump. Mr. Barnes inquired as to what was stored

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back there. Mr. Hoynacki stated that everyone dumps back there. There was asphalt, old tree stumps, mattresses and bedspreads and everything you could imagine. Mr. Yaremchuk stated that was against the Ordinance and stated that Mr. Covington should send an inspector out there to check it out. Mr. Hoynacki stated that the neighbors haul trash over there. He stated that the church graded off the front parking lot and put some chipped stone in there. He stated that if they did not do any better with the front than they did with the back, it would be an eyesore.

Chairman Smith inquired as to the length of time Mr. Ghent would need to work with the church. A date for the first week in February was discussed. Mr. Yaremchuk was condemned as the church was parking in the front lot in the meantime. Chairman Smith stated that he was not sure whether it was illegal for a church to have an overflow parking as long as they were not using it on a regular basis. Mr. Yaremchuk stated that if they were not illegal, they would not be before the BZA. Chairman Smith stated that the church was trying to get a waiver on the dustless surface. Mr. DiGiulian stated that if the front lot was only for overflow parking then everytime he has been by the site, the church has needed overflow parking. He stated that there are always cars parked in there. Chairman Smith stated that his concern about this turning out to be the major parking area was substantiated. Mr. Ghent stated that he would suggest to the church that they put up wire and signs to keep people from parking there unless the rear parking lot was full.

These applications were deferred until February 5, 1980 at 10:10 A.M.

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Page 88, December 11, 1979, After Agenda Items

James & Kim Wilkinson: Mr. Robert Lawrence appeared on behalf of Mr. and Mrs. Wilkinson to request the Board to hold a rehearing on their variance application. The variance had been granted in part by the Board on November 20, 1979. Mrs. Wilkinson had the consent of all her neighbors and was not aware of any problems. Mr. Lawrence stated that because Mrs. Wilkinson did not anticipate any difficulty, she had requested to build a 20 ft. garage. There was no opposition. Chairman Smith stated that the Board does not grant variances on that basis. Mr. Lawrence stated that the Wilkinsons do need a 20 ft. garage. He stated that it was not ideal but it would keep the cars out of the weather. He stated that the problem with the breezeway was that the lot was unusual. The setbacks for this lot were different from any other lot in the subdivision. Chairman Smith stated that there were only 13 lots in the subdivision and they all met the setback requirements. Mr. Lawrence stated that the usual condition for the Wilkinson's lot was that it was sided on three sides by streets. There was a sanitary sewer in the front yard which forced the builder to place the structure to the rear of the lot. Chairman Smith stated that all of that testimony could have been presented at the time of the original hearing. Mr. Lawrence stated that Mrs. Wilkinson did not know how to present a case. He stated that the parking pad was already there. He stated that a 20 ft. garage would help the situation. He stated that it would be compatible with the R-3 zone and would eliminate any safety concern. In addition, there would not be any sight distance visibility problems.

Mr. Lawrence stated that if the Wilkinsons were to construct a deck, it would be right on top of the adjoining house in back. He stated that the breezeway would provide a safe place for the children to play. He stated that the breezeway would not impact on anyone. Mr. Lawrence stated that this was a classic case for a variance.

Mr. DiGiulian informed the Board that had all of these facts been presented at the original hearing, he would have voted differently on the matter. Therefore, Mr. DiGiulian moved that the Board grant the rehearing request. Mr. Barnes seconded the motion. The Board scheduled the rehearing for February 5, 1979 at 10:30 A.M. Chairman Smith requested new plats showing the new information.

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Page 88, December 11, 1979, Recessed case of

Winifred W. Mauser and Mary L. Seibert: Chairman Smith informed the Board that it could not be established whether the subpoena for the fence contractor had ever been served. The second problem concerning the application was the fence. He stated that the Board would like to have corrected plats showing the distance from the house to the location of the fence. Mr. Gary Davis, attorney

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for the applicants, informed the Board that he had contacted Mr. R. C. Fields of Alexandria Surveys and been informed that the house was actually 45 ft. from the corner and 41.1 ft. from Long Pine Court. Mr. Davis stated that he talked to some of the people of the area and there was a very good indication that they would accept a compromise.

Chairman Smith stated that the Board would wait until January 8, 1981 to hear the case. He was concerned about the continued hazard existing with respect to the fence. He stated that he was interested in finding out why the fence contractor did not adhere to the setback requirements of the height limitations. For that reason, Chairman Smith indicated that another deferral would take place. He stated that it was not necessary for anyone to attend the hearing other than the fence company representative.

Mrs. Sear informed the Board that this was her second trip and she came expecting to hear a decision. She inquired as to what difference the fence company's representative's statement would make in the matter. Chairman Smith stated that the Board wanted his statement for the record. She inquired as to whether his statement would make a difference in the Board's decision as to whether the fence could stay or not. Chairman Smith stated that the Board wanted to know why the fence was installed illegally.

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

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

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
Date

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

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, December 18, 1979. All Board Members were present: Daniel Smith, Chairman; John DiGiulian; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman called the meeting to order at 8:10 P.M. Mr. Barnes opened the meeting with a prayer.

The Chairman called the scheduled 8 o'clock case:

8:00 P.M. GROVETON PRESCHOOL, INC., appl. under Sect. 3-303 of the Ord. to permit operation of a preschool for fifty students, located 6130 Old Telegraph Rd., Wilton Woods Subd., 82-4((1))3, Lee Dist., R-3, 4.9421 acres, S-308-79.

Ms. Jean Hopkins, President of the Groveton Preschool, residing at 4409 Vari-tage Court informed the Board that they were applying for a special permit to operate the school. She stated that they were a non-profit cooperative school. The school would be operated Monday through Friday, 9 A.M. to 12 noon. At present, there are 20 four year olds who come on Monday, Wednesdays and Friday and 15 three year olds who come on Tuesdays and Thursdays. She stated that they were applying for a special permit for a maximum of 50 children since that was the number authorized by the Health Department for their facility. There is one teacher and two parents helping with the cooperative. The school serves the Virginia Hills and surrounding area. Ms. Hopkins stated that the use of the church property for a preschool would not infringe on any neighbors. The buildings were away from the road and the neighbors.

Mr. DiGiulian inquired if the school only served children three and four years of age. Ms. Hopkins stated that they only take children who would be three and four by January 1st. With respect to the lease with the church, Ms. Hopkins stated that they have a general draft at present as there are minor changes to be made. She stated that the school was still in the planning stage. She stated that the school is operating elsewhere and wants to relocate in the church during the semester break. She stated that the school has been in existence for 7 or 8 years in a public school. She stated that they were trying to relocate in a church so that they would not have to move again when the school was rezoned.

Chairman Smith inquired about the school operating with one teacher and two volunteers. Ms. Hopkins stated that the maximum number of children on any one day was 20 when they have the four year old children. Two parents help with the class. Chairman Smith stated that if the school has 50 children there would have to be more staff. Ms. Hopkins stated that they would. She informed the Board that this was a co-op and only involves mothers that are home with their children. She stated that she was only asking for 50 children since that was the limitation the Health Department had set.

Chairman Smith inquired as to the length of the lease with the church. Ms. Hopkins stated that the lease was not finalized but should be signed in a few days. The term of the lease would be for one year or 18 months. She stated that the negotiable item was the rent. Chairman Smith inquired if there was an option to renew the lease. Ms. Hopkins stated that the lease does not set a time limitation on renewals.

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

Page 90, December 18, 1979
GROVETON PRESCHOOL

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-308-79 by GROVETON PRESCHOOL, INC., under Section 3-303 of the Fairfax County Zoning Ordinance to permit operation of a preschool for fifty students, on property located at 6130 Old Telegraph Road, tax map reference 82-4((1))3, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 18, 1979; 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 applicant is the lessee.
2. That the present zoning is R-3.
3. That the area of the lot is 4.921 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 8-00 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 50, preschool age.
8. The hours of operation shall 9 A.M. to 12 noon, Monday through Friday.
9. This permit is granted for three (3) years with the Zoning Administrator empowered to grant three (3) one-year extensions subject to the applicant providing a valid lease at the time of extension.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 91, December 18, 1979, Scheduled case for

8:15 P.M. MEADOWBROOK ASSOC., appl. under Sect. 3-303 of the Ord. to permit commercial racquetball facilities, located S. side Meadowbrook Ave., between Ingleside and Buena Vista Ave., West McLean Subd., 30-2((7))(1)2-6 & 57-61, Dranesville Dist., 31,250 sq. ft., R-3, S-306-79.

8:15 P.M. MEADOWBROOK ASSOC., appl. under Sect. 18-401 of the Ord. to allow construction of racquetball facility to 80 ft. from adjoining R District property (100 ft. min. setback req. by Sect. 8-503) to 30 ft. from front lot line and to the rear lot line (38 ft. min. front yard (40° ABP) and 26 ft. min. rear yard (30° ABP) req. by Sect. 3-307), and such that floor area ratio would be 0.51 (0.25 max. FAR req. by Sect. 3-307), located McLean Ave., West McLean Subd., 30-2((7))(1)2-6 & 57-61, Dranesville Dist., R-3, 31,250 sq. ft., V-310-79.

Chairman Smith informed the Board that Mr. Knowlton, the Deputy Zoning Administrator, had written a memorandum indicating that the applications for Meadowbrook Associates would have to be deferred. Apparently there was an error in the application with regard to the floor area ratios. The Board deferred the special permit until January 29, 1980 at 8:15 P.M.

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V-219-78: The Board was in receipt of a letter from Mr. Ed White asking for clarification on a motion to grant the variance for a subdivision. The plat submitted to the BZA indicated that seven lots would be created, six of them being pipestem. There was a question as to whether it was the Board's intent when it granted the original subdivision to allow 7 lots. There was some discrepancy since it was the Zoning Administrator's interpretation of the pipestem lots would make the proposed lot #1 a corner lot. Site Plan had determined that the lot did not meet the lot width requirements and was not advertised in the variance application.

Mr. DiGiulian stated that if the Board approved the site plan layout with 7 lots and the Zoning Administrator made his interpretation after the Board's decision, the Board was obligated to keep the original layout. Chairman Smith stated that his only concern was that if the lot did not meet the frontage requirements at the time of development then it was a problem. He stated that perhaps the Board should have some advice on the matter.

Mr. Covington informed the Board that Mr. White had a contract pending on the property and needs an answer immediately. Chairman Smith indicated that if the Board approved the site plan, the Zoning Administrator could still stop construction on the lot if it did not meet the lot frontage requirements.

Mr. White stated that the question was whether this subdivision would be considered "grandfathered". The application was presented to the Board in October of 1978. Perc tests have been completed and the plat is in the final site plan review process. The Zoning Administrator did not make his interpretation until March of 1979 which clearly defined the corner lot situation. It was Mr. White's contention that his site plan was grandfathered.

Ms. Kelsey stated that the Zoning Administrator wanted clarification from the BZA. She indicated that if the Board wanted to allow the 7 lot subdivision that Mr. Yates did not have any objection. He just wanted to bring the matter to the Board's attention.

After further discussion, the Board concurred that it was their intent to allow the seven lot subdivision as indicated on the site plans presented with the variance application.

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Page 92, December 18, 1979, Scheduled case for

8:30 ALBERT J. ELIAS, JR. & ARNOLD R. BECKHARDT, appl. under Sect. 5-503
A.M. of the Ord. to permit roller skating facility, located 18-3((5))7,
Centreville Dist., I-5, 3.4186 ac., S-312-79.

Mr. Terry Light, an attorney in Fairfax, represented the applicants. Chairman Smith informed the Board that there was a request for a deferral of the application. This request was from Mr. Downey and Mr. Bohannon. After reading the letter into the record, Chairman Smith stated that he did not believe Mr. Bohannon had a vested right as his time had expired. He stated that the Board has to hear the applications as they are filed. Chairman Smith stated that an expired special permit does not give an applicant a vested right. The Board was informed that a new application had been filed by Mr. Bohannon for a similar use on property next door.

Mr. Light informed the Board that the property was zoned I-5. He stated that the Master Plan called for industrial. The proposed building would be 95% underground. The applicants were anticipating that the maximum use of the building would be for 300 people. Parking has been provided for on the site plan and was shown to be on top of the building. Additional parking was provided by the bowling alley. The staff report indicated that 10 additional parking spaces were necessary. Mr. Light presented the Board with a revised site plan showing the additional ten spaces. The hours of operation would be 24 hours a day with the optimum use between 3 P.M. and 10 P.M. The 24 hour operation was requested to provide some flexibility in opening and closing.

There would be a tower sticking above ground which would be about 50' x 55' to be used as an entry tower with some snacking facilities in it. The rink itself would be in the lower level. Only two sides of the proposed building would be exposed, one side towards the Atrium and one towards the Pizza Hut. The building would be concrete construction and would be compatible with the bowling center next door and the racquet club across the street.

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Mr. Light stated that they have been in discussion with Mr. Saxe of the County with respect to trail access. On the revised plat, a 10 ft. easement with a 4 ft. bluestone trail was proposed to run alongside the bowling alley if the special permit was granted. Mr. Light stated that screening would be provided

With respect to traffic, a circular pattern was proposed through the bowling center. He stated that the impact of traffic should not be great. The Wiehle Avenue bridge was open. Michael Faraday Court was set up for a sports complex and the only traffic competing would be the bowling center traffic and the racquet club. Mr. Light stated that this traffic would be very light as compared to traffic in other areas.

The principals in the venture were Albert J. Elias, Jr. and Arnold R. Beckhardt. They were the principal owners of the Reston Bowling Center. Mr. Light indicated that their capacity to produce a finished product was well known in the Reston area. The bowling center was a fine facility and it was anticipated that the roller skating facility would be constructed and operated in the same manner. Mr. Beckhardt was manager of industrial engineering at IBM in Manassas and was involved in land program planning in connection with government work. He has 20 years of experience. Mr. Elias was manager of financial services at IBM and was sonar proposal program manager. He has over 10 year of financial management experience. Both Mr. Elias and Mr. Beckhardt have had over two years experience in constructing the bowling center. Mr. Light stated this proposal would be financed through a partnership arrangement and that the partners would largely be members of the Reston and Herndon community. Management of the facility would be by United Skateways, an organization that provides professional day to day management for the roller skating facilities.

Mr. Light stated that the use was appropriate for the area. The area is planned to be a sports complex for Reston. The property itself was formerly approved for a skateboard park use. The use is consistent with the Master Plan and was a much needed source of pre-teen and teenage participation for the Reston area. Mr. Light stated that the facility was badly needed and requested the Board to grant the special permit.

In response to questions from the Board, Mr. Light stated that the proposed hours of operation would be 24 hours a day, seven days a week. The actual hours would be less than that. The weekend hours would be different from the weekday hours. The maximum patrons would be 300 at any one time. Chairman Smith inquired as to the capacity approved by the Fire Marshal. Mr. Light stated that they did not know that figure. The architect, Mike, informed the Board that the bowling center had an occupancy limit of about 1,000 people. Chairman Smith inquired about the lease for the property. Mr. Light stated that there was a letter in the file. Mr. Elias and Mr. Beckhardt were the principals of RBA Associates which was the owner of the property. At some point, there would be a slightly different partnership than was arranged at present because they would have some different investors.

With regard to the hours of operation, Mr. Light stated that the roller rink would close at approximately 1 A.M. on weeknights and would reopen the next morning at approximately 9 A.M. or 10 A.M. He stated that it would be a community run project. The morning hours would be for small children. Mr. Yaremchuk stated that the hours were very important even if it was community run because he did not want to see young children hang out there all night long. He stated that the Board would have to set a limit on the hours. In response to questions about beverages, Mr. Light stated there would not be any alcoholic beverages.

Mr. Albert Elias, Jr. of 5548 Falmeade Road in Fairfax, informed the Board that the late hours of operation were not for the teenagers. The late hours would be for the adults. He stated that they would have a split session on Saturday night. Younger children would come in from 7 P.M. to 10 P.M. Younger children would be allowed at the next session which would start at about 11 P.M. and go until 1 A.M. Admissions would be controlled to keep small children from being out late at night, unsupervised, after they left the building where they could get into trouble. Mr. Elias stated that they operate the bowling center in the same manner. They have a 10 o'clock curfew for anyone under the age of 18 on Friday and Saturday nights. Mr. Elias stated that when children come in during the day, they are questioned as to why they are not in school. If they don't have a reason, they are made to leave the premises. They are not allowed to hang out at the bowling center and they would not be allowed to hang out at the roller rink. Mr. Yaremchuk inquired if the applicants would still enforce that rule even if the business gets bad and was assured by Mr. Elias that they would. Mr. Elias stated that it costs them money every Friday night when they chase the kids out at 10 o'clock.

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Chairman Smith stated that the inside was controlled very well and asked how they controlled the outside. Mr. Elias stated that the teenage population of Reston normally does not come out Sunday through Thursday. They come out on Friday and Saturday nights. On those nights, the bowling center has security people and the cooperation of the County Police. He stated that the Police sweep the parking lot several times after 10 o'clock. Mr. Elias stated that normally his area was cleared from 10:15 and 10:45. He stated that he has not had any complaints about damage as a result of their two years of operation of the bowling center. He stated that there has been a lot of litter but that was to be expected.

The next speaker in favor of the application was Mrs. Lesley Clark of 9633 Clarks Crossing Road in Vienna. She stated that she and several of her friends had come in support of the plan because it was an excellent one and was greatly needed for the area. She stated that she wanted to talk about the trail that would go through the property. Chairman Smith inquired as to where the people lived. Mrs. Clark stated that they lived in Vienna, Great Falls and Hunter Valley area. She stated the reason they were here even though they lived so far away was because the site plan would make this area available by trail to a lot wider region than just the Reston area. Ms. Clark showed the Board a viewgraph of the amount of public land with public trails. She stated that the roller rink was the missing link which would open up the Great Falls area to the trails having a 42 mile length. She stated that this piece of trail was very short but very vital to the make the whole trail program come alive. Much of the trail has already been completed and is being used. Mr. Crippen had dedicated an easement from Georgetown Pike to the top of Lake Fairfax Park. Ms. Clark stated that the roller rink link was an exceptional addition and she urged the Board to support the application. Ms. Clark presented the Board with three letters stating much the same thing. In response to questions from Mr. Barnes, Ms. Clark stated that the trail would be multi-use except for motorized vehicles. Mr. Barnes asked if you could ride horses on the trail and was assured horses would be allowed. Mr. Barnes stated that it was a great trail. Ms. Clark assured him that they were horse people also.

The next speaker in support of the application was Mr. Tom Knoll of 10509 Wickens Road in the Hunter Valley Subdivision. He stated that he supported the application for three aspects. One was as a resident and a parent, the second as an officer of the Hunter Valley Riding Club and, third, as a developer doing business in the County of Fairfax. He stated that the County had intended that there be a sports complex in that area. The zoning was compatible with the proposed use. Recreational facilities are needed for the children, particularly, something constructive to occupy their time. With respect to the trail, the County has already demonstrated their commitment by contributing a considerable amount of money, effort and time. This link would be very beneficial to the County and the citizens as well. As a developer, Mr. Knoll pointed out that the previous approval for the use of the property had lapsed. One it had lapsed, it carried very little validity. Mr. Knoll stated that Mr. Elias was a gentleman who would provide a badly needed facility within a reasonable period of time. Mr. Knoll stated that he should not be held up by someone trying to exercise a right which had already been demonstrated not to have the ability to perform.

The next speaker in favor of the application was Mr. Robert Rood of 1541 Cameron Crescent Drive. He stated that he was a resident of Reston. He believed that one aspect which had not been pointed out previously was that the trail would also serve to connect the facility with the pathway system. He stated this area was a part of the community that they had concern about finding adequate parking access to the various office buildings and sports facilities in the area. This trail would provide a means for making a connection with the sports complex through the Fairfax County Park trail and also through the WOOD trail which was joined in Reston by a number of Reston pathways. Mr. Rood stated that another feature was that the building was largely below ground level which was energy efficient and have minimal visual impact on the site.

The following persons spoke in opposition to the application. Mr. John Dockery of 2507 Pegasus Lane in Reston stated that he was Treasurer of the Reston Community Association and Chairman of the Planning and Zoning Committee. He informed the Board that the Reston Community Assoc. has been monitoring all phases of development for commercial and residential properties for the past 13 years. He stated that they have examined this proposal and its merits and reached the conclusion that they strongly oppose the granting of the special permit. He stated that the reasons for opposition were complex. Two years ago, the Reston Community Assoc. carefully examined an identical proposal for parcel 6, an adjacent property. The developers for that proposal had been

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pursuing a development under very complex rules for Reston. Five months ago, their special permit lapsed. Reston Community Association examined their progress through the development process and found that he had moved to initiate and continue implementation through January 1979. Mr. Dockery informed the Board that this was a period of severe money crunches. He stated that the sales contract for that parcel had a May 1980 deadline. Chairman Smith pointed out to Mr. Dockery that the former applicant could have asked the Board for an extension of the special permit if he had so desired. Mr. Dockery stated that he was merely trying to make a point in terms of processing within the community. He informed the Board that parcels of land in Reston are sold for certain uses. Parcel six was assigned a provision for a roller rink. Parcel seven was sold for an expanded parking lot and that the developer of parcel 7 had no restrictions on his land contract. At present, the Reston community is faced with two competing proposals one of which was initiated and in the process of certain time perimeters. Both appear to meet the Reston Association's screening process and appear to be valuable uses. Mr. Dockery stated that the Reston Community Assoc. wants a balanced community and orderly development. The second developer was moving in on a technicality. Development in Reston does not spring from a technicality but from a continued application of a process in which the major developer and the people and the County decide on use for land, write contracts to see that it is implemented within time parameters particular to Reston, etc. Mr. Dockery stated that there was a major break in the process when one developer was confined to a roller rink and the other has no such restrictions. One developer from the Reston Community Association's standpoint has seemed to be continuing with this process in a time of very difficult money. Mr. Dockery stated that what the assoc. did not want was to one day see a court have two special use permits on two adjacent parcels for two roller rinks. He stated that he was appearing in opposition to this application because they do not oppose development in Reston.

Ms. Ardis inquired if Mr. Dockery was aware of any steps that the previous developer for lot 6 may have taken after receiving the special permit from the Board of Zoning Appeals over a year ago. Mr. Dockery stated that he could track the process through January of 1979 at which time an easement was recorded. Ms. Ardis inquired as to what that developer had done. Mr. Dockery stated that it was the association's understanding that through January 1979, the proper engineering and site plans were submitted and went through the County review process. By January of 1979, the processing was at the County bonding where it remained until the last two weeks. The plan has been in bonding since January of 1979. Chairman Smith inquired as to what had happened to the bonding package that was mailed to the permittee several months ago with the request that he respond within six months. Mr. Dockery stated that the Board would have to ask Mr. Bohannon about that. Mr. Dockery informed the Board that they did not object to the use itself.

The next speaker in opposition was Mr. Edward Bohannon of 1305 Vincent Place in McLean. He stated that he supported the opinions raised by Mr. Dockery on the matter. Mr. Bohannon asked to comment on concerns raised by the Board about the original special permit. He stated that what had occurred and efforts undertaken by this client since January 1979 were with regards to obtaining financing for the project. During the past 10 months, the local economy was such that money was very difficult to get. During the period of time, considerable effort had been expended in obtaining funding. They finally obtained financing. The holdup on the site plan was in bonding because a bond could not be obtained until establishing financing. Mr. Bohannon stated that it was vicious circle. Bonding should go through without any difficulty now that financing had been obtained.

Chairman Smith stated that the applicant was mailed a bonding package several months ago with the request that a response be made within six months. He did not respond to bonding within the six months. Mr. Bohannon stated that was correct. Chairman Smith inquired as to why the applicant did not ask the Board for an extension of the use permit if there was an interest to continue or eventually construct the facility. Mr. Bohannon stated he was not aware of the expiration date. Mr. DiGiulian stated that it was contained in the resolution that the special permit would expire in one year if construction had not begun within that time period. Mr. Bohannon stated that they felt at the time that they were faced with an option to either apply for a renewal of the special permit and continue the efforts to obtain financing with the possibility that they would not obtain financing at the time the renewal would come up for a hearing. Chairman Smith informed Mr. Bohannon that if the applicant had asked for an extension, he would still be within that six month time frame now. Mr. Bohannon stated that Mr. Sardone had been working on the financing. Mr. Yaremchuk stated that Mr. Bohannon was not sticking to

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the land use issue. Chairman Smith stated that he was really arguing his own case rather than opposing the present application. Mr. Bohannon stated that he was simply trying to answer the Board's questions posed earlier.

With respect to the land use issue, Mr. Bohannon stated that Mr. Elias had admitted to the Board that he had not formed his partnership yet. Mr. Bohannon stated that Mr. Sardone's application was at least six months ahead of the present application with respect to bonding, site plan approval and all of the other steps required to be taken. Many people had indicated that it was a much needed facility. Mr. Bohannon stated that Mr. Sardone's facility was at least a half-year ahead of Mr. Elias and Mr. Beckhardt. With regard to the amount of money the County has spent on the trail situation, Mr. Bohannon stated that the County has also spent a great deal of money and effort on the review process for the site plan for Mr. Sardone's application. A mere technicality was going to throw all of that time, effort, and money the County had expended right down the tube. Mr. Sardone has expended a great deal of effort in trying to get his project off of the ground.

Mr. Yaremchuk inquired if Mr. Sardone had the financing now. Mr. Jerry Sardone informed the Board that he was not able to get the financing. He stated that never before had financing been so unattainable during the period of January of 1979 to the present. The interest rates started coming down just a few weeks ago. He stated that recreational properties had not been looked on very favorably by lending institutions. The racquet club had been financed through a very limited partnership arrangement. He stated that he did not want to go that route. He wanted financing but couldn't get it. When he wanted to go for the bond, he was told he could not get the bond without the financing. He stated that he was in bonding now and has paid the conservation escrow fee. With respect to Chairman Smith's question about an extension of the special permit, Mr. Sardone stated that he had a contract with Gulf Reston Co. to construct a roller rink and could not put up anything else. He stated that he thought he was protected by that contract. He did not know that Gulf Reston would sell another parcel with no restrictions. He stated that he was submarined on the deal. Mr. Sardone stated that the adjoining neighbors had tried to buy his property for a roller rink. They bought parcel 7 for a parking lot. Mr. Sardone stated that he had refused to sell them his parcel. He indicated that had he known he would be submarined, he would have requested the renewal of the special permit. He stated that the neighbors had taken advantage of him and a good situation. Mr. Sardone stated that the only obstacle in his way right now was a special permit. If he had it now, he would start construction in two months. He stated that he was ready to go which was why he was speaking against the present application. He stated that he did not believe that they did not have a good plan or have the ability to operate a facility. He stated that his argument was that he had a contract that if he did not build a facility by May 1980, he would lose out. He informed the Board that he has already settled on the property and was shocked to receive notice about the new proposed facility because he thought he had some protection. He stated that he would not be talking about this obstacle if he had not let it lapse. He stated that there was no question in his mind about poor planning. He stated that perhaps he should have gotten financing at any price. Mr. Sardone stated that this was a \$750,000 project and he could not afford to pay the high interest rate on the facility in addition to the high interest he was paying Gulf Reston. Mr. Sardone stated that he had the receipts for the fee for the bonding and the escrow.

During rebuttal, Mr. Light stated he had been furnished with a copy of the letter from the Reston Community Association by Mr. Dockery which really have a positive feeling towards the use. As indicated by Mr. Dockery, the RCA was equally happy with both clients and Mr. Sardone. Mr. Light stated that with respect to comments about the financing, the ability to get or not get it was irrelevant as it was questionable as to whether it was available or was not available during the last year. Mr. Light stated that Mr. Elias and Mr. Beckhardt owned 60% of the partnership, RBA Associates. Mr. Light informed the Board that the land for the bowling alley was contracted for on the 7th of December in 1977 and the alley was complete and in operation on Sept. 10, 1978. He stated that his clients made it through the County processes in that period of time to start construction in April. The special permit was granted in January of 1978. Mr. Light stated that it was four months time from the time Mr. Sardone signed his contract with Gulf Reston before he applied for his special permit. With regard to the time factor of Mr. Sardone being ahead of this application, Mr. Light stated that his clients could finish their project in 9 to 12 months. With regard to the underhandedness of his clients, Mr. Light stated that his clients did not go down to the County the day after the special permit had lapsed and apply for a similar use. They applied for the special permit on November 29th and Mr. Sardone's special permit expired

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on June 20th. Mr. Light stated that he was confident that the roller rink would be a satisfactory addition to the Reston area. Both Mr. Elias and Mr. Beckhardt have lived in Reston even though at present they do not reside there. Mr. Elias has five children, all involved in teenage activities, and all of them work in the bowling center at times. Mr. Light stated that his clients were responsible people and responsive to the community. He requested the Board to grant the use permit because it was appropriate to the area and was badly needed in Reston and was needed for the teenage group who have no where to go at night.

Mr. DiGiulian moved that the Board defer decision on the application for a period not to exceed forty days. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 5 to 0. Chairman Smith advised the applicant that a decision would be made within 40 days.

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Page 97, December 18, 1979, Scheduled case for

8:45 P.M. FIRST CHURCH OF CHRIST SCIENTIST, appl. under Sect. 3-103 of the Ord. to permit an operation of a church, located 2441 Fox Mill Rd., 25-2((1))7, Centreville Dist., R-1, 2 acres, S-313-79.

8:45 P.M. LAWRENCE & MABEL COOPER AND FIRST CHURCH OF CHRIST SCIENTIST, appl. under Sect. 18-401 of the Ord. to allow church drive and parking lot to have other than dustless surface (dustless surface req. by Sect. 11-102), located 2441 Fox Mill Rd., 25-2((1))7, Centreville Dist., R-1, 2 acres, V-314-79.

Mr. Peter Hotz of 11716 Decade Court in Reston represented the church. He stated that he was Chairman of the Board of Trustees for the church. The church was seeking property to use as a church since they could not build at this time. He informed the Board that this was a large site which would allow building in the future and was adequate at present for church services. The congregation is small. There is an average of 30 to 40 families at present. Mr. Hotz stated that he has been a member of the church for eight years.

In response to questions from the Board, Mr. Hotz stated that the property was owned by Lawrence and Mabel Cooper and the church was the contract purchaser. He stated that the church would use the building and the parking lot on a temporary basis for about a minimum of two years and a maximum of five years. He stated that he hopes that they could build in about two to three years. The property was fairly flat with respect to the parking area. There is no positive drainage. He stated that he was concerned about the impact of paving. Mr. Hotz informed the Board that he was an architect.

Chairman Smith inquired about how often the congregation have services. Mr. Hotz stated that the regular service was on Sundays at 11 A.M. Sundays would be the great period of usage both for church and Sunday school. The average attendance is 40 people. There is a regular meeting on Wednesday from 8:15 P.M. to 9:15 P.M. of about 15 to 20 people. The church would also be used for occasional community meetings. In addition, they would have Christian Science Reading from 3 P.M. to 4 P.M. in the afternoons Monday through Saturday.

Ms. Kelsey informed the Board that the Planning Commission had recommended that these applications be deferred pending a public hearing. Mr. Hotz informed the Board that it was important to the church to get the matter resolved as soon as possible as their contract would not go on indefinitely. In fact, the contract would expire January 15, 1980. Ms. Kelsey stated that the Planning Commission had scheduled the hearing for January 10th. Mr. DiGiulian inquired as to the date of the filing of the application and was informed it was on November 6, 1979. Mr. DiGiulian stated that he felt the Board would make a decision in the matter immediately. Mr. Yaremchuk stated that it would not be feasible for the church to put in a deceleration lane now since they were not constructing anything. Mr. DiGiulian advised that the Highway Department would require paving for 25 ft. Mr. Hotz stated that would not be a problem. Mr. Hotz stated that the design review comments of the staff report indicated paving and dedication would be required. Mr. Yaremchuk stated that he was not going to require dedication in his motion.

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

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Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-313-79 by FIRST CHURCH OF CHRIST SCIENTIST, under Section 3-103 of the Fairfax County Zoning Ordinance to permit an operation of a church, on property located at 2441 Fox Mill Road, tax map reference 25-2((1))7, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 18, 1979; and

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

1. That the applicant is the contract purchaser.
2. That the present zoning is R-1.
3. That the area of the lot is 2.0 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, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal hours of church activities.
8. The number of parking spaces shall be 16.
9. This permit is granted for a period of three (3) years.
10. That the applicant pave entry of property 25 ft. from the existing roadway.
11. With respect to the sign, a sign permit shall be obtained and County Codes requirements shall be met.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

R E S O L U T I O N

In Application No. V-314-79 by LAWRENCE & MABEL COOPER & FIRST CHURCH OF CHRIST SCIENTIST under Section 18-401 of the Zoning Ordinance to permit church drive and parking lot to have other than a dustless surface on property located at 2441 Fox Mill Road, tax map reference 25-2((1))7, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

LAWRENCE & MABEL COOPER AND

FIRST CHURCH OF CHRIST SCIENTIST

(continued)

R E S O L U T I O N

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 18, 1979; and

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

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-1.
- 3. The area of the lot is 2.0 acres.
- 4. That the applicant's property has drainage problems potential and use as proposed is limited in scope.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- 3. Subject to paving entry into property 25 ft. from existing roadway.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

9:00 P.M. IN RECONSIDERATION OF MR. & MRS. GERALD WALDMAN, appl. under Sect. 18-401 of the Ord. to allow subd. into 2 lots, one of which has width of 80 ft. and the other a width of 15 ft. (100 ft. req. by Sect. 3-206) located 4719 Trotting Lane, 70-1((1))15A, Annandale Dist., 36,947 sq. ft., R-2, V-299-78. (Deferred from November 20, 1979 for additional written testimony and decision only.)

Chairman Smith inquired if the Board was prepared to make a motion in this matter. Mr. Yaremchuk stated that he had thought about this application and the Board had discussed it with the County Attorney. To some extent, a commitment was made. Mr. Yaremchuk stated that the Board should adopt the recommendation of the County Attorney that there be sufficient land reserved for future development. Mr. DiGiulian stated that the agreement between the County Attorney and Mr. Waldman's attorney should be made a part of the motion.

IN RECONSIDERATION OF MR. & MRS.

GERALD WALDMAN

R E S O L U T I O N

In Reconsideration of Application No. V-299-78 by MR. & MRS. GERALD WALDMAN, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, one of which has width of 80 ft. and the other a width of 15 ft. (100 ft. required by Section 3-206) on property located at 4719 Trotting Lane, tax map reference 70-1((1))15A, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution"

R E S O L U T I O N

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

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 20, 1979, and deferred for decision until December 18, 1979; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 36,947 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and shallow, and has an unusual condition in the location of the existing buildings and does not have sufficient road frontage to allow development in accordance with existing Zoning Ordinance.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. The granting of this variance is subject to the recordation of a restrictive covenant on the subject property. Such covenant to be made a part of this resolution after recordation has been made.

Mr. Barnes seconded the motion.

This motion passed by a vote of 3 to 2 (Ms. Ardis & Mr. DiGiulian).

(The following document was approved as to form by Karen Harwood, Assistant County Attorney on March 13, 1980 and is included with the variance resolution

DEED OF RESUBDIVISION

THIS DEED OF RESUBDIVISION, RESTRICTION AND EASEMENT AGREEMENT is made and entered into this _____ day of _____, 1980 by GERALD WALDMAN AND BRENDA K. WALDMAN, his wife, Parties of the First Part, ROBERT A. BARTON, JR., sole surviving Trustee, Party of the Second Part, and EASTERN-LIBERTY FEDERAL SAVINGS & LOAN ASSOCIATION, Party of the Third Part;

W I T N E S S E T H :

WHEREAS, the Parties of the First Part are sole owners and proprietors of LOT ONE (1) of the resubdivision of ORIGINAL LOT TWO (2) of the property of GERALD WALDMAN, as the same appears on a plat attached to Deed of Dedication and Resubdivision dated December 7, 1977, and recorded in Deed Book 4767 at Page 378, among the land records of Fairfax County, Virginia; and

WHEREAS, it is the desire of the parties hereto to resubdivide the said Lot 1 in accordance with this Deed of Resubdivision, Restriction and Easement Agreement and the plat attached hereto; and

Page 101, December 18, 1979
IN RECONSIDERATION OF MR. &
MRS. GERALD WALDMAN
DEED OF RESUBDIVISION
(continued)

WHEREAS, the said lot is subject to the lien of a certain Deed of Trust recorded in Deed Book 3491 at Page 397 of the aforesaid land records wherein the said lot was conveyed unto Lawton E. Inabinet and Robert A. Barton, Jr., Trustees, Robert A. Barton, Jr., being the sole surviving Trustee, in trust to secure a certain indebtedness to the Party of the Third Part, as more specifically set forth therein:

NOW, THEREFORE, in consideration of the premises and the sum of Ten Dollars (\$10.00) cash, in hand paid, the receipt of which is hereby acknowledged prior to the signing, sealing and delivery of these presents, the parties hereto do hereby subdivide LOT ONE (1) of the resubdivision of ORIGINAL LOT TWO (2) of the property of GERALD WALDMAN, as the same appears on a plat attached to Deed of Dedication and Resubdivision dated December 7, 1977, and recorded in Deed Book 4767 at Page 378, among the land records of Fairfax County, Virginia, said lots in resubdivision to be known respectively as Lots 1-A and 1-B of of the Resubdivision of Lot 1 of the property of Gerald Waldman, Fairfax County, Virginia, in accordance with the attached plat dated February 1, 1980, prepared by Copeland and Kephart, certified land surveyors, which is attached hereto as Exhibit "A" and made a part of this Deed of Resubdivision, Restriction and Easement Agreement, and hereby grant and create the easement shown on the said plat.

THE PARTIES HERETO hereby restrict the use of the property and covenant that no development, building or activity that may have the effect of interfering or impeding the future, possible extension of Trotting Lane shall take place in that area of the plat attached hereto as more fully set forth in Note No. 6 on the attached plat.

THIS RESUBDIVISION, RESTRICTION AND EASEMENT AGREEMENT is made in accordance with the statutes made and provided in such cases; with the approval of the proper authorities of Fairfax County, Virginia, as shown by the signatures affixed to the plat attached hereto.

THE PLATTING OR DEDICATION of the following described land: LOT ONE (1) of the Resubdivision of ORIGINAL LOT TWO (2) of the property of GERALD WALDMAN, Fairfax County, Virginia, is with the free consent and in accordance with the desire of the undersigned owners, proprietors and Trustees.

THE PARTIES HERETO hereby agree, as evidenced by the execution of this Deed of Resubdivision, that henceforth, the Note secured by the said Deed of Trust shall be secured upon Lots 1-A and 1-B, in accordance with the plat attached hereto and made a part hereof to the extent that such lots affect the Note and Deed of Trust.

Page 101, December 18, 1979, Scheduled case for

9:15 P.M. RICHARD F. & BETTY J. HARRIS, appl. under Sect. 18-401 of the Ord. to allow the keeping of up to 8 goats plus chickens and rabbits on approximately .86 acres with enclosure shelter located closer than 100 ft. to the lot line (2 acres minimum area for keeping livestock and maximum 10 such animals per acre req. by Sect. 2-512 & 100 ft. min. to property line req. by Sect. 10-105), located 8215 Little River Turnpike, 59-4((1))8, Annandale Dist., .8621 acres, R-2, V-252-79.
(Deferred from November 6, 1979 & November 27, 1979 for written interpretation on Sect. 2-512 and for decision only.)

Chairman Smith inquired if the Board was prepared to make a decision in the matter. Mr. Yaremchuk stated that he felt sorry for the applicants but could not justify the hardship. Mr. Barnes stated that the applicants have had the goats for ten years. Chairman Smith stated that the Board was not asked to rule on a non-conforming status.

Page 101, December 18, 1979
RICHARD F. & BETTY J. HARRIS
(continued)

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-252-79 by RICHARD & BETTY HARRIS under Section 18-401 of the Zoning Ordinance to permit the keeping of up to eight goats plus chickens and rabbits on approximately .86 acres with enclosure shelter located closer than 100 ft. to the lot line, on property located at 8215 Little River Turnpike, tax map reference 59-4((1))8, County of Fairfax, Virginia, Ms. Ardis 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 of Zoning Appeals on November 16, 1979 and deferred until Nov. 27, 1979 and December 18, 1979 for decision; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is .8621 acres.
4. Section 18-401 of the Zoning Ordinance, Standards for Variances, and 18-405 of the Zoning Ordinance, Unauthorized Variances, would prohibit the granting of this request as the minimum land requirements of two acres has not been met.

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.

This motion passed by a vote of 5 to 0.

Page 102, December 18, 1979 After Agenda Items

S-71-79 Peter & Wilhelmina A. Klaassen: After review of the amended plats presented to the Board with respect to a modification of the fencing requirements, the Board of Zoning Appeals unanimously approved the request of Mr. Klaassen.

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Page 102, December 18, 1979, After Agenda Items

S-156-79 Neil R. & Catherine McDonald: The Board was in receipt of amended plats showing the location and height of the proposed lamppost to be constructed facing Chain Bridge Road. The Board approved the location as proposed with the concern expressed that the glare from the lamppost be contained on the subject property.

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Page 102, December 18, 1979, After Agenda Items

S-185-75 Mt. Vernon Park Association: The Board was in receipt of a request from the Mt. Vernon Park Assoc. to be allowed to replace a building destroyed by fire without having to go through the public hearing process. It was the consensus of the Board that the Mt. Vernon Park Assoc. be allowed to rebuild subject to the conditions that the new building not be constructed any larger or higher than originally indicated on the approved plat.

// There being no further business, the Board adjourned at 10:30 P.M.

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

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: _____
Date

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

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 8, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Barbara Ardis.

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

NOMINATIONS OF OFFICERS FOR THE BOARD OF ZONING APPEALS

Nomination of Chairman of the Board of Zoning Appeals: Mr. Barnes nominated Mr. Daniel Smith to serve as Chairman of the Board of Zoning Appeals. Mr. DiGiulian seconded the nomination. The motion to nominate Mr. Smith as Chairman passed by a vote of 5 to 0.

Nomination of Vice-Chairman of the Board of Zoning Appeals: Mr. Yaremchuk nominated Mr. John DiGiulian to serve as Vice-Chairman of the Board of Zoning Appeals. Ms. Ardis seconded the nomination. The motion to nominate Mr. DiGiulian as Vice-Chairman passed by a vote of 5 to 0.

Nomination of Clerk to the Board of Zoning Appeals: Mr. Yaremchuk nominated Ms. Sandra L. Hicks to serve as Clerk to the Board of Zoning Appeals. Mr. Barnes seconded the nomination. The motion to nominate Ms. Hicks as Clerk to the Board of Zoning Appeals passed by a vote of 5 to 0.

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Page 103, January 8, 1980, Scheduled case for

10:00 A.M. DONALD L. FIGAROLA, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport into garage to 7.9 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6414 Rose Hill Dr., Rose Hill Farm Subd., 92-1((2))(B)25, Lee Dist., 12,126 sq. ft. V-309-79.

Ms. Patricia Figarola of 6414 Rose Hill Drive informed the Board that they wish to enclose their carport into a garage. At present, the carport only has a roof and a floor. It would only need the sides and a door put on it to convert it. She stated that her house was built on a concrete slab. It does not have a basement but does have a crawl space. Ms. Figarola stated that they felt that their property should be locked up at night. She stated that her neighbors agreed with them and enclosed their carport. Ms. Figarola informed the Board that they had just purchased the property in February. Prior to that, it had been a rental for 22 years. She submitted a petition in support of their proposal.

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

Page 103, January 8, 1980
DONALD L. FIGAROLA

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-309-79 by DONALD L. FIGAROLA under Section 18-401 of the Zoning Ordinance to allow enclosure of carport into garage to 7.9 ft. from side lot line (12 ft. min. side yard req. by Section 3-307), on property located at 6414 Rose Hill Drive, tax map reference 92-1((2))(B)25, 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 8, 1980; 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 12,126 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging lot lines.

R E S O L U T I O N

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

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

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

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

Ms. Ardis seconded the motion.

The motion passed by a vote of 5 to 0.

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10:10 A.M. ROGER W. SPONAUGLE, appl. under Sect. 18-401 of the Ord. to allow garage to remain 2.8 ft. from one side lot line and 9.2 ft. from the other lot line (20 ft. min. side yard req. by Sect. 3-107), located 7202 Byrneley Lane, Byrneley View Subd., 71-3((10))126, Annandale, Dist., R-1, 16,500 sq. ft., V-311-79.

Mr. Roger Sponaugle informed the Board that he needed a variance for a garage that was already constructed. The garage was an old barn with an addition that was already there when he purchased the property. The garage was built two years ago as an addition to the barn which was built 12 years ago. Mr. Sponaugle stated that he did not get a building permit at that time. The garage encroaches on the property line. The building inspector had informed Mr. Sponaugle that if he put in a fireproof wall that the structure would be in compliance with the Code. A variance was not necessary at that time.

In response to questions from the Board, Mr. Sponaugle stated that he had owned the property for three years. It was an existing barn. The original owners did not obtain a building permit for the barn. In response to why he did not apply for a building permit, Mr. Sponaugle stated that he did not know he needed one to add on to an existing building.

Mr. Barnes stated that this was a very odd shaped lot going back to a point. Mr. Sponaugle stated that he had built the addition two years ago. He stated that in order to get to the garage, he has to drive through the barn. He stated that he had put up big garage doors. Chairman Smith stated that if the garage had been placed in front of the barn, it would not have been as bad. In response to whether the new structure had ever been inspected, Mr. Sponaugle stated that it was inspected twice and meets the building code. Chairman Smith inquired if he had a document to that effect. Mr. Sponaugle stated that Mr. Kennedy was the building inspector. Chairman Smith inquired if Mr. Sponaugle was a mechanic and was informed that he ran a filling station in Arlington. Mr. Sponaugle stated that one wrecker stayed at his house all the time. Mr. Yaremchuk inquired if the applicant ever picked up a vehicle and left it at his house. Mr. Sponaugle stated that he does that very seldom, perhaps only once a month. Mr. Covington stated that he could not do that at all. He informed the Board that the neighbors have complained about that.

Chairman Smith inquired as to the location of the station in Arlington and was told it was at 4707 King Street in Arlington. It was the D. G. Reed Associates. Mr. Barnes inquired as to why someone from Arlington would complain about the barn. Mr. Sponaugle stated that the person owned the vacant lot next door to him. Chairman Smith inquired as to what would be done with the barn. Mr. Sponaugle stated that he owned a boat, a camper, a race car and has two personal vehicles in addition to the tow truck. Chairman Smith inquired as to how many families live on the property. Mr. Sponaugle stated that his was the only family residing there.

In response to questions from the Board about the complaints, Mr. Covington stated that something could be done about the vehicles parked overnight after being towed in. Chairman Smith inquired as to why the race car had to be on

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a trailer. Mr. Sponaugle stated that he did not have tags on the race car. As long as it was towed, he stated that he did not need tags for it. He stated that his neighbors are concerned about the tags. Chairman Smith stated that the applicant should consider the complaints of the neighbors. Mr. Yaremchuk stated that was not an issue of the Board and was a matter for the Zoning Enforcement Branch. Mr. DiGiulian inquired as to when Mr. Sponaugle was first aware of the violation of the setback. Mr. Sponaugle stated he was informed after it was constructed.

There was no one else to speak in favor of the application. Mr. Edward Wayne Collins of 600 N. Hudson Street in Arlington spoke in opposition. He informed the Board that he owned property on 7209 Byrneley Lane. He presented the Board with a copy of a letter he had written to Supervisor Moore in May of 1979. He informed the Board that he had started telephone calls to the County in the fall of 1978. He received a letter from Mr. Claude Kennedy of the Enforcement Division. Mr. Collins also presented the Board with pictures of the barn that Mr. Sponaugle stated he had added onto. Mr. Collins stated that Mr. Sponaugle built the garage which was reported to the County in the fall of 1978 when it was just a slab support. Mr. Collins stated that the garage was never attached to the barn. The front of the barn is 17 ft. high and the back of the barn in only 6 ft. high. There is no egress to the garage. Mr. Collins stated that he talked to Ken White of Alexandria Surveys about the distance from the garage to the property line. Mr. Collins stated that Mr. White had set the distance of the garage using the old plat of the property. Mr. Collins stated that he had asked Mr. White to go out to the property and run the line again. Mr. Collins stated that the building was actually 2.8 ft. from the property line.

Chairman Smith stated that Mr. Collins' letter indicated that Mr. Sponaugle was repairing vehicles at this location other than his own. Chairman Smith inquired if Mr. Collins plans to build on his property. Mr. Collins stated that he does. At present, the lot is up for sale. He stated that because of the problems next door, it has caused problems with the sale of his property. He showed the Board pictures of the unlicensed vehicles Mr. Sponaugle kept on the property. Mr. Collins stated that he could not afford to build a house on one acre lot with something like a garage next door.

There was no one else to speak in opposition. During rebuttal, Mr. Sponaugle explained to the Board that some of the vehicles kept on his property belong to his wife's brother, Mr. Baker, in Cumberland, Maryland. Mr. Yaremchuk stated that if any of the vehicles were in violation, it was up to the Zoning Enforcement to control. If Mr. Sponaugle has five cars in his family, then he can park them anyway. If they are in violation, Mr. Yaremchuk stated Mr. Covington could notify the proper officials. Mr. Yaremchuk stated that as far as he was concerned, the only issue before the Board was the variance request. Ms. Ardis agreed with Mr. Yaremchuk. She stated that the cars were not the issue. The issue was the building and that was the Board's only consideration.

R E S O L U T I O N

In Application No. V-311-79 by ROGER W. SPONAUGLE Under Section 18-401 of the Zoning Ordinance to allow garage to remain 2.8 ft. from one side lot line and 9.2 ft. from the other lot line (20 ft. min. side yard req. by Section 3-107) on property located at 7207 Byrneley Lane, tax map reference 71-3((10))126, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 8, 1980; 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 16,500 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing building on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

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

Page 106, January 8, 1980, Scheduled case for

10:20 A.M. MR. & MRS. HERBERT FISHER, appl. under Sect. 18-401 of the Ord. to allow addition to dwelling to remain 22 ft. from front lot line and coincide with rear lot line (35 ft. min. front yard & 25 ft. min. rear yard req. by Sect. 3-207) and to allow accessory uses and structures combined to cover more than 30% of the area of the req. yard (30% max. coverage req. by Sect. 10-104) located 3544 Half Moon Circle, Lake Barcroft Subd., 61-3((14))470, Mason Dist., R-2, 23,358 sq. ft., V-315-79.

Mr. Dick Hobson of Boothe, Prichard & Dudley represented the applicants. He stated that the variance was for a brick wall and recreational patio which was already constructed. The wall was located on the rear lot line and 22 ft. from the street lot line. The shape of the property was a half-moon. The construction of the wall and patio came about as a mistake due to the irregular shape of the property. Mr. and Mrs. Fisher already had a pool in the yard. The design of the wall and patio was submitted to the Lake Barcroft Association and was approved in April of 1979.

An associate of Mr. Cook, an architect, had taken a sketch of the design to the County where he was advised that a building permit was not necessary for the construction of a recreational patio. It was only after the wall was completed and approval of a building permit was being sought for a cabana that the applicants were advised that a building permit had been necessary for the wall. At that time, the building permit was denied because of the variance needed for the wall on the property line.

A variance was needed to the rear property line and the front property line requirements. The particular lot was considered the same as a corner lot. Because of the definition of a front yard, a variance was necessary. The location of the wall was the only place it could be constructed due to the recreational area and the pool. The wall was physically connected to the house by a trellis. Because of that connection, it was considered part of the principal use.

Chairman Smith inquired as to the variance necessary for the coverage of the yard. Mr. Hobson stated that if the Board felt the wall was not part of the principal structure then the entire wall would be an accessory use and would require a variance to the 7 ft. height limitation and the required coverage of the Ordinance. In response to questions from the Board, Mr. Hobson stated that if they agreed with the interpretation that the recreational patio and the trellis and the wooden deck and the concrete deck and pool are all covered and not part of the open space, they calculate out to covering 60% of the rear yard.

Mr. Hobson presented the Board with a petition signed by neighbors who were in support of the application. He also presented the Board with a diagram showing the location of the homes with respect to the applicant's property. Mr. Hobson stated that Mr. Fisher and Mr. Cook were present to answer any questions the Board might have.

There was no one else to speak in favor of the application. Mr. Hubbard, representing the Lake Barcroft Architectural Review Board, clarified its position in the case. For background purposes, Mr. Hubbard stated that several sketches were submitted. The fence was indicated to be a wooden fence and the drawing was approved by the Review Board. He stated that they were notified later on that construction was going on and people were wondering what was going up. They were advised that a brick wall was constructed. Mr. Hubbard stated that the Architectural Review Board was not aware of the brick wall at the time of review. He stated that they do not want to set a precedent. He stated that the Architectural Review Board prefers to have a non-permanent structure built such as a wooden fence. He stated that they would like other homeowners who might purchase the property to be able to move the structure at no great cost if necessary. Mr. Hubbard stated that the association represents approximately 2,000 residents. He stated that they understood the asset for the community and wanted to protect the neighbors as much as possible. He stated that their only concern was the wall. He stated that zoning looked at the situation from a setback standpoint, the building inspector looked at it from their requirements and the architectural review board looked at it from an aesthetic viewpoint. He stated that they felt that they had not been given just say in the situation.

Chairman Smith inquired if the ARB had given consideration to setbacks when they examined the sketches. Mr. Hubbard stated that they went along with the architect's ideas and left it to the County to finalize. Chairman Smith stated that it would cause a lot of confusion for the County with other structures involved. In response to questions from Chairman Smith regarding the height limitation of the fence in a front yard, Mr. Hubbard stated that the ARB was not aware that it was considered a front yard instead of a side yard. He stated that their main concern was the masonry wall constructed instead of the wooden fence.

During rebuttal, Mr. Hobson presented Mr. Cook, the architect for the Fishers, to explain the situation to the Board. He indicated that he had not discussed the height of the wall with the Zoning Office as he believed the maximum height to be 7 ft. Chairman Smith stated that a 7 ft. fence was not allowed in a front yard but only in a side yard. Mr. Cook stated that the situation was very confusing to everyone. He stated that it was the Zoning Administrator's interpretation that the wall in the rear yard satisfied the Code but the front has to be satisfied. The height was 7 ft. along the rear property line and then the topography drops off. It slopes to 9 ft. at the bottom.

In summary, Mr. Hobson stated that there are unusual circumstances with respect to the lot and asked the Board to grant the variance. Strict enforcement would deprive the user of the reasonable use of the land and would not be detrimental to the public welfare. Mr. Hobson stated that most everyone in the neighborhood had signed the petition in support of the variance.

R E S O L U T I O N

In Application No. V-315-79 by MR. & MRS. HERBERT FISHER under Section 18-401 of the Zoning Ordinance to allow addition to dwelling to remain 22 ft. from front lot line and coincide with rear lot line (35 ft. min. front yard & 25 ft. min. rear yard required by Section 3-207) and to allow accessory uses and structures combined to cover more than 30% of the area of the required yard (30% max. coverage required by Section 10-104) on property located at 3544 Half Moon Circle, tax map reference 61-3((14))470, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 8, 1980; 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 23,358 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including half-moon shaped.

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

Mr. Barnes seconded the motion.

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

Page 108, January 8, 1980, Scheduled case for

10:30 MAURICE L. BYRD, appl. under Sect. 18-401 of the Ord. to allow
 A.M. construction of a two car garage addition to dwelling to 26.6 ft. from front lot line & 5.0 ft. from side lot line (30 ft. min. front yard & 12 ft. min. side yard req. by Sect. 3-307), located 5465 Peaceful Terrace, Elmwood Subd., 82-2((19))30, Lee Dist., R-3, 15,652 sq. ft., V-320-79.

The Board was in receipt of a letter from the applicant seeking withdrawal of the application. Ms. Ardis moved that the Board allow the withdrawal of the variance without prejudice. Mr. DiGiulian seconded the motion and it passed unanimously.

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Page 108, January 8, 1980, Scheduled case for

10:45 DR. HARVEY A. BRAAF, appl. under Sect. 4-803 of the Ord. to
 A.M. permit an operation of a veterinary hospital, located 11415 Georgetown Pike, 6-4((1))80, Dranesville Dist., C-8, & R-1, 1.79 acres, S-326.79.

Mr. Charles Shumate, an attorney in Fairfax, represented the applicant. He stated that the property was located on Rt. 7 next to the BP filling station. The property was slightly less than two acres and was zoned C-8 and R-1. Mr. Shumate stated that Dr. Braaf presently resided in Pennsylvania and wanted to relocate to Virginia as he has relatives living here. Mr. Shumate advised the Board that a great deal of time has been spent in evaluating the feasibility of this use and this location. Patton, Harris, Rust & Guy have done a study and determined that this location was feasible for use as proposed. He stated that they had talked to Oscar Hendrickson of the County and the proposal was feasible as far as cost. The use would be under site plan control.

Mr. Shumate stated that the hospital would be for small animals. Hours would be from 8 A.M. to 8 P.M., Monday through Friday and from 9 A.M. to 5 P.M. on Saturdays. The use would be by appointment only. There would not be any animals kept overnight. The only entrance to the property was presently owned by Mr. Gardner up on Georgetown Pike. Mr. Shumate stated that this would remain because of the elevation change of Rt. 7. Mr. Shumate stated that the Ordinance standards have been met in this application. The structure would be completely enclosed and would meet the requirements of the Health Department.

In response to questions from the Board about the R-1 property, Mr. Shumate indicated it was only a small sliver and that only the C-8 property would be used. Chairman Smith inquired as to the plans for the R-1 property and was informed there were not any at present.

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

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Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-326-79 by DR. HARVEY A. BRAAF under Section 4-803 of the Fairfax County Zoning Ordinance to permit an operation of a veterinary hospital on property located at 11415 Georgetown Pike, tax map reference 6-4((1))80, 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 8, 1980; 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 and R-1.
3. That the area of the lot is 1.79 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction 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 uses, 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 A.M. to 8 P.M. Monday through Friday and 9 A.M. to 5 P.M. on Saturdays.
8. The number of parking spaces shall be seven (7).

Mr. Yaremchuk seconded the motion.

This motion passed by a vote of 5 to 0.

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11:00 DYNAMIC ENTERPRISES, INC., appl. under Sect. 4-603 of the Ord.
A.M. to permit operation of a health club, located 10681 Braddock Rd., College Town Shopping Center, 68-2((1))9, Annandale Dist., C-6, 19.4453 ac., S-317-79.

Mr. E. H. Williams acted as agent for the applicant. At present, there was a High's and a dance studio at this location. The proposed hours of operation would be 9 A.M. to 9 P.M., Monday through Friday and from 9 A.M. to 6 P.M. on Saturday. In response to questions from the Board, Mr. Williams stated that the lease was for five years with options to renew. He indicated that it was a health club for ladies only and there would not be any Sunday hours. The club would consist of a large exercise floor and an area for an exercise class and an area for a nursery, lockers, whirl pool and sauna. At

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 DYNAMIC ENTERPRISES
 (continued)

present, the applicants are operating a health club in Rockville, Maryland. They were also negotiating a lease for New Carrollton, Maryland. Mr. Williams stated that this was a national organization, some of which are franchise. He stated that they have 21 operations.

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

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 DYNAMIC ENTERPRISES, INC.

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-317-79 by DYNAMIC ENTERPRISES, INC., under Section 4-603 of the Fairfax County Zoning Ordinance to permit an operation of a health club, on property located at 10681 Braddock Road, tax map reference 68-2((1))9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on January 8, 1980; and

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

1. That the applicant is the lessee.
2. That the present zoning is C-6.
3. That the area of the lot is 19.4453 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional use, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this special permit and the non-residential use permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 9 A.M. to 9 P.M. Monday through Friday and 9 A.M. to 6 P.M. on Saturday.
8. This permit is granted for a period of five (5) years with the Zoning Administrator empowered to grant three (3) one-year extensions.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

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11:15 A.M. DAVID R. VANOVER, appl. under Sect. 3-303 of the Ord. to permit operation of a home professional office (journalism), located 3302 Glen Carlyn Rd., Pinehurst Subd., 61-2((6))10, Mason Dist., R-3, 17,560 sq. ft., S-318-79. ///

Mr. David R. Vanover of 3302 Glen Carlyn Road informed the Board that he was asking for a special permit for a home professional office for his property. It would be used as administrative offices for his company. The hours of operation would be from 9:30 A.M. to 5:30 P.M., five days a week.

In response to questions from the Board as to the type of journalism, Mr. Vanover stated that he produced the Buyers Market Newspaper. He stated that it had a leisure format and about businesses in the County. The press was not located at the home office. He indicated that the main function of the home professional office would be the administrative work. The company was located on John Marr Drive in Annandale. The paper was pressed by Eastern Publishing Co. in Maryland. The paper was mailed to 75,000 people in Fairfax Co. Mr. Vanover stated that he only published leisure activities and ran news releases as to what was available. The paper was mailed free of charge and was supported by local activities. The paper was left at supermarkets and the Park Authority. There would not be any clients coming to the home as the only deliveries to the property would be the U.S. Postal Service. If they were on a deadline, someone might hand carry a news release to the office. Mr. Vanover informed the Board that there was no way for his staff to travel around Fairfax County.

In response to questions from Ms. Ardis as to how often some one might come to the premises with respect to a deadline situation, Mr. Vanover stated that it has occurred about 3 or 4 times during the past six months and it was for the DECCA Program of the Fairfax County School Board. Mr. Vanover stated that he and three helpers would be the sole people involved in the home professional office. He stated that he had a sales manager, a secretary and himself.

In response to further questions, Mr. Vanover stated that he had lived at the address since June. The only machinery at this address would be a typewriter. The photo compositors were located at John Marr Drive. Mr. Vanover indicated that he would not have any objections to a stipulation in the resolution about only having a copier and a typewriter on the premises. He advised the Board that he had just purchased the property in 1979. It was owned previously by St. Anthony's church. It had a small addition built on to it and he stated he purchased it for that reason.

There was no one else to speak in favor of the application. Mr. Hudson Nagle of 3304 Glen Carlyn Road stated that his property adjoined Mr. Vanover's property. He indicated that as President of the Long Branch Community Assoc. he had been before the Planning Commission and the Board of Supervisors on numerous occasions to oppose commercial establishments in residential property. The Zoning Ordinance permits certain professionals to maintain an office in an residential district.

Mr. Nagle informed the Board that there are home professional offices already located in the neighborhood. Dr. Robbins was a foot doctor who had moved out of his residence in May of 1979. Mr. Nagle stated that it took a lot of effort to force compliance with the requirements of the Ordinance which did not come about until November of 1979. Mr. Nagle informed the Board that it was hard to force compliance with the requirements of the home professional offices. For that reason, he asked the Board to carefully consider the application as it was a very important issue to him. Mr. Nagle stated that he would have a hard time in selling his home if it was hedged in by home professional offices. In addition, Mr. Nagle stated that the County has had a hard time in making people live in home professional offices. In response to questions from the Board, Mr. Nagle stated that he has lived in his home since 1957.

The next speaker in opposition was Marilyn K. Gilliland of 6018 Fairview Place who lived around the corner from Mr. Vanover's property. She stated that she had two concerns. The first was with respect to parking. She stated that the property was only one-half/one from Rt. 7. Any parking in the area caused traffic problems. Mrs. Gilliland stated that cars park in front of Mr. Vanover's property because the parking he had in the rear was not adequate. Traffic was forced to go around the cars parked in the street. There was traffic congestion already because of the ballet school. They were supposed to use St. Anthony's parking lot but they do not. Mrs. Gilliland stated that with this home professional office, it would make a total of three home businesses in this one block area. She stated that if this request were granted, their neighborhood would be even more commercial. However, if the permit were granted, Mrs. Gilliland stated it would be good not

to have any parking in this block as it was a bus route. She stated that she had almost been hit several times trying to maneuver around the cars parked in the street.

There was no one else to speak in opposition. Chairman Smith stated that he was concerned about the number of use permits. He stated that he had to agree that a continuation of this action would change the character of the residential area. Mr. DiGiulian stated that he had several questions. He stated that because the church had used the property as an office for a period of time previously, it would make the property hard to sell to be used as a strictly residential use.

In response to questions from the Board, Mr. Vanover stated that only four people would be involved in the use. There was room in the home for the office. Off-street parking was provided for six or more cars. Mr. Vanover stated that he parked in the street and it was a very wide street. However, he stated that he would not park in the street during rush hour. It was a very heavily travelled street. In response to questions from the Board, Mr. Vanover stated he personally owned three vehicles but was getting ready to sell one of the vehicles. Mr. Vanover indicated there was room to park his two cars on the property. He informed the Board that his home was very large and had 23 rooms with the addition. There was a double furnace and a very large air conditioning unit. The property was bought from a military person with eight children. Some of his children had attended St. Anthony's school. Then he was transferred out of the area.

Mr. DiGiulian stated that he had a problem with the four people being involved in the use. The staff recommendation was that the use be granted to the applicant and two employees. Mr. DiGiulian stated that would cut down on the parking as he was still not sure the applicant could get that many cars parked on his property. Mr. DiGiulian stated by a quick scaling of the property, there was only room for four cars. Mr. Vanover asked that the Board look at the plat as there was room for four cars and then some. He stated that six cars could park there.

Ms. Ardis inquired as to the intent of the law in the home professional office category. Chairman Smith stated that the applicant had to have the advertising to maintain the newspaper but he did not know of any newspaper that would set up an administrative office in a home. He stated that he did not think that was what was intended in the Zoning Ordinance.

Mr. Vanover informed the Board that the advertising was sold in the client's place of business. The composition was done at the John Marr Drive office. He stated that the journalism would be the only thing done at his home address. He stated that the paper had a readership of 225,000. Chairman Smith stated that the service the paper provided was not to the community where the home was located. Mr. Vanover stated that he did have future plans to cover the Rt. 7 area. He stated that he had looked at other locations but this house was already designed for office space. He stated that he was the sole owner of the newspaper.

In response to questions about the parking, Mr. Vanover stated that there was a no parking sign from Mr. Nagle's property to the corner. He stated that most of the homes have off-site parking. He informed the Board that the block he lived on had well cared for homes. The next block down was not that well cared for.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-318-79 by DAVID D. VANOVER under Section 3-303 of the Fairfax County Zoning Ordinance to permit operation of a home professional office (journalism) on property located at 3302 Glen Carlyn Road, tax map reference 61-2((6))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 January 8, 1980; and

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

R E S O L U T I O N

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 17,560 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only, and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 9 A.M. to 5:30 P.M., Monday through Friday.
8. There shall be no sign permitted.
9. No clients shall be permitted at the use.
10. No machinery or heavy equipment other than small copier and typewriters shall be on the site.
11. The use shall be limited to the applicant and two employees.
12. No deliveries or pickups will be made to the property by anyone other than the applicants.
13. This permit is granted for a period of three (3) years.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. Smith & Ms. Ardis).

Page 113, January 8, 1980, Recess

At 12:20 P.M., the Board recessed for lunch and reconvened at 1:00 P.M. to continue with the scheduled agenda.

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Page 113, January 8, 1980, Scheduled case for

11:30 A.M. LANGLEY SCHOOL, INC., appl. under Sect. 3-303 of the Ord. to amend special permit for school to permit additional buildings and increase in max. no. of students from 350 to 450, located 1411 Balls Hill Rd., 30-1((11)A & pt. 1, 30-1((1))42A, 43 & pt. 44 & pt. 44A, Dranesville Dist., R-3, 9.8480 acres, S-319-79.

Mr. Mark Friedlander, Jr. of 1201 Towlston Road in Great Falls represented Langley School. He stated that the school had been before the Board on a number of occasions. The school has been at this location since 1954 and has had a number of additions in land and in buildings since that time. Mr. Friedlander stated that when the school had been before the Board during the summer, they had outlined their plans to increase the classrooms over a period

of time. There is a long range plan. Phase I of the plan involved building one additional classroom for the preschool and to construct a separate building for four other classrooms. Because of the financial constraints, only Phase IA would be built at this time. Phase IB would be the next construction planned for sometime in the future. Phase II was planned for the middle of the decade in order to have enough classrooms space to accommodate all of the children. Then the buildings would be remodeled.

At this time, the plans are to build a new kindergarten and four classrooms buildings. Because of the slope of the land, the buildings would not be visible from Balls Hill Road. The property is surrounded by woods and was located right next to Evans Farm Inn. The structures would not be near any houses. Mr. Friedlander stated that the construction plans were to add one classroom for 20 children each year. He stated that they hoped to have these two additional buildings completed by the fall of 1980 and then wait until they had enough money to continue with the building process.

Mr. Friedlander stated that the proposed design was in keeping with the design of the school. Mr. Friedlander stated that the school has more than enough recreational areas to accommodate a school twice its size. Mr. Friedlander asked the Board to grant the amendment to the special permit to allow the increase of students to 450 which would be sufficient for a number of years.

In response to questions from the Board, Mr. Friedlander stated that the parking would be increased in conjunction with the increase in students. He stated that the plat showed a revised driveway and parking area. However, Mr. Friedlander stated that they did not feel that the parking had to be completed with the first stage of building since the school had a recorded license to use parking on the American Legion site. He stated that almost doubled the amount of parking the school had. The school has permission to use the parking lot during daylight hours. The American Legion can accommodate 459 spaces. The school has 42 spaces on its site. In response to further questions from the Board, Mr. Friedlander stated that the parking would be increased during the second stage of construction, approximately 1983. Mr. Friedlander stated only Phase I was being constructed at this point because of the mortgage rates. Phase B would begin in 1983. When they reach that stage, he stated that the school would need the increased parking and the driveway.

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

Page 114, January 8, 1980
 LANGLEY SCHOOL, INC.

Board of Zoning Appeals

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-319-79 by LANGLEY SCHOOL, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to amend special permit for school to permit additional buildings and increase in maximum number of students from 350 to 450 on property located at 1411 Balls Hill Road, tax map reference 30-1((11))A & pt. 1 & 30-1((1))42A, 43, pt. 44 & pt. 44A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on January 8, 1980; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 9.8480 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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 in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 450.
8. The hours of operation shall be 8 A.M. to 5 P.M. for school and 7 A.M. to 9 P.M. for tennis courts, twelve months per year.
9. The number of parking spaces shall be 59 off-site, 42 on-site and 62 on site by 1983.
10. This permit is granted with a requirement for Board review of parking and traffic flow after five (5) years.
11. All other requirements of previous special permits not modified by this action shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

 Page 115, January 8, 1980, Scheduled case for

11:45 ALFRED E. & CAROLYN ROBERTS & ROBERT A. MCGINNIS, appl. under
 A.M. Sect. 18-401 of the Ord. to allow construction of dwelling to
 20 ft. from front lot line (30 ft. min. front yard req. by Sect.
 3-407), located 7116 Arlington Blvd., Woodley North Subd.,
 50-3((5))(5)30B, Providence Dist., R-4, 9,112 sq. ft., V-292-79.
 (DEFERRED FROM DECEMBER 4, 1979 FOR NOTICES.)

Mr. McGinnis of 120 N. Lee Street in Falls Church informed the Board that the subject parcel had been subdivided 7 years ago. The shape of the lot was such that the maximum depth of the house could only be 12 ft. in order to comply with the front yard requirements. Mr. McGinnis stated that the house needed to be 22 ft. and stated that they needed to take 10 ft. off the front setback. The owner of the house on the corner did not oppose the application. Mr. McGinnis stated that they had notified people on Arlington Blvd. The construction of the dwelling would not cause any damage to the surrounding property owners. If the variance were denied, the lot would be unusable according to Mr. McGinnis.

In response to questions from the Board as to why the house could not be moved back, Mr. McGinnis stated that the topography of the land dictated placement of the house. There was a drop with 2 ft. intervals. Chairman Smith stated that 4 ft. was not much of a drop and stated that the house had met the 20 ft. setback. Mr. DiGiulian stated that the plat showed a 25 ft. rear yard restriction. He stated that there was a 1.14 ft. elevation in the front of the house. Mr. McGinnis stated that this property was located on a street below Jefferson Village. The other lots were almost impossible to build on. The property was located next to a church. Mr. McGinnis stated that this was the last house that could be built between the loop of the street and the church property.

There was none to speak in support of the application and no one to speak in opposition.

In Application No. V-292-79 by ALFRED E. & CAROLYN ROBERTS & ROBERT A. MCGINNIS under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 20 ft. from front lot line (30 ft. minimum front yard required by Sect. 3-407) on property located at 7116 Arlington Boulevard, tax map reference 50-3((5))530B, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 8, 1980 and deferred from December 4, 1979 for notices; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 9,112 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

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

Page 116, January 8, 1980, Scheduled case for

12:00 PETER R. TOEPFFER, appl. under Sect. 18-401 of the Ord. to allow
 NOON construction of a 2-story addition to dwelling to 7.8 ft. from rear
 lot line (25 ft. minimum rear yard req. by Sect. 3-407), located
 6105 Edgewood Dr., Belle Haven Subd., 83-3((14))12, Mt. Vernon
 Dist., R-4, 9,000 sq. ft., V-293-79.
 (DEFERRED FROM DECEMBER 4, 1979 FOR NOTICES.)

Mr. Wade Pickens of N. Lee Street in Alexandria represented the applicant. He stated that the variance request was for the rear yard. The justification for the request was the unusual shape of the property. The Fairfax County Water Authority owned on three sides of the subject property which created a shallow lot for the applicant. The proposed addition to the rear of the structure would leave a rear yard of 8 ft. The F.C.W.A. is 60 ft. deep. This would leave a total area of 68 ft. Mr. Pickens stated that the F.C.W.A. did not have any objection to the variance request. There was a water tower located on their property.

In response to questions from the Board, Mr. Pickens stated that the applicants have owned the property for 12 years. Chairman Smith inquired if the applicants had sold the property to the Water Authority. Mr. Pickens stated they had not but they did sell a parcel of land next to the Water Authority to Mr. Lander. That parcel was only 40 ft. wide but 150 deep and Mr. Lander used it in conjunction with another piece of land he already owned in order to build a house. The Water Authority already had an easement there. These were two separate pieces of land. Mr. Pickens stated that it did not change the shape of the original lot. The lot was not divided. Mr. Pickens informed the Board that this request was for lot depth as the applicant wished to

Page 117, January 8, 1980
PETER R. TOEFFFER
(continued)

enlarge his house and needed a rear yard variance. He indicated that they had supportive letters from the Water Authority. Mr. Pickens stated that no one had objected to the request.

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

Page 117, January 8, 1980
PETER R. TOEFFFER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-293-79 by PETER R. TOEFFFER under Section 18-401 of the Zoning Ordinance to allow construction of a two-story addition to dwelling to 7.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), on property located at 6105 Edgewood Drive, tax map reference 83-3((14))12, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 8, 1980; and deferred from December 4, 1979 for notices; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 9,000 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

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

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

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

Mr. Barnes seconded the motion.

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

Page 117, January 8, 1980, Scheduled case for

12:15 WINIFRED W. MAUSER & MARY L. SEIBERT, appl. under Sect. 18-401 of P.M. the Ord. to allow 6 ft. high fence to remain in front yard (4 ft. max. height req. by Sect. 10-105), located 7625 Webbcourt Ct., North Springfield Subd., 79-2((2))(65)10G, Annandale Dist., 13,282 sq. ft., R-3, V-239-79.
(DEFERRED FROM OCTOBER 16, 1979, NOVEMBER 6, 1979 AND DECEMBER 11, 1979 TO SUBPOENA FENCE CONTRACTOR.)

Mr. DiGiulian inquired of Mr. Davis if the only access directly from the house to the rear yard was on the end of the house on Long Pine Drive and was told it was. Mr. Davis stated that there was no access from the rear of the house. Mr. DiGiulian informed the Board that he had looked at the site several times and felt that some type of a variance should be granted. He indicated that the applicants needed some portion of the front yard fenced in for the dogs in order to have access into the house. Mr. DiGiulian stated that in order to provide adequate site distance, the fence should be located 29 ft. from Long Pine Drive's right-of-way line.

R E S O L U T I O N

In Application No. V-239-79 by WINIFRED W. MAUSER & MARY L. SEIBERT under Section 18-401 of the Zoning Ordinance to allow 6 ft. high fence to remain in front yard (4 ft. maximum height required by Sect. 10-105) on property located at 7625 Webbwood Ct., tax map reference 79-2((2))(65)10G, 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 16, 1979 and deferred until November 6, 1979; December 11, 1979 and January 8, 1980 for decision; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 13,282 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, having two front yards.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

- *3. The 6 ft. fence shall be allowed to within 29 ft. of the property line of Long Pine Drive.

Mr. Yaremchuk seconded the motion.

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

Page 118, January 8, 1980, After Agenda Items

S-312-79 Albert Elias, Jr. & Arnold R. Beckhardt: The Board was in receipt of a letter from Mr. Terry Light, an attorney for the applicants, requesting decision of the application within the 60 day hearing requirement. Chairman Smith stated that it was the Board's intent to resolve both cases on January 29th.

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Page 118, January 8, 1980, After Agenda Items

APPROVAL OF BZA MINUTES FOR JANUARY 23, 1979; JANUARY 30, 1979; FEBRUARY 6, 1979; FEBRUARY 13, 1979 and FEBRUARY 21, 1979. Ms. Ardis moved that the minutes be approved as amended. Mr. Barnes seconded the motion. The motion passed unanimously.

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Page 118, January 8, 1980, After Agenda Items

Tara School, S-301-78: The Board was in receipt of a request for a six month extension of the special permit granted to Tara School on January 17, 1979. Mr. Barnes moved that the Board grant an 180 day extension. Ms. Ardis seconded the motion and it was passed unanimously.

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V-271-78 BECKER & STEIN: The Board was in receipt of a letter requesting a six month extension for the variance V-271-78. Chairman Smith stated that the variance had expired. Mr. Barnes moved that the Board extend the variance for a period of six months. Mr. DiGiulian seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Ms. Ardis).

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// 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 1-12-82.

APPROVED: January 12, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 15, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman called the meeting to order at 10:15 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 A.M. MR. & MRS. BELDON D. SCOTT, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 30 ft. from lot line (50 ft. min. front yard required by Sect. 3-E07), located 10825 Greene Drive, 117-2((2))53, Mt. Vernon Dist., 52,674 sq. ft., R-E, V-233-79.

Mr. Michael Guigere, an attorney representing the applicant, asked the Board for a deferral of the application. The Board granted the deferral and scheduled the hearing for February 5, 1980 at 12:20 P.M.

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Page 120, January 15, 1980, Scheduled case for

10:10 A.M. ARNOLD & DOROTHY GOLDSMITH, appl. under Sect. 18-401 of the Ord. to allow enclosure of a screen porch to 9.2 ft. from side property line (12 ft. min. side yard req. by Sect. 3-307), located 1532 Long Fellow Ct., McLean Heights Subd., 30-4((21))4, Dranesville Dist., R-3, 11,330 sq. ft., V-321-79.

Mr. Arnold Goldsmith of 1532 Longfellow Court in McLean informed the Board that he wished to enclose his existing porch to make a library. He stated that his family had increased by one and he had no place to read. He indicated that he and his wife desired to have a library.

In response to questions from the Board, Mr. Goldsmith stated that he had owned his property for 7 or 8 years. He stated that the house was built 19 years ago.

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

Page 120, January 15, 1980, Board of Zoning Appeals
ARNOLD & DOROTHY GOLDSMITH

R E S O L U T I O N

In Application No. V-321-79 by ARNOLD & DOROTHY GOLDSMITH under Section 18-401 of the Zoning Ordinance to allow enclosure of a screen porch to 9.2 ft. from side property line (12 ft. minimum side yard required by Section 3-307), on property located at 1532 Long Fellow Court, tax map reference 30-2((21))4, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 15, 1980; 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 11,330 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:

R E S O L U T I O N

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

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

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

Mr. DiGiulian seconded the motion.

This motion passed by a vote of 4 to 0 (Ms. Ardis being absent.)

Page 121, January 15, 1980

Ms. Ardis arrived at 10:25 A.M. and remained for the rest of the scheduled cases.

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Page 121, January 15, 1980, Scheduled case for

10:20 GARY HUNTER, appl. under Sect. 18-401 of the Ord. to allow shed to
 A.M. remain 6.8 ft. from side lot line & 8.3 ft. from rear lot line (12
 ft. min. side yard & 10 ft. min. rear yard req. by Sect. 3-307 &
 10-105), located 8009 Bainbridge Rd., Hollin Hall Village, 102-1((9))
 (13)24, Mt. Vernon Dist., R-3, 10,004 sq. ft., V-322-79.

Mr. Gary Hunter of 8009 Bainbridge Road in Alexandria informed the Board that he had built a shed. He located it where he did because of a large maple tree in the back yard which prevented him from locating the shed further back from the rear lot line.

In response to questions from the Board, Mr. Hunter stated that he had constructed the shed last summer. He stated he did so after receiving misinformation. He stated that two years he had decided to put up a shed to do some work. He stated that he contacted the Building Department and was told that a building permit was not necessary because the shed would be on a concrete slab. Mr. Hunter stated that he purchased a metal shed for \$900. He stated that he had been told that as long as it was on a concrete slab he didn't need a building permit. Mr. Hunter stated that he drew up the plans and went ahead with his construction. He stated that he had contacted Fairfax County on three occasions and was given three different information about the height and the location of the shed. Mr. Hunter stated that he built the shed where he could because of the large maple tree. After it was finished, he stated he found out that he was too close to the property line. He stated that he had received a rejection notice because he did not have a building permit. When he went to the County for his building permit, he was informed by Zoning that it did not meet the setbacks. Mr. Hunter informed the Board that his shed was well built.

Mr. Yaremchuk commented that it seemed people are always coming before the Board because they have not checked the plats out with Zoning. He stated that if had called the County and gotten three different pieces of information, he would have tried to resolve the matter. Mr. Hunter stated that it was dumb on his part. Mr. Yaremchuk stated that it was important to have tried to resolve the situation somehow.

Mr. DiGiulian inquired as to what point Mr. Hunter decided to try to obtain a building permit. Mr. Hunter stated that he had received a rejection notice after the shed was completely finished except for the door. The notice was on the window. He stated that he called the County and talked to Mrs. Keeler who informed him that a building permit was necessary because of the size of the shed. After he reached the Zoning Office, he was informed that the shed was too close to the lot line. Mrs. Keeler sent Mr. Hunter to Mr. Yates because the shed was too close to the lot line. Mr. Hunter stated that he contacted the Zoning Office and talked to Mr. Koneczny who stated that since the

Page 122, January 15, 1980
 GARY HUNTER
 (Continued)

shed was almost completed, that he should go ahead and finish it to protect the shed and the materials.

In response to questions from the Board, Mr. Hunter stated that he used the shed for storage of equipment. He informed the Board that he builds model airplanes and small ships. He stores lawn mowers and bicycles in the shed.

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

Page 122, January 15, 1980, Schedu
 GARY HUNTER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-322-79 by GARY HUNTER under Section 18-401 of the Ordinance of the Zoning Ordinance to allow shed to remain 6.8 ft. from side lot line and 10 ft. minimum rear yard required by Section 3-307 and 10-105) on property located at 8009 Bainbridge Road, tax map reference 102-1((9))(13)24, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 15, 1980; 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 10,004 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, and has an unusual condition in that the location of the existing maple trees and confusion at Fairfax County when trying to get information as to requirements for building permits; etc.

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

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

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

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

Mr. Yaremchuk seconded the motion.

This motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent.)

Page 122, January 15, 1980, Scheduled case for

10:30 A.M. GLEN G. EHRRICH, appl. under Sect. 18-401 of the Ord. to allow subd. into 3 lots with proposed lot 5B having the width of 50 ft. and proposed lot 5C having width of 43 ft. (150 ft. min. lot width req. by Sect. 3-106), located 8118 Crestridge Rd., Fairwood Park Subd., 95-2((5))5, Springfield Dist., R-1, 5.052 acres, V-323-79.

Mr. Jim McCormack of Long, Brown & Associates represented the applicant. Mr. Ehrich was the owner of the subject property which was located on Crestridge Road. Mr. McCormack stated that it was a five acre parcel and was zoned R-1. He stated that Mr. Ehrich wanted to subdivide the property into three lots.

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Mr. McCormack stated that because of the circumstances affecting the property, a variance was necessary. He stated that the property was long and had limited frontage. There was a topographic problem and the location of the existing house were the unusual circumstances. Mr. McCormack stated that the best way to develop the lots was to have one behind the other. The existing topography would permit adequate street frontage for the driveway. Mr. McCormack stated that the existing house sits squarely in the middle of the property. The site has no public water or sewer and must be served by septic fields. The property has been tested for perc. Mr. McCormack stated that the plan presented to the Board for subdivision was the best layout of the lot with respect to the perc sites. A variance would be necessary for two of the proposed lots. Access to the proposed two lots would be from the existing driveway.

Mr. McCormack informed the Board that they had tried alternate ways of subdividing the property. He stated that Mr. Ehrich was a County employee and felt it would be more appropriate to secure a variance from the Board of Zoning Appeals rather than obtaining a waiver from the County Executive. The subd. of the property into three lots would not have an adverse affect on the adjacent lots. Mr. McCormack stated that the zoning would permit development into five lots but the applicant was only seeking three lots.

In response to questions from the Board, Mr. McCormack stated that they proposed one common driveway for lots 1B and 1C. It would be a common entrance on Crestridge Road. The driveway would split off to serve the rear lot.

There was no one else to speak in support of the application. Mr. Henry Sour of 8108 Crestridge Road spoke in opposition. He was the owner of lot 6C. He urged the Board to reject the application. He stated that he was a neighbor of Mr. Ehrich and lived adjacent to the property. He stated that this request was not for a variance but for a complete disregard for the 150 ft. restriction of Sect. 3-106. He stated that the applicants were not asking for just a few feet variance but a lot width of only 50 or 43 ft. Mr. Sour stated that he moved into his house placing a great deal of reliance on the Zoning Ordinance. He stated that he paid a lot of money for his home and wants to protect the rural character of the area. He stated that this application was a serious threat to the water supply. He stated that his well was located 100 ft. from Mr. Ehrich's well. He stated that they did not need any more wells that close to his well. He stated that he opposed one acre developments as it would affect the environment. Mr. Sour submitted several letters to the Board in opposition to the variance. One was from Wolf Run Civic Association. Mr. Sour urged the Board to deny the application.

During rebuttal, Mr. McCormack stated that the applicant has owned the property for three years and that the applicant resided on the property. Mr. McCormack stated that the matter of water would be addressed by the Health Department at the time they approve the location for the septic fields.

Mr. DiGiulian questioned Mr. McCormack regarding the development of the property into three lots. Mr. McCormack stated that the property could be developed into three lots by putting in a standard street; however, the highway department would not accept the street into the state system unless it served a public need. They define that need as serving three lots. This street would only serve two lots at most and really would only serve one lot.

Page 123, January 15, 1980 Board of Zoning Appeals
GLEN G. EHRICH

R E S O L U T I O N

In Application No. V-323-79 by GLEN G. EHRICH under Section 18-401 of the Ord. Zoning Ordinance to allow subdivision into three lots with proposed lot 5B having the width of 50 ft. and proposed lot 5C having width of 43 ft. (150 ft. min. lot width required by Section 3-106) on property located at 8118 Crestridge Road, tax map reference 95-2((5))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 January 15, 1980; 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-1.
3. The area of the lot is 5.052 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in that the configuration of the property will not allow development in accordance with existing zoning.

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

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

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

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

Mr. Yaremchuk seconded the motion.

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

Page 124, January 15, 1980, Scheduled case for

10:40 A.M. THE IRONWOOD CORP. & GARLAND & BARBARA WELCH, appl. under Sect. 18-401 of the Ord. to allow subd. into 5 lots (and outlots A & B) such that proposed lots 1 - 4 would have width of 7.5 ft. & proposed lot 2A1 would have width of 93.5 ft. (150 ft. min. lot width req. by Sect. 3-106), located 9525 & 9530 Lee Max St., Highview II Subd., 28-1((1))30 & 44, Centreville Dist., R-1, 9.91 acres, V-328-79.

Mr. Wendell Leonard, President of the Ironwood Corporation, informed the Board that he resided on one of the lots in the subdivision. The parcel of land which was the subject of the variance application contained 6.7 acres. It was a land locked parcel with no frontage but had an easement of some 900 ft. to the public road. Mr. Leonard stated that they had developed the land adjoining this parcel. He stated that they were adjoining a portion of the property to provide a connection to the public road. He stated that they were asking for a variance in order to put in a private drive. Mr. Leonard stated that there was a severe slope which if a public road was constructed would result in 10 ft. of grade and fill. By constructing a private road, it would only require them to follow the grade more closely and would disturb the area less.

In response to questions from the Board, Mr. Leonard stated that the hilltop was very attractive as the previous owner used to burn off the brush. As a result, the hill had a parklike setting. It is a high hill with a lot of trees. Mr. Leonard stated that by constructing a private road, he could go around the trees and make it less disturbing to the area. He stated that he was proposing three lots.

Mr. Yaremchuk stated that if this was a private road, later the residents might want it to be included in the state system. He inquired as to what shape the road would be in in a few years. Mr. Leonard stated that it would almost conform to the state's standards. He stated that they would slope the road but would not have to crown it. He stated that they would not have to bank so deep so there would not be any deep cuts on the sides. Mr. Leonard stated that there would not be any problem with the grade for getting up and down.

Mr. DiGiulian inquired about the proposed five lots with the two outlots. Mr. Leonard stated that there would only be four new lots out of the basic 6.7 acre parcel. There was an existing house and there would be three new houses and two outlots. Mr. DiGiulian inquired as to the planned use for the outlots. Mr. Leonard informed the Board that he lived at 9105. He stated that he swam in the pond on the outlots. He stated that it was not a conforming lot and

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IRONWOOD CORP. & GARLAND & BARBARA WELCH
(continued)

they proposed to plant Christmas trees on the outlot. He stated that he owned a portion of the property. He stated that the 6.7 acre parcel was the land he was contracting to buy but it did not have the road frontage which was why it was necessary to combine the land.

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

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IRONWOOD CORP. & GARLAND & BARBARA WELCH
R E S O L U T I O N

In Application No. V-328-79 by IRONWOOD CORPORATION & GARLAND & BARBARA WELCH under Section 18-401 of the Ordinance to allow subdivision into five (5) lots (and outlets A & B) such that proposed lots 1 - 4 would have width of 7.5 ft. and proposed lot 2A1 would have width of 93.5 ft. (150 ft. minimum lot width required by Section 3-106) on property located at 9525 & 9530 Lee May Street, tax map reference 28-1((1))30 & 44, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 15, 1980; 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 9.91 acres.
4. That the applicant's property is exceptionally irregular in shape.

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

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

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

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

Mr. DiGiulian seconded the motion.

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

Page 125, January 15, 1980, Scheduled case for

10:50 VINCENT A. & BERNICE GAEGLER, appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of a dwelling to 8 ft. from each side of property line (15 ft. min. side yard req. by Sect. 3-207), located 1855 Massachusetts Ave., Franklin Park Subd., 41-1((13))1D, Dranesville Dist., R-2, 10,748 sq. ft., V-304-79.

Mrs. Bernice Gaegler of 1855 Massachusetts Avenue in McLean stated that she was speaking on behalf of herself and her husband. She informed the Board that they have lived at this location since 1935, their entire married life. She stated that they purchased the property in 1946. It was purchased with the intent of building in the future. Mrs. Gaegler stated that her husband retired in 1972. Their present home was too large and was difficult for them to maintain. They decided to build a one story dwelling which would require very little maintenance. Mrs. Gaegler informed the Board that the homes in the area face the street and they wanted their dwelling to face the street. Mrs. Gaegler stated that the proposed dwelling was 40 ft. wide. She indicated that it was not too

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large but would meet their requirements. The subdivision is an old established one and the homes vary in height in all sizes and materials, etc. The homes vary in age from 60 years of age to five years of age.

Mrs. Gaegler stated that her present home was on three lots, all being 50 ft. wide. Water and sewer was available. She stated that they wished to spend the rest of their life on this property as their roots were here. She stated that they wanted to continue residing on the property and in the neighborhood and needed a variance to build their new home.

Mr. John Hize, Jr. of 1854 Massachusetts Ave. spoke in support of the application. He stated that he lived directly across the street. He stated that he realized that this was a buildable lot and that building could not be stopped or delayed forever. Mr. Hize stated that the Gaeglers had a lot that they could develop and continue to live on or they could develop it and use the money for a down payment to live elsewhere. Mr. Hize stated that he preferred the Gaeglers to live there rather than a developer build on it and have the Gaeglers leave. He stated that the Gaeglers wanted to live there and maintain the property as they are part of the community. Mr. Hize recommended that the Board approve the variance request.

Mr. Paul Michael of 1853 Massachusetts Ave. spoke in opposition. He stated that he was adjoining the Gaegler property. Mr. Michael stated that he was a lawyer but did not know about the zoning laws. He stated that he objected to the variance request. Mr. Michael stated that he has lived next door to the Gaeglers for 2 1/2 years. The lot has marvelous trees and the Gaeglers are fine, friendly people. Mr. Michael stated that he did not wish them any hardship but he was opposed to the construction of a new home on the narrow lot because of the space and the density and because it would set a precedent. He stated that if the Board were to look at the area they would see homes that are very well spaced with a few exceptions. There is about 100 ft. between structures. At present, the distance between Mr. Michael's home and the Gaegler's home is about 90 ft. If a new home is built, it would be only 25 ft. to 30 ft. from Mr. Michael's home.

Mr. Michael presented the Board with a letter signed by nine families in the area who were in opposition to the variance request. Mr. Michael informed the Board that of the 7 closest neighbors to the Gaeglers, five signed the letter and two did not. He stated that the request would substantially change the density and reduce the density between the homes quite drastically.

The next speaker in opposition was Lewis Kasper, Chairman of the Land Use Planning for Franklin Park. He referred the Board's attention to a letter from Mr. McCormack dated January 12, 1980. He stated that the letter pointed out that this request would increase the density. He stated that the property was zoned R-2 to protect the water shed. He informed the Board that there was an emergency on water and they did not need a greater density. He stated that there were many lots in the area like the Gaeglers lot where the lot was used for a side yard. He stated that there were at least a 100 homes in the area with the same situation. He stated that with the subway, there would be a lot of pressure to build in this area. He indicated that he would hate to see the greater density in the area. He urged the Board to deny the variance application.

Chairman Smith informed Mr. Kasper that the applicants could build a new home by right if they turned the dwelling around. He stated that no one would prevent that.

Mr. George LeBlendes informed the Board that he had signed the petition in opposition. He confirmed Mr. Michael's remarks. He stated that the point of the letter was that they objected to the building of any structure on the lot as they wanted the lot to retain its existing character. He stated that if the lot were sold and someone else wanted to build, they would still object. Mr. LeBlendes stated that if the structure were going to be built, then it should conform to the setback requirements. Mr. LeBlendes stated that this request was not in keeping with the overall character of the neighborhood.

Mrs. Gaegler rebutted statements by the opposition. She informed the Board that it was difficult to speak because she had been unaware of the opposition. No one had contacted her personally with respect to the variance. She stated that it was upsetting. Mrs. Gaegler informed the Board that this was a prime area. The home values continue to rise rapidly. She stated that they have lived in harmony in this area for 34 years and it has continually changed. She stated that they were upset by the opposition and it would affect their personal lives. However, she stated that they would abide by the Board's decision.

R E S O L U T I O N

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In Application No. V-304-79 by VINCENT A. & BERNICE GAEGLER under Section 18-401 of the Zoning Ordinance to allow construction of a dwelling to 8 ft. from each side of property line (15 ft. minimum side yard required by Section 3-207) on property located at 1855 Massachusetts Avenue, tax map reference 41-1((13))(1)D, County of Fairfax, Virginia, Ms. Ardis 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 January 15, 1980; 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. The area of the lot is 10,748 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and is substandard in size.

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

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

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

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

Mr. Yaremchuk seconded the motion.

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

Page 127, January 15, 1980, Scheduled case for

11:00 LAWRENCE D. COOK, AIA, appl. under Sect. 3-203 of the Ord. to permit
A.M. operation of a home professional office (architect) located 3424
& Mansfield Rd., Lake Barcroft Subd., Mason District, 61-1((11))990,
R-2, 26,500 sq. ft., S-324-79.

11:00 LAWRENCE D. COOK, AIA., appl. under Sect. 18-401 of the Ord. to
A.M. allow driveway and parking spaces for a home professional office
with other than dustless surface (dustless surface req. by Sect.
11-102), located 3424 Mansfield Rd., Lake Barcroft Subd., Mason
Dist., 61-1((11))990, R-2, 26,500 sq. ft., V-325-79.

Mr. Lawrence Cook of the above address stated that he was requesting a home office for his architectural practice. He stated that it would involve contact with clients from 8 A.M. to 6 P.M. and occasionally on evenings and Saturday. The number of clients would vary but there would never be more than three people at any one time. Mr. Cook stated that he was an architect licensed in the State of Virginia and nine other states. The only traffic would be two cars a day on an average. He stated that 50% of his clients are from Northern Virginia and the other 50% are from the other states. Mr. Cook presented the Board with a petition in support signed by his neighbors. Mr. Cook stated that he would be the only person practicing in the office. He stated that this was his home and he was the principal practitioner. Mr. Cook stated that he sometimes has three employees. He was advised by Mr. DiGiulian that the Code allows a maximum of four persons including the applicant. Mr. Cook stated that his studio would not allow more than that because of the size.

In response to questions from the Board regarding the structure, Mr. Cook stated that he had built in the shell for his studio and finished it off last year. With respect to the variance request, Mr. Cook stated that he had a gravel driveway and wanted to keep it as it blended in with natural surroundings. He stated that he preferred the gravel as it would lessen runoff.

The gravel blends in with the other houses and the rest of the landscaping. Mr. Cook stated that he had a solar heated house and the gravel does help to reflect more heat into the house. Mr. Cook stated that his driveway was blue-stone originally. Five years ago, it was compacted with wash gravel. Mr. Cook stated that there was not ever any dust even in the summertime. He stated that he never had any complaints from the neighbors.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. 324-79 by LAWRENCE D. COOK, AIA under Section 3-203 of the Zoning Ordinance to permit operation of a home professional office (architect) on property located at 3424 Mansfield Road, tax map reference 61-1((11))990, 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 15, 1980; 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 26,500 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction (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 changes or uses 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 employees and consultants, etc. shall be (4) including the applicant.
8. The hours of operation shall be 8 A.M. to 6 P.M., (5) days a week.
9. This permit is granted for a period of five (5) years.

Mr. Yaremchuk seconded the motion.

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

R E S O L U T I O N

In Application No. V-325-79 by LAWRENCE D. COOK, AIA, appl. under Section 18-401 of the Zoning Ordinance to allow driveway and parking spaces for home professional office (architect) with other than dustless surface (dustless surface required by Section 11-102), on property located at 3424 Mansfield Road, tax map reference 61-1((11))990, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 15, 1980; 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 26,500 sq. ft.
4. That the applicant's driveway has an unusual condition and a gravel driveway would blend in with the surrounding nature.

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

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

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

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

Mr. DiGiulian seconded the motion.

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

Page 129, January 15, 1980, Scheduled case for

11:15 A.M. ST. MARY'S MEDICAL CENTER, INC./ILIFF NURSING HOME, appl. under Sect 3-303 of the Ord. to amend S-95-78 for child care center to permit reduction of total land area by 0.84 acres, located 8000 Rock St., 39-4((1))137 & 135, Providence Dist., R-3, 6.4 acres, S-327-79.

Mr. Mac Arnold, an attorney in Fairfax, represented the applicant. He stated that the application was really a technical one to omit a parcel of land or about 0.8 acres which was originally included in an application for a special permit for a day care center. Mr. Arnold stated that the nursing home was interested in diversifying and wanted to sell this property which had a small home on it.

In response to questions from the Board, Mr. Arnold stated that the home was never used by the nursing home but only owned by them. At one time, there were some employees living there but never any patients. Chairman Smith stated that it was actually an accessory use rather than a use by itself. There were no questions about the deletion of the land.

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

R E S O L U T I O N

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Ms. Ardis made the following motion:

WHEREAS, Application No. S-327-79 by ST. MARY'S MEDICAL CENTER, INC./ILIFF NURSING HOME, INC., under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-95-78 for child care center to permit reduction of total land area by 0.84 acres, on property located at 8000 Rock St., tax map reference 39-4 ((1))137 & 135A, 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 15, 1980; 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 6.4 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 in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. This Special Permit is subject to all provisions and conditions of S-95-78 not altered by this resolution.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 130, January 15, 1980, After Agenda Items

Paul & Adene Rose: V-298-78: The Board was in receipt of a request from Paul & Adene Rose requesting an extension of the variance granted on January 17, 1979. Mr. DiGiulian moved that the Board grant a 180 day extension. Mr. Barnes seconded the motion. The motion passed unanimously.

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Page 130, January 15, 1980, After Agenda Items

Colonial Furniture/Amoco Oil, V-288-78: The Board was in receipt of a request for an extension of the variance granted on January 17, 1979. Mr. DiGiulian moved that the Board grant a 180 day extension. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 4 to 0 (Ms. Ardis being absent.)

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Page 131, January 15, 1980, After Agenda Items

David H. Hopkins: The Board was in receipt of a request from Mr. Thomas Koval agent for Mr. Hopkins, asking the Board for an out-of-turn hearing. The Board denied the request.

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Page 131, January 15, 1980, After Agenda Items

David D. Vanover: The Board was in receipt of a request from Mr. David D. Vanover seeking clarification of the Board's resolution with respect to the number of employees involved in the home professional office. It was the consensus of the Board that there only be two employees.

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Page 131, January 15, 1980, After Agenda Items

Roger Sponaugle: The Board was in receipt of a letter from Mr. Edgar Collins requesting a rehearing of the Roger Sponaugle variance application granted by the BZA. The Board denied the request for the rehearing as everything listed in the letter pertained to the use of the land which was not a question of the variance. The Board referred the matter to the Zoning Enforcement Division.

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There being no further business, the Board adjourned at 12:10 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 1-12-82.

APPROVED: January 12, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 22, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman called the meeting to order at 10:45 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 SPRINGFIELD RENTAL CRANE CO, INC., appl. under Sect. 18-301 of the Zoning Ordinance to appeal Zoning Administrator's decision that storage of construction equipment on subject property is not a non-conforming use, located 10000 Van Thompson Rd., 105-2((1))8, Springfield Dist., R-1, 5.1859 acres, A-336-79.

The Board was in receipt of a letter from the applicant's attorney, Mr. Michael Chamowitz, requesting a deferral of the appeal until March. The Board scheduled the deferral for March 4, 1980 at 10:00 A.M.

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Page 132, January 22, 1980, Scheduled case for

10:30 GREAT FALLS SWIM & TENNIS CLUB, INC., appl. under Sect. 18-401 of
A.M. the Ord. to allow tennis court fence 10 ft. high in required rear
yard (7 ft. max. hgt. for fence in rear yard req. by Sect. 10-105),
& located 761 Walker Rd., 13-1((1))27, Dranesville Dist., R-1, 5.5
acres, V-329-79.

10:30 GREAT FALLS SWIM & TENNIS CLUB, INC., appl. under Sect. 3-103 of
A.M. the Ord. to amend existing S.U.P. for swim & tennis club to permit
additional tennis court, located 761 Walker Rd., 13-1((1))27,
Dranesville Dist., 5.5244 acres, R-1, S-267-79.

Mr. Robert Barlow of 902 Leigh Mill Road informed the Board that he was President of the Great Falls Swim & Tennis Club, Inc. He stated that the requested variance for the fence for the tennis court was necessary as they wanted the fence the standard height for a tennis court. He stated that they were adding onto the existing complex that already has a 10 ft. fence. For background, he indicated that the club had been before the Board in 1973 to add the two tennis courts which are being added onto again. They had constructed 2 1/2 courts at that time and are now attempting to extend the practice court into a full tennis court. Mr. Barlow stated that the special permit request was only to convert the practice court into a full court. In order to do that, it would be necessary to extend the fence line along the same height as the existing fence.

In response to questions from the Board as to the number of tennis courts in existence, Mr. Barlow stated that two tennis courts were built in 1971 and two added in 1973 making a total of four courts with only one practice court. Mr. Barlow stated that one of the club's problems was that when they extended the existing fence line, they would encroach on the 25 ft. setback. One corner of the fence would be 21 ft. from the rear property line. Chairman Smith stated that if the club were to move the fence back 25 ft., they would not require a variance. Mr. Barlow stated that the club was trying to utilize the existing fence around the tennis courts that are already there. Chairman Smith stated that if the club took the fence out of the setback area, they would not need a height variance. Mr. Covington stated that if the club moved the fence back far enough, they could build another building. He stated that the fence could go 10 ft. in height if it met the setback for the district. Mr. Barlow stated that the lot lines converge with the fence at a very slow rate. As you move north, the lot line converges and encroaches 4 ft. He stated that they needed a variance for just the corner of the fence. He stated that the club can't move the tennis courts because of the topographic problems and the existing gazebo.

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

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In Application No. V-329-79 by GREAT FALLS SWIM & TENNIS CLUB, INC. under Section 18-401 of the Zoning Ordinance to allow tennis court fence 10 ft. high in required rear yard (7 ft. maximum height for fence in rear yard required by Sect. 10-105) on property located at 761 Walker Road, tax map reference 13-1((1))27, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 22, 1980; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 5.5 acres.
4. That the applicant's property has an unusual condition in the location of the existing structure on the subject property.

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

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

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

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

Ms. Ardis seconded the motion.

The motion passed by a vote of 5 to 0.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-267-79 by GREAT FALLS SWIM & TENNIS CLUB, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to amend existing special use permit for swim and tennis club to permit additional tennis court on property located at 761 Walker Road, tax map reference 13-1((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 January 22, 1980; and deferred from November 13, 1979 for filing of variance; and

WHEREAS, the Board of Zoning Appeals 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 5.5244 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of memberships shall be 400.
8. The hours of operation shall be swimming 9:00 A.M. to 9:00 P.M., seven days a week and tennis 7:00 A.M. to 9:00 P.M., seven days a week.
9. The number of parking spaces shall be 134.
10. This permit is granted indefinitely.
11. Unless otherwise qualified herein, extended hours for parties or other activities of outdoor community swim clubs or recreation associations shall be governed by the following:
 - (A) Limited to six (6) per season.
 - (B) Limited to Friday, Saturday and pre-holiday evenings.
 - (C) Shall not extend beyond 12:00 midnight.
 - (D) Shall request at least 10 days in advance and receive prior written permission from the Zoning Administrator for each individual party.
 - (E) Requests shall be approved for only one (1) such party at a time, and such requests will be approved only after the successful conclusion of a previous extended-hour party or for the first one at the beginning of a swim season.
 - (F) Requests shall be approved only if there are no pending violations of the conditions of the Special Permit.
 - (G) Any substantiated complaints shall be cause for denying any future requests for extended-hour parties for that season; or, should such complaints occur during the end of the swim season, then this penalty shall extend to the next calendar year.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 134, January 22, 1980, Scheduled case for

10:40 MARTHA LUCAS, appl. under Sect. 18-401 of the Ord. to allow subd.
 A.M. into 2 lots, one having width of 16 ft. & the other 113.35 ft.
 (150 ft. min. lot width req. by Sect. 3-106), located 10129 Zion
 Dr., 77-2((1))17, Annandale Dist., R-1, 2.015 acres, V-330-79.

Mr. Thane Lohr of 1118 Moorefiled Creek Road in Vienna represented Mrs. Lucas. Mr. Lohr informed the Board that the justification for the variance was because the parcel was very narrow making the rear portion very inaccessible for use as an additional building lot. He stated that they were asking for access to the land which would make a one acre lot in the rear for a building lot leaving 1.5 acres in the front where a structure presently exists. He

stated that there would be adequate side line clearance between the present structure and the pipestem driveway to the rear lot.

Chairman Smith stated that it would appear that the front was non-conforming. Mr. Covington stated it was as to the lot width. Chairman Smith stated that the applicant was requesting the Board to bring the lot into conformity by requesting the variance. Chairman Smith inquired if the staff had any objections to the subdivision and was informed by Mr. Covington that they did not.

Mr. Jim Goins of 10133 Zion Drive spoke in favor of the application. He stated that the subject parcel adjoined his sister's property. Mr. Goins stated that he was concerned about a gravel driveway going too near his property. Chairman Smith stated that a 16 ft. driveway would leave ample room for a truck to go through without touching adjoining property. Mr. Goins stated that he had several shrubs and bushes all along his property. However, he stated that the subject property belonged to Mrs. Lucas and she should be able to do whatever she wanted with it.

There was no one else to speak in favor and no one to speak in opposition. During rebuttal, Mr. Lohr assured the Board that they would do everything possible and use every precaution not to disturb any of the plants on the surrounding properties. He stated that Mrs. Lucas wanted to put the property up for sale.

R E S O L U T I O N

In Application No. V-330-79 by MARTHA LUCAS under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, one having width of 16 ft. and the other a width of 113.35 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at 10129 Zion Drive, tax map reference 77-2((1))17, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 22, 1980; 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 2.015 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. No gravel or pavement shall be permitted within 3 feet of adjoining property line.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

10:50 THOMAS R. WOODRELL, appl. under Sect. 18-401 of the Ord. to allow
A.M. ± construction of detached garage 14 ft. high to 3 ft. from side &
rear lot lines (12 ft. minimum side yard and 14 ft. min. rear yard
req. by Sect. 3-307 & 10-105), located 14633 Lilva Drive, Country
Club Manor Subd., 44-3((2))(39)23, Springfield Dist., R-3, 9,200
sq. ft.; V-331-79.

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Mrs. Thomas Woodrell of 14633 Lilva Drive in Centreville stated that they needed a variance for a garage to be built 3 ft. from the side and rear lot lines. She stated that they had three recreational vehicles and needed a large garage and covered area for the recreational vehicles. She stated that they could not park them on the street. She stated they needed a detached garage as they could not build adjacent to the house. The garage would be built of the same materials as the house.

Chairman Smith stated that it was a very large garage. Mrs. Woodrell stated that it was a double garage. Mr. Covington informed the Board that the Preliminary Engineering comments on the staff report indicated that the building exceeded the 30% coverage of the rear yard. He stated that if the temporary storage shed was removed, it would bring the coverage into conformance. Chairman Smith inquired as to the size of the shed and was informed by Mrs. Woodrell that it was 8' x 12'. She stated that the shed was raised off of the ground. Chairman Smith again stated that a 30 ft. garage was rather large. Mrs. Woodrell stated that a 30 ft. garage would allow for storage of the recreational vehicles and give extra room for other equipment. Chairman Smith inquired as to the type of recreational vehicles and was informed it was just a camper. Chairman Smith inquired as to the length of the camper and was told by Mrs. Woodrell that she was not sure of the length. Chairman Smith inquired as to why the garage had to be 30 ft. in width. Mrs. Woodrell stated that it would allow for the parking of the vehicles and leave extra space for a woodshop area with a storage space next to that area.

In response to questions from the Board, Mrs. Woodrell stated that they have owned the property for nine years. Chairman Smith stated that this subdivision was a cluster development and everybody in that subdivision had the same problem when it comes to the lot size. Mrs. Woodrell stated that there has been garages of this size built in the development before. Chairman Smith stated that the previous Ordinance provided for that if there was not a shed. He stated that in order to build this close to the property line, it would have to be of masonry construction. He inquired if they proposed to have masonry construction & was assured by Mrs. Woodrell that it would be masonry and would match the existing house which was brick and siding. Chairman Smith inquired as to the proposed height of the building. Mr. Barnes stated that the dwelling was 14 ft. in height. Ms. Ardis stated that the plat showed the garage to be a maximum height of 14 ft. Mr. Covington stated that would be at the peak. Chairman Smith stated that the building would have to be set back a distance equal to the height from the rear lot line and would have to meet the minimum side yard for the district.

Mr. DiGiulian informed Mr. Covington that he had done some figuring on the 30% coverage for the rear yard. He indicated that the garage was 1,052 sq. ft. and the shed was 920 sq. ft. He stated that was within the 30% coverage. Mr. DiGiulian stated that the comment from Preliminary Engineering must have been in error.

Mr. Yaremchuk inquired if the applicants had a garden and whether they needed the shed for garden equipment. Mrs. Woodrell stated that they would like to be able to keep the shed. Mr. Yaremchuk stated that if they do not exceed the 30% coverage, that they could keep the shed.

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

Page 136, January 22, 1980
THOMAS R. WOODRELL

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-331-79 by THOMAS R. WOODRELL under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 14 ft. high to 3 ft. from side and rear lot line (12 ft. minimum side yard and 14 ft. minimum rear yard required by Sect. 3-307 and 10-105) on property located at 14633 Lilva Drive, tax map reference 44-3((2))(39)23, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 22, 1980; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 9,200 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Yaremchuk seconded the motion.

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

Page 137, January 22, 1980, Scheduled case for

11:00 WARREN & CHARLOTTE WINCHESTER, appl. under Sect. 18-401 of the Ord. to allow subd. of parcel into two lots such that one would have a lot width of 10 ft. and the other a lot width of 86 ft. (100 ft. min. lot width req. by Sect. 3-206) and to allow dwelling to remain 11.7 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4304 Robertson Blvd., Mt. Vernon Park Subd., 110-3((2))278, Mt. Vernon Dist., R-2, 45,100 sq. ft., V-332-79.

As there was an error in the advertising of the application, the Board deferred the variance application until February 12, 1980 at 11:20 A.M.

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Page 137, January 22, 1980, Scheduled case for

11:10 EDWIN F. FLORMAN, appl. under Sect. 18-401 of the Ord. to allow addition to existing dwelling to 7.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 10239 Brigade Dr., Mosby Woods Subd., 47-4((7))(M)23, Providence Dist., R-3, 0.251 ac., V-333-79.

Mr. Edwin F. Florman of 10239 Brigade Drive in Fairfax informed the Board that the drawing did not show in detail the subject of this variance. He stated that he had called the Zoning Office and was told that he could build an enclosed garage within 8 ft. of the property line. He stated that he prepared to move and located his driveway. When he visited the Zoning Office to apply for his building permit, he was informed that the Board of Supervisors had changed the required setbacks from 8 ft. to 12 ft. He stated that he was also told that an open carport had a required clearance of 7 ft. Mr. Florman stated that since he had already gone to the expense of moving his driveway, he compromised and decided to build an open two car carport with a room on the rear of the structure. He stated that as noted on his application the room extends to the end of the carport.

Page 138, January 22, 1980
 EDWIN F. FLORMAN
 (continued)

Chairman Smith stated that the applicant was requesting a 4.9 ft. variance because of the enclosed structure. Mr. Florman stated that was correct. He stated that the end of the room was 12 ft. from the property line and he was requesting a 4.9 ft. extension which would bring the outer edge of the room closer to the property line.

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

Page 138, January 22, 1980
 EDWIN F. FLORMAN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-333-79 by EDWIN F. FLORMAN under Section 18-401 of the Zoning Ordinance to allow addition to existing dwelling to 7.1 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 10239 Brigade Drive, tax map reference 47-4((7))(M)23, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 22, 1980; 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 0.251 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 138, January 22, 1980, Scheduled case for

11:20 A.M. ARTHUR G. METHVIN, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8.75 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 4022 Thornton Court, Kenwood Subd., 60-3((28))97, Mason Dist., R-4, 9,667 sq. ft., V-334-79.

Mr. Robert Williams, agent for the applicant, stated that the reason for the variance was because there was a very small amount of footage because of the odd shaped lot. He stated that the rest of the lot does meet the Zoning Ordinance requirements. Mr. Williams stated that the addition could not be moved back because of the fireplace. In addition, if it was moved back, they would then be in violation of the rear setback. Mr. Williams stated that this was the only place on the property on which to construct the addition.

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In response to questions from the Board as to why the addition could not be moved back 2 ft., Mr. Williams stated that the two car garage of only 20 ft. would be impossible to get in and out of automobiles. Mr. Williams stated that he had recently built a carport of 22 ft. and it did not leave enough room for the car doors.

Mr. DiGiulian inquired as to how far the chimney projected into the area and was informed 18 inches which would only leave a clearance of 20 ft. Mr. Williams stated that the majority of the addition met the requirements and that it was only a small portion that does not.

There was no one to speak in favor of the application. Mrs. Shepler of 4020 Thornton Court spoke in opposition. She was concerned about the closeness of the garage to her property because of exhaust fumes, the one ft. overhang, the closeness of autos when being repaired, etc. She stated that the driveway 2 ft. from her property line would decrease the value of her property. In addition, this would be a fire hazard.

Mr. Yaremchuk inquired as to the distance of Mrs. Shepler's home from the property line and was informed it was 10 ft. Mrs. Shepler stated that these were pie-shaped lots. She stated that it would be 8.75 ft. from the driveway where it comes out. Mrs. Shepler stated that the Board has to take into consideration the overhang. There would only be 17 ft. between structures if the garage were allowed.

Mr. DiGiulian inquired of Mr. Covington if a carport could be built to these dimensions without a variance and was informed it could. Mr. DiGiulian stated that the garage would be enclosed which would decrease the noise to the adjoining property.

There was no one else to speak in opposition and there was no rebuttal.

R E S O L U T I O N

In Application No. V-334-79 by ARTHUR METHVIN under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.75 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407), on property located at 4022 Thornton Court, tax map reference 60-3((28))97, 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-law of 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 22, 1980; 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 9,667 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including diverging 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.

R E S O L U T I O N

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

Mr. Yaremchuk seconded the motion.

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

 Page 140, January 22, 1980, Scheduled case for

11:30 HEINZ K. TAUBENBERGER, appl. under Sect. 18-401 of the Ord. to allow
 A.M. construction of a detached garage to 18.5 ft. from front lot line, the dwelling being 50.5 ft. from the same lot line (Sect. 10-105 requires no accessory structures or use in any front yard on a lot containing 36,000 or less, located 6821 Greenleaf St., Springfield Forest Subd., 91-1((2))148, Lee Dist., R-1, 27,805 sq. ft., V-335-79.

Mr. Heinz Taubenberg of 6821 Greenleaf Street in Springfield informed the Board that he was requesting a variance in order to construct a detached garage in the rear of his property 18.5 from Greenleaf Street. He stated that it was existing on the map but would be closed off according to the Master Plan.

Chairman Smith inquired as to why the applicant desired to build in the front yard. Mr. Taubenberg stated that he considered that to be a back lot. He stated that it was the only practical place to build the garage. The south-easterly part of the house had a stairwell going down to the basement and he could not attach a garage to that. He stated that the proposed location was more practical in order to enter the garage. There were no trees and there was sufficient area for the garage. He stated that it would be an attractive addition to the house. Mr. Taubenberg stated that he needed the garage as he had four licensed drivers in the house. Chairman Smith stated that this was a 21 ft. variance. Mr. Taubenberg informed the Board that it was not really a street as it has never been maintained. The County and the State will not maintain it. He stated that the gravel pits would be closed off once Metro was constructed. Mr. Taubenberg stated that he would enter at a 45° angle.

Mr. Taubenberg showed the Board some pictures of the property. Mr. Yaremchuk stated that he saw the driveway. He asked if there was a bank there and was informed there was. Mr. Yaremchuk inquired if there was any traffic from the industrial area. Mr. Taubenberg stated that they did not get any traffic as they were completely closed off. He stated that they were encircled by Metro and the industrial area. He stated that he had been assured that Greenleaf would not be opened up. He informed the Board that the Springfield By-pass would go right through there.

Chairman Smith stated that it was a dedicated street and it has not been vacated. Mr. Taubenberg stated that it was a street but that it was not improved. He stated that he and his neighbors had to replace the gravel washed out by Hurricane Agnes. Mr. Yaremchuk inquired as to why the applicant could not build elsewhere and was informed it was because of the stairwell. Mr. DiGiulian stated that the stairwell was not shown on the plat. Mr. Taubenberg stated that the stairwell was about 10 ft. wide and was on the same end of the house as the proposed garage. Mr. Yaremchuk stated that there was a bank there.

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-335-79 by HEINZ K. TAUBENBERGER under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage to 18.5 ft. from front lot line, the dwelling being 50.5 ft. from the same lot line (Sect. 10-105 requires no accessory structure or use in any front yard on a lot containing 36,000 sq. ft. or less), tax map reference 91-1((2))148, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on January 22, 1980; 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 27,805 sq. ft.
4. That the applicant's property has an unusual condition in that Greenleaf Drive is a dedicated street which has not been vacated at the present time and is surrounded by industrial areas so it will not be constructed for through traffic.

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

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

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

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

Mr. DiGiulian seconded the motion.

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

Page 141, January 22, 1980, Scheduled case for

11:40 BRUCE & JOAN HOUSTON, appl. under Sect. 18-401 of the Ord. to allow
A.M. subd. into (3) lots, 2 of which have lot width of 6 ft. & the other
a width of 165 ft. (200 ft. min. lot width req. by Sect. 3-E07),
located 2253 Hunter Mill Rd., 37-2((1))17, Centreville Dist., R-E,
6.699 acres, V-337-79.

Mr. Bruce Houston of 2253 Hunter Mill Road stated that he was requesting a variance of the 200 ft. frontage requirement. He stated that the lot was irregularly shaped. The property was zoned for 2 acres. He stated that he was requesting to be able to divide the 6.7 acre parcel into three lots. The present house with the circular drive would have 2.7 acres and the two back lots would each have 2 acres. Chairman Smith stated that the applicant was actually requesting three variances because he had a non-conforming lot. Mr. Houston stated that he had 177 ft. frontage now and the Zoning Ordinance requires 200 ft. Mr. Houston stated that this would leave 165 ft. and a 6 ft. pipestem for each of the two back lots. Chairman Smith stated that a 12 ft. driveway was very narrow. Mr. Houston stated that they would have a 6 ft. easement making a total width of 18 ft. Mr. DiGiulian stated that the plat showed 24 ft. and Mr. Houston stated that was correct.

Mr. Barnes inquired if this was near the curve on Hunter Mill Road and he also inquired as to the sight distance. Mr. Houston stated that the road has been corrected and there was no problem with sight distance. He further stated that the driveway was there now. Mr. Barnes informed the applicant that he lived on Hunter Mill Road and was aware of the location of this parcel. In response to further questions, Mr. Houston stated that he had owned the property for five years.

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-337-79 by BRUCE AND JOAN HOUSTON under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, two (2) of which have lot width of 6 ft. and the other a width of 165 ft. (200 ft. minimum lot width required by Sect. 3-E07), on property located at 2253 Hunter Mill Road, tax map reference 37-2((1))17, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 22, 1980; 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 6.699 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 the buildings involved.

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. Adequate sight distance to the north and the south must be provided at the proposed common driveway and Hunter Mill Road to the satisfaction of Preliminary Engineering Branch.

Mr. Barnes seconded the motion.

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

Page 142, January 22, 1980, Scheduled case for

11:50 HENRY E. AHARI, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of addition to dwelling to 8.6 ft. from side lot
line (20 ft. min. side yard req. by Sect. 3-107), located 8533
Georgetown Pike, 20-1((1))41, Dranesville Dist., R-1, 26,856
sq. ft., V-342-79.

Mr. Dick Schoppett represented Mr. Ahari who was out of town. Mr. Schoppett stated that a variance was necessary to the side yard requirement. Chairman Smith inquired as to the owner of the property and was informed that Mr. Ahari had purchased the property last year. He stated that settlement was on November 20, 1979. Chairman Smith asked for a copy of the settlement since the property was so recently acquired.

The letter of justification for the variance contained in the file spoke only to domestic problems. Chairman Smith informed Mr. Schoppett that the Board could not grant a variance because of domestic problems and asked for the hardship. Mr. Schoppett stated that there was a walnut tree in the back yard and the house had an overhang towards the tree. He stated that it was the only large tree in the back yard and they did not want to remove it. Chairman Smith inquired as to why Mr. Ahari could not build on the other side of the property. Mr. Schoppett stated that one proposed addition would not need a variance. He stated that this was a small house and did not meet the family's needs. He stated that Mr. Ahari wanted to improve the house and wanted to save the large tree in the back if possible.

Mr. DiGiulian stated he was not sure that answered the Chairman's question. Chairman Smith stated it did not as this was a 20 ft. setback requirement for the area. Chairman Smith stated that the Board should have something to show the trees but indicated that the tree was not a reason for granting a variance.

Mr. Covington stated that this lot was substandard and was a corner lot. Mr. Schoppett stated that there was a driveway on the lefthand side of the property. There was an existing terrace which limits construction. The property slopes off down the hill. To enlarge the house in that direction would mean going down the hill which Mr. Ahari did not wish to do. He wanted to balance the house.

Mr. Barnes noted that Manning Gasch did not oppose the request. There was no one else to speak in favor of the application. Mr. Mario Smoke of 8551 Georgetown Pike spoke in opposition to the request. He stated that was the second house down the road from the subject property. There was only one house between the subject parcel and his property. Mr. Smoke stated that he was not really opposed to the request but wished to make some comments. He stated that he was concerned that this application might lead others to ask for the same thing. He stated that he would oppose any variance if it would explode into other requests. He stated that he wanted to appear before the Board since he was a resident of the area who was interested in what was going on. There was no one else to speak in opposition.

R E S O L U T I O N

In Application No. V-342-79 by HENRY E. AHARI under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8.6 ft. from side lot line (20 ft. min. side yard required by Section 3-107), on property located 8533 Georgetown Pike, tax map reference 20-1((1))41, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 22, 1980; 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 26,856 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings and the lot is substandard in area and lot width.

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

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

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

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

Mr. Barnes seconded the motion.

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

Page 144, January 22, 1980, After Agenda Items

St. George's United Methodist Church, S-49-79: The Board was in receipt of a letter from John T. Hazel requesting a one year extension of the special permit granted on April 10, 1979. Chairman Smith suggested that the Board grant a six month extension first and then see what happens during that time. Mr. Barnes moved that the Board grant a 180 day extension. Mr. DiGiulian seconded the motion. The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 144, January 22, 1980, After Agenda Items

Christian Fellowship Church, S-196-77: The Board was in receipt of a letter from Wilson Kirby requesting permission to defer construction of the required 40 parking spaces for a five year period. Chairman Smith stated that five years was a long time. Mr. DiGiulian moved that the Board defer the construction of the 40 parking spaces for a one year period from this date. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 1 (Mr. Smith).

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Page 144, January 22, 1980, After Agenda Items

David D. Vanover, S-318-79: The Board was in receipt of a letter from Mr. Hudson F. Nagle, an adjoining property owner to Mr. Vanover, requesting answers regarding home professional offices. The Board reviewed the letter and discussed it with the staff. Staff was requested to prepare a response to Mr. Nagle and to bring it back to the BZA at the next meeting.

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Page 144, January 22, 1980, After Agenda Items, BOARD POLICY

The Board was in receipt of a memorandum dated August 3, 1978 from Mr. F. Lee Ruck, County Attorney, regarding notification procedures involving condominium properties. The memorandum set a policy for the Board to follow involving notification procedures where there were more than twenty-five (25) condominium owners. In that instance, notification was to go to the head of the homeowners association in lieu of separate notification to each and every individual in the condominium project. The Board so agreed to set a policy for the Clerk to follow in notification certification.

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Page 144, January 22, 1980, After Agenda Items

Grasshopper Green, S-288-76: The Board was in receipt of a request from Mildred W. Frazer requesting the Board to eliminate condition #12 which set a three year time period on the special permit granted February 1, 1977. Chairman Smith stated that the Board could not eliminate the condition without a public hearing. He also stated that the special permit was to expire on February 1, 1980. He stated that the Board could discuss a longer period of time at the public hearing if Mrs. Frazer applied for a renewal of the permit. He further stated that she would need a plat showing everything on the property and that it would have to be updated and certified. He instructed the staff to so notify Mrs. Frazer.

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Page 144, January 22, 1980, After Agenda Items

Hayfield Swim & Tennis Club: The Board was in receipt of a letter from the Hayfield Swim & Tennis Club requesting a change in the hours of operation. Chairman Smith advised the staff to send them an application and inform them a change of hours would require a public hearing.

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

By

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

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on 1-12-82

APPROVED: January 12, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, January 29, 1980. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk; and Barbara Ardis. (Mr. DiGiulian was absent.)

The Chairman called the meeting to order at 8:15 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8:00 case.

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Page 145, January 29, 1980, Scheduled case for

8:00 STANISLAW K. TOCZEK, M.D., LTD., appl. under Sect. 3-403 of the Ord.
A.M. to permit operation of a home professional office, located 6319 Olmi-Landrith Dr., Bucknell Manor, 83-3((13))(F)1, Mt. Vernon Dist., R-4, 2.097 ac., S-349-79.

Mr. William Donnelly, an attorney located at 4069 Chain Bridge Road in Fairfax, represented Dr. Toczek. He stated that Dr. and Mrs. Toczek were applying in the name of their professional office. The home was set back 100 ft. from the street and was well screened with evergreen trees. Dr. Toczek is a neurosurgeon. Most of his patients are seen in hospitals. His main office is located in Arlington. Mr. Donnelly stated that the doctor would continue to maintain his professional office outside of his home. Mrs. Toczek is a physician and almost never sees patients. She writes and speaks on drug abuse. Dr. and Mrs. Toczek will have one secretary to take dictation and file. There might be another person at a later date.

Mr. Donnelly stated that several citizens meetings have taken place. Dr. Toczek wished to compromise with the citizens by restricting his hours and the patients. Mr. Donnelly stated that during the course of the hearing, he hoped the citizens informed the Board as to what they felt were reasonable conditions.

Chairman Smith advised the applicant's attorney that there were only four Board members present. He indicated that if anyone objected to only four Board members, they should state so. Mr. Donnelly stated that he preferred to continue with the public hearing and close the hearing and possibly defer decision for the fifth Board member to review the file and the tapes and participate in the decision.

There was no one else to speak in favor of the application. Mr. Bernard Fagelson, an attorney in Alexandria, informed the Board that it was a unique thing for him to appear in opposition to an application. He stated that it was very important to distinguish between one case and another. Mr. Fagelson stated that the neighbors like Dr. and Mrs. Toczek and want to stay good neighbors. Mr. Fagelson stated that there were several people to speak on the issue and he requested an opportunity to be able to wrap up the testimony.

The first speaker was Mr. Dennis Meyer of 6307 Olmi-Landrith Drive who presented the Board with photographs. Mr. Meyer stated that within 100 yards of Dr. Toczek's home was an existing medical facility. He stated that Belle Haven was not a remote area and there were adequate office spaces available. Mr. Meyer stated that the Toczek home was on a two acre lot situated on a ridge. He indicated that much of the property was nothing more than a jungle with an actual area of only about 3 1/2 acres. Mr. Meyer stated that he was not looking forward to having cars park close to his windows and showed the Board a photograph of the closeness of his residence to the subject property. He stated that the attorney's statement that the property was well shielded was inaccurate. Mr. Meyer informed the Board that he had recently moved into this area as did the applicants. He indicated that it was a unique area and was totally integrated, both financially and racially. He stated that the area did not need commercial clutter. He stated that his property was in a vise as there was commercial offices in back of his property. He stated that if the application were granted, it would result in a principal injury. He stated that there were commercial offices available within walking distance.

The next speaker was Otis Gray of the Fordham Village Association. He stated that there were only 15 homes in the subdivision; 13 voted against the granting of the special permit application, one did not vote at all and the other stated he did not care.

Mr. Bill Ethens of the Bucknell Manor Civic Association spoke in opposition. He stated that this was all new to him as he was just elected. The Board of Trustees and Mr. Ethens had come to the conclusion that the granting of the special permit would violate the restrictive covenants of the subdivision. Mr. Ethens stated that Dr. Toczek was aware of the covenants when he purchased his home. Mr. Ethens presented the Board with a copy of the covenants. Chairman Smith stated that the Board would accept it for the record but stated that was a civil matter. Chairman Smith stated that the Board has to base its decision on the Zoning Ordinance and the State Code.

The next speaker in opposition was Mr. Jack Lutton, President of the Belle Haven Civic Association. He stated that they were against the special permit. The Board of Directors on January 18th unanimously passed a resolution to oppose the application. Mr. Lutton stated that about 30 members of the citizens association had sent letters in opposition to the Board. He presented the Board with an additional 130 letters which had been sent directly to the association. Chairman Smith accepted them for the record. He further stated that there were 81 letters of opposition already in the file. Mr. Lutton stated that the Toczek's home was not in the Belle Haven community but indicated that it was adjacent to the community. They were interested in what happens to their property. He stated that there was a covenant which restricts the land to be used for residential purposed only. The covenant has been in effect for fifty years. In addition, Mr. Lutton stated that they opposed the application as they felt it would affect the residential nature of the community. Approval of the application would set a precedent and would encourage additional applications of the same nature. Mr. Lutton stated that this would affect property values and change the nature of the community. Mr. Lutton stated that there was not a need for this type of use in the area. He stated that there was already a medical office building and a clinic within five min. of Belle Haven. The Mr. Vernon Hospital was within 10 minutes of the community. Mr. Lutton stated that the evidence presented does not satisfy the community that the doctors have a need for an office in their home. Mr. Lutton stated that he had come to the conclusion that the primary purpose for this application was to get a tax deduction. He stated that the community does not mind that, but they did not want it to be at their expense or property values. Mr. Lutton stated that the civic association was asking the Board to reject the application and protect the community.

The next speaker was Mr. William Robinson, Vice-President of the Belle Haven Civic Association. He stated that Dr. Toczek was taking an action that the association felt was an encroachment on their community. He indicated that they did not take these matters lightly. He stated that they only oppose those applications which do not have merit, and that they consider each application on its own merit. He urged the Board to deny the request.

The next speaker was Sheldon Hoenig who presented the Board with a resolution from the Board of Directors of the Mt. Vernon Civic Association. He stated that this request would have a special impact on the community. He gave the Board a history of home offices allowed by right. However, times have changed. He stated that Mt. Vernon has a hospital and there were doctors offices nearby that the Toczek's could rent. He stated that the applicants were not even asking for the type of office that would be of service to the community. Mr. Hoenig stated that the impact on the community was not worth the service that the applicant's would provide and he urged the Board to reject the application.

Mr. Forrest E. Williams of 2200 Fordham Drive spoke in opposition. He stated that he lived across the street from the Toczek's. He stated that he was close to their house. Mr. Williams stated that he opposed the application vehemently as do the citizens from Belle Haven. He stated he wanted to emphasize one point. The applicant's attorney had indicated that the citizens would all encourage the tax laws and use them to their benefit. He stated that the applicant's would see very little patients in the office. Mr. Williams contended that if the office was used very little for that purpose, he did not want to have to incur the damages to the property values. He stated that the Toczek's could make better use of the facilities down the street. Mr. Williams stated that the Toczek's have lived in the community for one year. The property had been vacant for 1½ years.

The next speaker was Mrs. Julian Smith of 6044 Edgewood Terrace. She stated that she and her husband purchased their home in 1935 because it was a marvelous community. She informed the Board that the marvelous community has prevailed over the years. Mrs. Smith stated that she was speaking on behalf of a

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great number of widows in the area who feel perfectly safe in the community. She stated that the type of clinic proposed by the Toczek was not very reassuring. She stated that she was worried as to the size of the home as the use might go beyond the few patients being requested at the present time. She stated that once the door was opened, it would be hard to close it. She indicated that the community did not need any commercial ventures at all.

In summary, Mr. Fagelson stated that the Board had heard a number of people from the community. He stated that approximately 50 people had come to the hearing as the matter was very important to them. He stated that the Board had a difficult decision to make. He stated that Dr. Toczek was a professional of good reputation who only wanted two people working in his home, with six patients per day at most, and one secretary. Mr. Fagelson stated that it would have a great impact on the community. He indicated that there was nothing illegal or immoral about tax avoidance, but it was not important enough to change the character of the neighborhood. Mr. Fagelson stated that there were offices to rent which were vacant at the moment and they were nearby so as not to inconvenience the applicants. However, the doctor would not be able to take off office tax expenses on his taxes without a special permit from the Board. Mr. Fagelson stated that it was the applicant's right to seek a special permit but there was not any evidence presented that this use would be a community service. He stated that the community and Fairfax County would not gain by the granting of the permit. Mr. Fagelson stated that Dr. Toczek's patients come from all over the Washington area. He stated that other locations might be more convenient to the patients. The community did not need to share his tax burden.

During rebuttal, Mr. Donnelly stated that after listening to the opposition he wondered whether they were talking about the same application. The doctor would not have any more than two employees at any one time and no more than six patients at any one time. He stated that if the application met the standards of the Ordinance, then they were entitled to the special permit. Mr. Donnelly stated that there was ample precedent to support the application. Just last year, the BZA approved several home offices in residential homes. Two were doctors. One was for Dr. Goldberg, a pediatrician who only had a 15,00 sq. ft. lot. In that particular application, there were 34 people who signed a petition in opposition but the Board granted the permit. The other application was for Dr. Gary Fine in Fox Mill Estates. The special permit was granted with no limit on the number of patients. Mr. Donnelly stated that there was a public need for this use. However, the Ordinance did not state that you had to demonstrate a public need. Dr. Toczek owned the property. They still have rights and can use it as an office for a reasonable purpose. Mr. Donnelly stated that there had been some mention about office space being available in the community. He stated that Dr. Toczek had inquired about the offices and was told nothing was available at that time. The Mt. Vernon Hospital does not have office space. There were only two offices available and they were both larger than a neurosurgeon could use.

Mr. Donnelly stated that the opposition indicated that if the use were granted it would set a precedent. He stated that was a domino theory. He stated that if the Board considered applications on the fact, then this case was unique. There are no other two acre lots in the area. He stated that the doctor would not be seeing too many patients so it would not be upsetting to the neighborhood. Any new applications would have to be considered on its own merit. Mr. Donnelly stated that the opposition had accused the Toczek wanting the special permit for a tax dodge. Mr. Donnelly stated that any tax considerations were secondary considerations.

Mr. Donnelly stated that the citizens were concerned about enforcement of the conditions if the use was granted. Mr. Donnelly stated that the applicants were willing to accept a one year limitation on the special permit and would be willing to go through the public hearing again at the end of the first year. Mr. Donnelly stated that after opening for one year, the citizens would find out that there would not be any problems. Mr. Donnelly stated that as a spirit of compromise, the Toczek were willing to back off on some issues. He stated that the Toczek would be willing to limit the use to no more than four patients on any one day, with no more than one patient at a time, and would only operate two days a week.

In conclusion, Mr. Donnelly stated that if the Board considered the size of the lot, and how limited the use would be in terms of hours of operation, that this was a classic example of a special permit. He stated that if the Board could not grant this application then he could not see how they could grant others.

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R E S O L U T I O N

Mr. Yaremchuk moved that the Board of Zoning Appeals deny the application for a special permit as it was not a proper use no matter how many patients. The motion failed for lack of a second.

R E S O L U T I O N

Ms. Ardis moved that the Board grant the application with certain limitations. Mr. Barnes seconded the motion. The vote resulted in a 2 to 2 split (Messrs. Smith and Yaremchuk voting no) so the Chairman announced that the Board would allow Mr. DiGiulian the opportunity to view the case and participate in the decision. He stated that the applicants would be notified as soon as the decision was made.

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Page (148), January 29, 1980, Scheduled case for

8:15 P.M. MEADOWBROOK ASSOC., appl. under Sect. 3-303 of the Ord. to permit commercial racquetball facilities, located s. side Meadowbrook Ave. between Ingleside and Buena Vista Ave., West McLean Subd., 30-2((7)) (1)2-6 & 57-61, Dranesville Dist., 31,250 sq. ft., R-3, S-306-78.

&
 8:15 P.M. MEADOWBROOK ASSOC., appl. under Sect. 18-401 of the Ord. to allow construction of racquetball facility to 57.5 ft. from adjoining R District property (100 ft. min. setback req. by Sect. 8-503) to 30 ft. from front lot line and on the side lot line (38 ft. min. front yard (40° ABP) and 32 ft. min. side yard (35° ABP) req. by Sect. 3-307), and such that floor area ratio would be 0.51 (0.25 max. FAR req. by Sect. 3-307), located McLean Ave., West McLean Subd., 30-2((7))2-6 & 57-61, Dranesville Dist., R-3, 31,250 sq. ft., V-310-79.

Mr. Russell Rosenberger of 10401 Lee Highway at Circle Towers represented the applicant. He stated that this property was located immediately behind the McLean Indoor Tennis facility. Mr. Rosenberger stated that this use would fill out the remainder of the block. Mr. Rosenberger stated that the recreational uses would be within the enclosed structure. They would have racquetball courts, a lounge area and a small snack area. There would be some vending machines but no snack bar as such. A weight and exercise room would be available. On the roof of the building would be a jogging track for the use of the members of the facility. Mr. Rosenberger stated that the jogging track would be the only outdoor use proposed. It would be located in such a way that it would not be visible from the street. Parking was located underneath the proposed facility. There would not be any parking on the surface. There would only be one entrance into the building and it had been shifted to Ingleside Avenue. Parking had been provided in accordance with the Ordinance on the basis of three spaces per court and one per each employee.

Mr. Rosenberger stated that they had gone to considerable detail with regard to the building design. The pedestrian entrance would be from Ingleside Avenue. Mr. Rosenberger stated that several concerns had been stated with respect to security after hours when the facility was closed because of the underground parking. He suggested that a chain be placed across the entrance when the facility was not open. Citizens were concerned about headlights in the area. He stated that by virtue of the landscaping and architecture design, it provided for the shielding of the headlights. The lighting for the facility would be recessed and would be directed inwardly.

Mr. Rosenberger stated that the hours of operation for the use would be from 6 A.M. to 1 A.M. which was consistent with the McLean Indoor Tennis Facility. He stated that the two facilities were not physically connected. However, many of the partners involved in each facility were the same but each facility would be self-supporting.

Mr. Rosenberger stated that it would not be necessary for anyone to walk around. There would be stairwells at both ends.

Mr. Rosenberger stated that this property was unique. It was located in the McLean Central Business District. It represented a consolidation of ten parcels. The area plan calls for development of townhouses. However, the text also provided for an alternate use of private recreational use. The plan called for the entire block to be used for private recreational use. Mr. Rosenberger stated that the text was later amended but the use was retained for this property. He stated that this proposal was in conformance with the adopted comprehensive plan for the area.

Mr. Rosenberger stated that with respect to traffic, this use should not conflict at all. Access was limited to Ingleside Avenue in order to alleviate any impact. Parking was to be underneath the building. Mr. Rosenberger stated that this special permit complied with all of the standards of the Ordinance for the category.

In response to questions from the Board, with respect to the jogging track and the way it would be screened, Mr. Rosenberger stated that the roof comes up quite a distance to act as a shield. He stated that there would only be one sign. Chairman Smith advised that the club was limited to one sign to an area of 2 sq. ft. He stated that the proposed sign in the rendering appeared to be in excess of that requirement.

With respect to the variance request, Mr. Rosenberger stated that the variance was not as substantial as it seemed. The property was located in the McLean Central Business District. Authority was given in the Ordinance for the waiver of the yard requirements by the Dept. of Environ. Mgmt. However, the applicants wanted the Board to have the full picture so they applied for the variance instead. Mr. Rosenberger stated that the subject property fronted on three streets. He stated that the property enjoyed and suffered from the three front yards. For that reason, he stated it was recognized that this was a unique property. He stated that they have consolidated and provided for the development. The requested variances were not that substantial according to Mr. Rosenberger.

In summary, Mr. Rosenberger stated that they had met with the residents and perhaps all of them were not satisfied. Mr. Rosenberger presented the Board with 21 letters in support of the application from residents in the area. Mr. Rosenberger stated that they have complied with the special permit standards of the Ordinance and was requesting favorable consideration from the Board.

Ms. Ardis inquired if Mr. Rosenberger had read the staff report regarding the question of the 100 ft. setback and whether the BZA had the authority to grant the 100 ft. setback. Mr. Rosenberger disagreed with that portion of the staff report. He stated that the BZA did have the authority to vary specific standards as set forth in Sect. 8-03 of the Ordinance. Mr. Covington stated that was correct and that the Zoning Administrator shared that concern.

Chairman Smith questioned the intensity of the use and questioned why the applicant could not have fewer racquetball courts to cut down on the setback problem. Mr. Rosenberger stated that to economically justify such a facility, a certain number of courts were necessary. He stated that ten courts were the number necessary to justify this type of facility.

There was no one else to speak in favor of the application. Mr. William Callahan of Buena Vista stated that they were the next door neighbors across the street from the proposed facility. He stated that he was house sitting for his daughter and son-in-law. Mr. Callahan added objections of his own based on the pollution, parking problems, noise and lights.

The next speaker in opposition was Mary Lou Serapin of 1518 Buena Vista Avenue. She inquired if the street would be widened and was informed by the Chairman that it would be required under the site plan. With respect to the underground parking, she stated that she did not believe that a chain would be enough to keep out the teenagers from the parking area.

The next speaker was Mr. Paul Herlon of 1478 Buena Vista Avenue who inquired as to whether the jogging track would have lights on the roof at 10 o'clock at night and whether anyone on the roof could see into his house at night. He stated that concerned him very greatly. Mr. Herlon stated that he also shared the concerns of Mr. Callahan.

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During rebuttal, Mr. Rosenberger stated that the only uses at the facility would be those outlined in the proposal. He stated that there would not be any swimming pool. All uses would be inside the structure except for the jogging trail on the roof. The stairwells to the roof would be on Buena Vista Avenue and would be for emergency use only. Access would be from Ingleside Avenue to keep traffic away from the residential streets. Parking was adequate. Any parking on residential streets would be minimal. There were 39 parking spaces provided. Mr. Rosenberger stated that the Ordinance only required 27 spaces.

Chairman Smith advised Mr. Rosenberger that parking on the residential streets was not permitted under the Ordinance. All parking must be on site. Mr. Rosenberger stated that he understood that, and suggested that perhaps a sign could be posted to bring it to the attention of the users of the facility and direct them where to park.

Chairman Smith inquired if the users of the facility would be on a membership basis. If so, he stated that parking should be addressed in the bylaws and the members should sign their agreement to it when they joined the club. Chairman Smith stated that the club has to control the parking or the whole group would be in violation of the special permit. Chairman Smith also questioned the tennis courts and inquired as to whether there have been any tennis meets yet. Mr. Rosenberger stated that there was not any area for spectators and that the matches were between members.

Mr. Rosenberger stated that with respect to the jogging trail, it would not be visible from the townhouses. The only lights on the trail would be low level, mushroom type lights. He indicated that no lights would project off of the roof as the lighting would be directed downward to the footpath.

Mr. Rosenberger stated that it had been suggested that the requested variances were too great. He stated that the property was located within the Central Business District of McLean. He urged the Board to grant the requests.

Page (150), January 29, 1980 Board of Zoning Appeals
MEADOWBROOK ASSOC.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-306-78 by MEADOWBROOK ASSOCIATES, INC., under Section 3-303 of the Fairfax County Zoning Ordinance to permit commercial racquetball facilities, on property located at S. side of Meadowbrook Avenue between Ingleside & Buena Vista Avenue, tax map reference 30-2((7)) (1) 2-6 & 57-61, 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 January 29, 1980, and deferred from January 23 1979; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 31,250 sq. ft.
4. That compliance with the site plan ordinance is required.

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

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

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

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

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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 hours of operation shall be 6 A.M. to 1 A.M., seven days a week.

8. The number of parking spaces shall be 36.

9. All exterior lighting shall be directed to the site.

10. The sign shall be limited to four (4) square feet.

11. The parking area shall be chained when not in use.

12. The garbage disposal area shall be located underneath the building in the parking area.

Mr. Yaremchuk seconded the motion.

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

R E S O L U T I O N

In application No. V-310-79 by MEADOWBROOK ASSOCIATES, INC., under Section 18-401 of the Zoning Ordinance to allow commercial racquetball facilities to 57.5 ft. from adjoining R Districts (100 ft. min. setback required by Section 8-503) to 30 ft. from front lot line and on the side lot line (38 ft. min. front yard (40° ABP) and 32 ft. min. side yard (35° ABP) required by Section 3-307) and such that floor area ratio would be 0.51 (0.25 max. FAR required by Section 3-307), on property located at McLean Avenue, Tax map reference 30-2((7))(1) 2-6 & 57-61, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 31,250 sq. ft.
4. That the applicant's property has an unusual condition in that the block is substandard 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 uses of the reasonable use of the land and/or buildings involved.

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

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

R E S O L U T I O N

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

Mr. Barnes seconded the motion.

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

Page (152), January 29, 1980, Scheduled case for

8:30 ALDERSGATE UNITED METHODIST CHURCH, appl. under Sect. 3-303 of the P.M. Ord. to amend special permit for child care center by increasing max. no. of children to 150 and providing for ages 3 mos. to 5 yrs. located 1301 Collingwood Rd., 102-4((1))18, Mt. Vernon Dist., R-3, 6.23 acres, S-346-79.

Ms. Nancy Friedman informed the Board that the church was asking for an amendment to their existing special permit as they wanted to increase the number of children from 64 to 150 which was the maximum allowed. In addition, they wanted to amend the ages of the children from 4 to 5 years to 3 months to five years. She stated that the hours of operation would not change. Mrs. Friedman stated that the traffic pattern would not change either. She informed the Board that the existing special permit was granted in 1965, and the operation has been consistent since that time.

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

Page (152), January 29, 1980
ALDERSGATE UNITED METHODIST 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-346-79 by ALDERSGATE UNITED METHODIST CHURCH under Section 3-303 of the Fairfax County Zoning Ordinance to permit amendment to special permit for child care center by increasing maximum number of children to 150 and providing for ages 3 months to 5 years, on property located at 1301 Collingwood Road, tax map reference 102-4((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 January 29, 1980; 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 6.23 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

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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 150, ages 3 months to 5 years.

8. The hours of operation shall be 9:00 A.M. to 12:00 P.M.

Mr. Barnes seconded the motion.

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

Page 9 (153), January 29, 1980, Scheduled case for

8:45 P.M. RESTON ROLLER RINK, INC., appl. under Sect. 5-503 of the Ord. to allow roller skating rink, located 1808 Michael Faraday Ct., 18-3((5))06, Centreville Dist., I-5, 2.307 acres, S-350-79.

Mr. Grayson Hanes, an attorney in Fairfax, represented the applicant. He presented the Board with a certificate of good standing for the Reston Roller Rink Inc. Mr. Hanes advised the Board that Mr. Jerry Sardone and William Moss were the partners involved in the operation. Mr. Hanes informed the Board that the staff report did not mention the changes which had been submitted with regard to the hours of operation and the number of people that would be using the facility at any one time. These changes were hours of operation from 7:30 A.M. to 12 midnight Sunday through Thursday and from 7:30 A.M. to 2:00 A.M. Friday and Saturday. Mr. Hanes stated there would be six employees and a maximum of 175 patrons at any one time.

Mr. Hanes advised the Board that statements had been made at a previous hearing with respect to vested interests. He stated that the applicants did not have any vested interests whatsoever. However, he reminded the Board that an application for this exact use was judged to be appropriate on June 20, 1978. That permit expired June 20, 1979. As a point of interest, Mr. Hanes informed the Board that a parcel of land in Reston had to meet the requirements of Fairfax County and the requirements of Reston.

Mr. Hanes stated that the property was zoned I-5 and was a Group 5 use under the Ordinance. The property contained 2.3+ acres and was in the master plan for industrial use. The property was located in an area that Reston has deemed to be a sports complex. The structure would be a metal building. Mr. Hanes stated that the applicants had wanted to build something else but the Reston Architectural Review Board wanted this type of design to be compatible with the other structures already existing.

Mr. Hanes stated that the facility would serve a need to the community. He stated that they have met the requirements of the Ordinance. He stated that there was not a facility like this in the area. It would serve a need for the youth and middleaged. Mr. Howard would be the operator of the facility. Mr. Hanes stated that Mr. Howard has a program in other places where he opens the rink to the general public for certain hours, has group sessions, and community groups that might wish to use the facility at certain times. Mr. Hanes stated that they would be limited to 175 people at any time. He stated that they would have a preschool program for youngsters and lessons for the kids.

Mr. Hanes stated that the Ordinance required one parking space for each three persons of the load capacity. Parking was shown on the site plan. Mr. Hanes stated that his client had been through the process before on this property. He purchased the property for the sole purpose of using it for a roller rink. The property was restricted for that use by Reston. If construction was not started before May 11, 1980, Reston would have an opportunity to repurchase the property which would be at a loss to the applicant. Mr. Hanes stated that the property could only be used for a roller rink. Mr. Hanes stated that his client had made some mistakes and was not asking that the original special permit be renewed. He stated that the applicant would lose some funds because of the oversight.

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 RESTON ROLLER RINK
 (continued)

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 There was no one else to speak in support of the application. Mr. Terry Light an attorney, spoke in opposition to the special permit request. He stated that he represented Mr. Albert Elias and his partner. He stated that they were concerned with the number of aspects of this plan. First of all, Mr. Light stated that the plan seemed to depend upon the County providing a public street in cooperation with the adjacent property owners. Mr. Light stated that the parking was not adequate. The applicants had stated that the average impact would be 175 people. Mr. Light stated that other facilities in Dale City average much more of an impact than that. Mr. Light informed the Board about a 42 ft. easement which his client owned that was necessary for Reston Roller Rink. Chairman Smith advised that was a civil matter. Mr. Light stated that the proposal for Reston Roller Rink was not viable. Mr. Light touched on the qualifications of the applicant. Chairman Smith stated that the Board does not judge the qualifications of the applicant. Mr. Light stated that it was part of the application. He further stated that the applicant had recounted the history of this project and had advised the Board that they had diligently pursued the matter for 30 months. Chairman Smith stated that the delay was not relevant to the land use.

Mr. Light stated that the proposed parking was inadequate. He stated that his client was concerned about the use of the bowling center lot and possible blocking of the easement. He stated that they were entitled to some consideration. Chairman Smith stated that if the easement did not permit Reston Roller Rink to use, that it was a civil matter. He stated that the BZA did not have anything to do with the easement. Chairman Smith stated that the parking had been approved by the staff as adequate for the facility.

At this point in the meeting, the Board recessed for five minutes. When the Board reconvened, Mr. Light continued with his testimony. He stated that the applicant had indicated that their plan had the approval of the Reston Citizens Association. Mr. Light informed the Board the RCA had withdrawn support for either of the two proposals. They do want a rink. In addition, the RCA had stated that both proposals were meritorious. Mr. Hanes had indicated that there would not be any changes in the site plan. Mr. Light stated that there would have to be changes with respect to the easement. It was stated that the facility would serve a need. Mr. Light stated that it would not be adequate to serve the population. Chairman Smith noted that there may be a need for two roller rinks. Mr. Light stated that he wished the Board would limit the special permit to a maximum of 175 people at any one time and that the Board would insure that construction would commence within the shortest period of time. Mr. Light stated that this proposal would not provide a link to the trail system proposed for Reston. Mr. Light respectfully requested the Board to deny the special permit.

The next speaker in opposition was Lesley of 9611 Crow Crossing Road who stated that the property would not provide for the connection necessary for the trail from Lake Fairfax Park to the W&OD railroad.

During rebuttal, Mr. Hanes stated that his client had provided a chronological statement as to the diligent pursual of the original special permit. Chairman Smith stated that the permit was dead and to forget about it at this point. Mr. Hanes stated that with respect to the trails, the 42 ft. easement would connect up on the trail that was owned by Mr. Light's clients. Mr. Hanes stated that they could not connect with the trail because they did not own that property but stated that Fairfax County could require the hookup and the Board could make it a part of the resolution. Mr. Hanes stated that parking was adequate as it met the requirements of the Ordinance. Ms. Ardis inquired if the 175 people was the maximum allowed for any one time and was informed by Mr. Hanes that it was. Chairman Smith inquired if that was the building capacity and was told that the Fire Marshall has stated that there was sufficient exits for 1,500 people. Mr. Hanes stated that the 175 maximum was related to the parking.

Page (154) January 29, 1980
 RESTON ROLLER RINK

Board of Zoning Appeals

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-350-79 by RESTON ROLLER RINK, INC., under Section 5-503 of the Fairfax County Zoning Ordinance to allow roller skating rink, on property located at 1808 Michael Faraday Ct., Tax map reference 18-3((5))6, 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 January 29, 1980; 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 2.307 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 in the Zoning Ordinance; and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional changes or uses 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 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 the 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 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 six (6).
8. The hours of operation shall be 7:30 A.M. - 12 Midnight Sunday thru Thursday; 7:30 A.M. - 2:00 A.M. Friday and Saturday.
9. The number of parking spaces shall be 66.
10. Number of patrons shall be 175 at any one time.

Mr. Barnes seconded the motion.

This Motion passed by a vote of 3 to 0 with 1 abstention (Mr. Yaremchuk) (Mr. DiGiulian being absent).

Page (155), January 29, 1980, Scheduled case for

9:00 P.M. ALBERT J. ELIAS, JR. & ARNOLD R. BECKHARDT, appl. under Sect. 5-503 of the Ord. to permit roller skating facility, located 18-3((5))7, Centreville District, I-5, 3.4186 acres, S-312-79. (DEFERRED FROM DECEMBER 18, 1979 FOR DECISION).

Chairman Smith inquired if the Board was prepared to make a motion on this application. Ms. Ardis inquired of Mr. Terry Light, the attorney representing the applicant, as to the number of patrons allowed in the facility and whether the parking took into account the ten employees. Mr. Light stated that the parking did account for the employees and that there would be a maximum of 300 patrons at any one time. Ms. Ardis inquired if the applicants would be willing to limit their hours so that it would not be a 24 hour operation and was advised by Mr. Light that they would. Ms. Ardis stated that the parking seemed to be six spaces short and inquired about that. Mr. Light stated that his clients owned the property next door where there were 186 spaces and only 142 spaces required for that use. He stated that they could use the parking next door and would amend the site plan to show enough additional parking to cover the maximum parking requirement. Ms. Ardis advised that that would still leave a shortage of parking spaces and inquired if the applicants could limit the number of employees. Chairman Smith advised that the number of patrons would be limited to 275 instead. Mr. Light was in agreement.

R E S O L U T I O N

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Ms. Ardis made the following motion:

WHEREAS, Application No. S-312-79 by ALBERT J. ELIAS, JR. & ARNOLD R. BECKHARDT under Section 5-503 of the Fairfax County Zoning Ordinance to permit roller skating facility on property located at Michael Faraday Court, tax map reference 18-3((5))7, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 18, 1979 and deferred for decision until January 29, 1980; and

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

1. That the owner of the subject property is RBH Associates Limited Partnership.
2. That the present zoning is I-5.
3. That the area of the lot is 148,914 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 in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of employees shall be ten (10).
8. The hours of operation shall be 7:30 A.M. to 12:00 A.M. Sunday through Thursday; and 7:30 A.M. to 2 A.M., Friday and Saturday.
9. The number of parking spaces shall be 104.
10. The maximum number of patrons at any one time shall be 275.

Mr. Barnes seconded the motion.

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

There being no further business, the Board adjourned at 11:14 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 Jan. 12, 1982

APPROVED: January 12, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held on Tuesday, February 5, 1980, in the Board Room of the Massey Building. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Barbara Ardis.

The Chairman called the meeting to order at 10:20 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 A.M. ROBERT CLARK, appl. under Sect. 18-401 of the Ord. to allow horse barn to remain 13.3 ft. from side lot line (40 ft. min. side yard req. for such structure req. by Sect. 10-105), located 11825 Shady Mill Lane, Hidden Valley Subd., 36-1(8)1, Centreville Dist., R-E, 5.0 acres, V-296-79. (Deferred from December 4, 1979 for notices.)

The clerk announced that the required notices were in order. Mr. Melnick, representing Mr. Donohue, requested that the application be deferred as Mr. Donohue was called on active service for the military for twelve days down in Alabama. Mr. Melnick requested that Mr. Donohue be given an opportunity to present his own testimony in this matter. Chairman Smith inquired as to Mr. Clark's feelings in the matter. Mr. Clark stated that he preferred that the hearing take place since there had already been one postponement. Mr. Clark stated that he assumed Mr. Melnick was a good attorney and could justly represent Mr. Donohue. Mr. Clark stated that this was a matter of great concern to his wife and himself and that they had been living with a great deal of anxiety. He stated that he wished to bring this matter to a conclusion as soon as possible and asked that the hearing go forward and a decision rendered.

Chairman Smith stated that the first deferral had been at the cause of the applicant's failure of proper notification. Mr. Clark stated that he had contacted everybody who touched his property. However, he owned the road which came into the property and had not notified two lots located at the end of that road.

Mr. Clark stated that Mr. Melnick and Mr. Ebert had assumed that this matter could be settled out of court. Mr. Clark further stated that he had hired an excavator who had cleared approximately one acre of Mr. Donohue's land in error. Chairman Smith stated that was a civil matter and could not be considered by the Board.

Mr. Clark informed the Board that the stable was too close to the property line. He stated that his builder had been incompetent and/or dishonest. Chairman Smith inquired if the builder had a home improvement license in the County. Mr. Clark stated that he did not as he was licensed in Maryland. He stated that he found that out after checking to determine that a building permit had not been made out. Mr. Clark stated that he had paid for that service in his contract and assumed that it was taken care of. Mr. Clark stated that he has since applied for a building permit in his own name and the County arrested the builder. Mr. Lentini from the County issued the warrant for the builder and Mr. Clark stated that he acted as a witness.

Chairman Smith advised that these were all things that should be brought up at the hearing whenever it took place. He stated that the Board did have an order requesting Mr. Donohue to active service for twelve days. Chairman Smith stated that in view of that, he was reluctant to deny him the right to be heard when he had been called to duty. Chairman Smith stated that it was up to the other Board members but he felt Mr. Donohue should be heard in the matter before a decision was made. He stated that it was something Mr. Donohue had no control over. Mr. Clark stated that his lawyer, Mr. Melnick, was present to represent him. Mr. Melnick stated that he was only here to represent Mr. Donohue. He stated that he had not seen the property and could not testify. Chairman Smith asked for suggestions from the Board as to whether to hear the application or to defer it. Mr. Barnes stated that the Board should go ahead and hear it. Chairman Smith ruled that the application be deferred until Mr. Donohue could be present since it was a military order and he had no control over the situation. Chairman Smith stated that the attorney was only representing Mr. Donohue as far as the request for deferral was concerned. Mr. Yaremchuk questioned the Chairman's procedure. Chairman Smith stated that the Board could overrule him. He further stated that he ruled as he did since he did not get a second to Mr. Barnes motion. Mr. Yaremchuk inquired of Mr. Clark as to what affects the delay would have since the stable was already existing. Mr. Clark stated that he would have to continue living with a great deal of anxiety as to whether the barn would have to be torn down or whether it would have to be moved. Mr. Yaremchuk inquired as to how Mr. Clark had contracted with a builder in Maryland. Mr. Clark stated that he had contacted several builders in Fairfax County but they did not want to build a barn. He stated that there had been a flyer in his mailbox and that was how he ended up contacting the man in Maryland.

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Mr. Covington advised the Board that there was a violation notice pending on the barn. Mr. Yaremchuk stated that the County would not do anything until the matter was cleared up. Mr. Clark stated that the barn has not been painted and the land has not been landscaped. He stated that it was causing some agitation to the neighbors. Mr. Yaremchuk asked how Mr. Clark would feel if he were the one called to military duty. Mr. Clark asked the Board not to misunderstand him. He stated that he assumed that the attorney could adequately handle the matter for Mr. Donohue.

Mr. DiGiulian stated that after listening to the discussion, there seemed to be some dispute over where the property line was located between the two properties. Mr. Clark stated that he had been on the property for 2½ years. He stated that he bought the house new. He stated that since the property was closed on, it had been recertified. Mr. Clark stated that after the clearing had been done, it appeared to him that the excavator had strayed onto the adjacent property. He stated that after it was cleared, he had the land resurveyed and had it staked out. Mr. Clark stated that at that point in time, the stable appeared to be 28 ft. from the line. Mr. Clark stated that the builder had assured him that 20 ft. was all that was necessary as a setback. Mr. Clark went on to state that the resurvey showed the stable to be something more like 13.2 ft. from the property line. Mr. Clark stated that he had the property resurveyed and Mr. Donohue had the property resurveyed. The fence was already constructed. Mr. Clark stated that he relocated the fence in accordance with the new survey from Mr. Donohue.

Mr. DiGiulian inquired as to how much of a variance was being requested. Mr. Melnick questioned whether the Board could hear the variance request since this matter was in litigation over the boundary dispute. Mr. Clark stated that there were two separate issues, one being the acre of ground cleared accidentally and the other being that the barn was located too close to the property line. Mr. Clark stated that Mr. Melnick was interweaving the two issues. Mr. Clark stated that his insurance company was representing him on the matter of the one acre clearing. He stated that the insurance company had no interest in defending him on the matter of the location of the barn. Mr. Clark stated that there was no dispute over the line as far as he knew. Mr. Melnick advised the Board that the Northern Virginia Surveys was a defendant in the court suit and would have to justify their survey. Mr. Melnick stated that this was a \$250,000 suit. Chairman Smith inquired if the matter of the property line suit was to be heard in court on February 15th. Mr. Melnick stated that the surveyors were third party defendants in the suit. He asked that the Board hold off enforcing the matter until it could be heard in court. Mr. Melnick stated that he thought they had the matter settled two months ago. They were going to swap some land and had the property resurveyed.

Ms. Ardis inquired of Mr. Melnick if it was reasonable to assume that if the court heard the suit on February 15th that by March 15th, the Board would know whether the court had taken final action. Mr. Melnick stated that unless the third party action was withdrawn against Northern Virginia Surveys, he would know by that time. Ms. Ardis stated that she did not think it was unreasonable to defer this matter until the suit was final. She suggested that the Board continue the hearing for review on the status of the court case and have Mr. Clark's attorney appear at a later date to state whether there was a question in court on the boundary. Mr. Yaremchuk stated that if the boundary dispute was not resolved, then the Board could not grant a variance. Chairman Smith stated that the plats were certified and the Board must assume that they are correct. Mr. Melnick stated that if the Board granted the variance, it would defeat the court suit. He stated that it would be another block and cause a lot more problems to Mr. Donohue as the variance would be permanent. Mr. Yaremchuk advised Mr. Melnick that if the Board rendered a decision, he could file a suit in court against the BZA.

Chairman Smith again stated that he believed the Board could defer the matter for a reasonable length of time. Mr. DiGiulian stated that after listening to the various explanations, he felt it was important for the Board to know whether they were acting on a 26 ft. variance or a 12 ft. variance. He stated that if the BZA granted a variance for 26 ft. and then later it was determined that the barn was further from the property line, he questioned whether the applicant had the right to add onto the barn. Mr. Yaremchuk stated that if the applicant did it legally, that there would be nothing the Board could do about it. Chairman Smith stated that he wanted the litigants to decide on where the boundary line was located. Mr. Clark stated that it would not be settled by February 26th.

Mr. Melnick stated that he respected Mr. Clark and that the two of them go along fine. He stated that Mr. Clark had anxiety over the variance. There was a \$250,000 lawsuit pending and Mr. Clark had two attorneys. Mr. Melnick stated that the variance was only a minor thing and would not solve anything. Mr. Melnick stated that if the variance could be deferred, they could report back to the Board. He stated that the court date was scheduled for February 15th. He stated that there would be more testimony after that date. Mr. Melnick stated that he could ask the court for a date as soon as possible. Chairman Smith stated that he did not wish to continue the argument much longer. Ms. Ardis stated that a 60 day review would be reasonable. She indicated that if Mr. Clark's attorney and Mr. Donohue's attorney came back to the Board before that time, the Board would move it up on the docket.

Page 158, February 5, 1980
 ROBERT CLARK
 (continued)

Mr. Clark again advised the Board that he had no knowledge of a boundary dispute. Mr. Clark stated that if he got rid of the horses, he would conform to the code. Chairman Smith stated that was correct but that the matter would be deferred until April 15 th at 10:00 A.M. unless the structure was brought into compliance at which time he could ask the Board for withdrawal of the variance application.

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Page 158, February 5, 1980, Scheduled case for

10:10 REALITY GOSPEL CHURCH, appl. under Sect. 18-401 of the Ord. to allow other than
 A.M. dustless surface for additional parking for existing church (dustless surface req.
 by Sect. 11-102), located 5937 Franconia Rd., 81-4((3))1A & 1B, Lee Dist., R-1 &
 R-2, 3.666 acres, V-316-79.
 & (Deferred from December 11, 1970 to allow applicant time to consider withdrawal.)

10:10 REALITY GOSPEL CHURCH, appl. under Sect. 3-103 of the Ord. to allow addition in
 A.M. land area for parking for existing church, located 5937 Franconia Rd., 81-4((3))1A
 & 1B, Lee Dist., 3.666 acres, R-1 & R-2, S-269-79.
 (Deferred from December 11, 1979 to allow applicant time to consider withdrawal.)

Pastor Earl Cox of 7702 Mulberry Bottom Lane represented the church. He stated that Mr. Ghent had represented the church previously. At that time there was some misunderstanding as the church believed that the County was trying to get rid of some blacktopping. He stated that the church was willing to pave the parking lot. He stated that the church wanted to put up a section of flowers and move their sign over into the center of the flowers. He stated that the church needs the parking as the church was very successful. He stated that they have a great number of young people and they drive their own cars. He stated that the cars do not represent a group of 4 or 5 people anymore.

Chairman Smith stated that the Board was considering both the additional land area and the dustless surface request. Mr. Cox advised the Chairman that the Board could withdraw the variance request as far as he was concerned. Chairman Smith stated that this would only leave the matter of the additional land area for the church to be considered by the Board. Pastor Cox stated that the church was trying to make the property more beautiful. Mr. Yaremchuk stated that the previous hearing there had been several people complaining about the back of the church property being full of trash. Pastor Cox stated that there was a stream at the back of the property. He indicated that the County had put dirt onto the church property and that the church has always been bothered by people dumping in that area. He stated that the church has put up signs and has asked the County police to cover the area better. Pastor Cox stated that most of what people dump back there was dirt and rocks. Pastor Cox stated that the church was willing to listen to ways to try and stop the dumping. In response to questions from the Board about the dumping, Pastor Cox stated that he believed it was small contractors doing the dumping. Mr. Covington stated that dumping was a problem all over the County.

Another problem noted by Pastor Cox was that people used the church property for a passion pit. He stated that was a problem for all churches though. He stated that if you ran the people out, then the church gets broken into. Pastor Cox stated that he has never been at the church at night when someone wasn't parked there. Chairman Smith stated that if the church increased the parking, there would be more people there. Pastor Cox stated that they would not park in the front of the church. Mr. Covington stated that if the church put up lights, it might stop some of the parking in the back lot.

Mr. DiGiulian informed the Board that he had visited the site and it appeared to him that there was more parking at the site than shown on the site plan. He stated that the parking went all the way to Carmen Drive. Mr. DiGiulian stated that he was concerned about parking on the street. He stated that the lights would have an impact to the residential properties on Franconia Road if parking was allowed as requested by the church. Mr. DiGiulian suggested that some type of screening be provided to screen the affects of the lights along the west property line. He questioned Pastor Cox about the height of the lights but it was not known how high they were. Pastor Cox stated that the lights had been constructed with Mr. Latham's approval. He also stated that there had been a fence there which the church added to for screening. It was a wooden stake fence according to Pastor Cox. Mr. DiGiulian inquired of Pastor Cox if there was enough parking for the church including the gravelled area. Pastor Cox stated that if the church did not provide the parking, the people would park on the street. He stated that it was a very active church and he was on T.V. and radio. He stated that the church had many youngsters attending service. All of the people who attend are community people and live within the radius of the church. Pastor Cox stated that they were not asking for a thing that any other church does not already have along Franconia Road.

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Mr. DiGiulian stated that the plat showed 117 parking spaces provided. He stated that there were 40 to 50 more spaces in the rear of the church. Mr. DiGiulian stated that if 117 parking spaces were all that were needed, he believed that number already existed completely in the rear with the paved parking existing and the gravelled area. He stated that the plat was not up-to-date. Mr. DiGiulian stated that he was not able to relate the request to the plat. Mr. DiGiulian stated that he would like to see a parking count and some type of screening in the front and the side of the property.

Chairman Smith requested Pastor Cox to have the engineer, Mr. Ghent, assure the Board that it was a correct plat or up-date the plat to indicate all of the parking that existed in the rear. Pastor Cox stated that Mr. Ghent had done the work on the plat before. Pastor Cox stated that the church has some handicapped people and serves people in wheelchairs and the deaf. Ms. Ardis stated that she needed to know the actual number of parking that would be provided. She stated she needed to know whether the 42 spaces were additional to the number stated in the staff report. Mr. DiGiulian stated that according to the plat, only 75 spaces exist on the property and 42 spaces were in front. After looking at the property, Mr. DiGiulian stated that there are another 40 to 50 spaces in the rear that are not shown on the plat. He also stated that the paving extended past the area shown on the plat by about 120 ft. When asked if Mr. Ghent had up-dated the plat for this application, Pastor Cox stated that he had sent an engineer out and he thought they had up-dated it. Mr. DiGiulian stated that the plat was dated 1974. Mr. Covington stated that churches were not under special permits in 1974. Chairman Smith stated that this request would bring the entire property under a special permit and that it was important for the Board to know exactly what was on the property. He indicated that he did not have any real problem with the request but stated that he had never been to the property and was not familiar with the construction. He stated that he believed that a gravelled area should be utilized as much as possible. Mr. Covington reminded the Chairman that the variance request had been withdrawn.

Mr. Yaremchuk stated that he was trying to get the matter straight in his mind and thought aloud as to why the church was allowing parking in the front with the lights and all the noise when it was disturbing to the neighbors. He stated that he would rather see the parking in the back. Pastor Cox stated that he had been informed that the church could only use the parking until the hearing. Pastor Cox informed the Board that Mr. Latham had sold the church the property with a 50 ft. right-of-way going by his property. There was a small house there which was used as an office or a business place.

Chairman Smith stated that the house may be non-conforming. Pastor Cox stated that he believed Mr. Latham only ran the office there but did not actually live there. Mr. Yaremchuk stated that he would like to have that checked out because if it was only an office, he would not have the same objections.

Pastor Cox informed the Board that there are churches throughout the area that have church parking in the front with houses adjoining the property on either side. He stated that they were only asking for the same rights as the other churches already have. Pastor Cox stated that it seemed that the County made up the rules as they went along.

Ms. Ardis stated that the Board needed to make a decision on whether it needed a plat or whether to continue the hearing. Chairman Smith stated that the Board was discussing the question. Mr. DiGiulian moved that the applicant provide an up-to-date plat showing the total parking. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith). Chairman Smith stated that the Board should have asked questions about the plat when Mr. Ghent was before the Board. Mr. DiGiulian stated that it was only after he had personally viewed the property that he discovered the parking situation. Chairman Smith informed Pastor Cox that the church could continue to use the parking for the time being. He inquired if the church wanted to formally withdraw the variance request or leave the matter open until the next hearing. Pastor Cox stated that he would do whatever the County required. Chairman Smith stated that he personally had no objections to the gravel parking lot if it accommodated the needs of the users and did not afford any environmental impact on the adjacent property owners. Mr. DiGiulian stated that he felt that the parking should be paved. Chairman Smith stated that he would leave the variance open to allow the Board member to have a look at the property. Pastor Cox stated that the church would pave the parking area. Mr. Yaremchuk inquired if the church was able to afford it. Pastor Cox stated that was not a problem as they had a full church which was why they needed the parking. Mr. Yaremchuk stated that he did not want to put a financial burden on the church.

Pastor Cox stated that the church has had difficulty with the parties who were objecting but the church had not been informed of the objections. Chairman Smith stated that the biggest objection he had heard was with regard to the debris on the property. However, from looking at the photos, Chairman Smith stated that it did not appear that the church was responsible for it.

The Board deferred the applications to allow Mr. Ghent an opportunity to provide up-to-date plats. The matter was deferred until March 4, 1980 at 11:45 A.M.

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Page 160, February 5, 1980, Scheduled case for

10:30 - REHEARING: JAMES N. & KIM S. WILKINSON, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of garage addition to dwelling to 17.2 ft. from front property
line (30 ft. min. front yard req. by Sect. 3-307), located 11023 Pumpkin Pl.,
Westmore Knolls Subd., 57-1((27))13, R-3, 19,093 sq. ft., V-283-79.

As the required notices were not in order, the Board deferred the hearing until February
26, 1980 at 11:30 A.M.

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Page 160, February 5, 1980, Scheduled case for

10:40 - W. BELL & CO., INC. & JAMES HURD, appl. under Sect. 18-301 of the Ord. to
A.M. appeal Zoning Administrator's decision that a sign erected on subject property
is in violation of the Zoning Ordinance, located 8209 Watson St., 29-3((1))79,
Dranesville Dist., C-8, 1.5185 ac., A-338-79.

The Board was in receipt of a letter addressed to Mr. Yates from Mr. Carson Fifer requesting
that the above-captioned appeal be withdrawn. Mr. Barnes moved that the Board allow the
withdrawal. Mr. DiGiulian seconded the motion. The motion passed by a vote of 5 to 0.

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Page 160, February 5, 1980, Scheduled case for

11:20 - RICHARD & ROSARIA BOTTORFF, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction to dwelling to 8.78 ft. from side lot line & 26.11 ft. from front
lot line (12 ft. min. side yard & 30 ft. min. front yard req. by Sect. 3-307),
located 7012 Davis St., Groveton Subd., 93-1((1))13, Mt. Vernon Dist., R-3,
18,043 sq. ft., V-339-79.

Mr. Bottorff informed the Board that the purpose of his request was to add to the existing
property, primarily to add a garage and living space. The additions were shown on the plat.
He stated that the additional construction on his survey had been prepared by Mr. Blackwell
from Virginia. Chairman Smith advised Mr. Bottorff that the Board only had authority to
grant variances based on hardship. He stated that the applicant would have to justify his
request under the proper section of the Ordinance. Mr. Bottorff stated that he could not
state it was a hardship. He indicated that he only wanted to add to his property. Mr.
DiGiulian stated that the applicant's written statement referred to justification of an
irregular shaped lot being narrow. Chairman Smith stated that perhaps the applicant should
read his statement into the record.

Mr. Bottorff stated that his statement indicated that the request was to allow construction
to the dwelling 6 ft. from the side lot line. Mr. Bottorff stated that his property was
unusually irregular and was very narrow. The property broadens out on Davis and narrows
out in the rear. He stated that the property was zoned R-3. Mr. Bottorff stated that was
basically his justification for the variance.

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

Page 160, February 5, 1980
RICHARD & ROSARIA BOTTORFF

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-339-79 by RICHARD & ROSARIA BOTTORFF under Section 18-401 of the Zoning
Ordinance to allow construction to dwelling to 8.78 ft. from side lot line and 26.11 ft. from
front lot line (12 ft. min. side yard & 30 ft. min. front yard req. by Sect. 3-307), on
property located at 7012 Davis Street, tax map reference 93-1((1))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 require-
ments of all applicable State and County Codes and with the by-laws of 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 5, 1980; 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 18,043 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

Mr. Yaremchuk seconded the motion.

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

Page 161, February 5, 1980, Scheduled case for

11:30 - EUGENE & MARY LUNDGREN, appl. under Sect. 18-401 of the Ord. to allow construction of a 6 ft. high brick wall with 7 ft. high pillars within the required front yard (4 ft. max. height for wall in front yard req. by Sect. 10-105) and within the corner triangle of the corner lot (obstructions to lateral vision above 3½ ft. in height & below 10 ft. in height prohibited by Sect. 2-505), located 6368 Lynwood Hill Rd., Lynwood Subd., 31-1((17))46, Dranesville Dist., R-2, 16,122 sq. ft., V-340-79.

The Board was in receipt of a request from the applicant's engineer to defer the application. The Board took action to defer the application until February 26, 1980 at 10:30 A.M.

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Page 161, February 5, 1980, Scheduled case for

11:40 - L. RANDOLPH WILLIAMS, appl. under Sect. 18-401 of the Ord. to allow construction of a 6 ft. high brick wall with 7 ft. high pillars within the req. front yard (4 ft. max. height for wall in front yard req. by Sect. 10-105) and within the corner triangle of a corner lot (obstruction to lateral vision above 3½ ft. in height & below 10 ft. in height prohibited by Sect. 2-505), located 6367 Lynwood Hill Rd., Lynwood Subd., 31-1((17))45, Dranesville Dist., R-2, 17,318 sq. ft., V-241-79.

The Board was in receipt of a request from the applicant's engineer seeking deferral of the application. The Board granted the request and deferred the hearing until February 26, 1980 at 10:40 A.M.

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Page 161, February 5, 1980, Scheduled case for

11:50 - RAYMOND F. BURMESTER, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 1.0 ft. from side lot line (5 ft. min. distance from side lot line req. by Sect. 2-412), located 5217 Grinnel St., Country Club View Subd., 68-3((4))611, Annandale Dist., R-2(C), 17,253 sq. ft., V-343-79.

The required notices were in order. Mr. Raymond Burmester of the above address informed the Board that he could not express any hardship in this application. He stated that his wife has returned to work and both of them drive separately. Mr. Burmester stated that he considered the construction of the carport to be a safety factor. In response to questions from the Board, Mr. Burmester stated that there was not already a carport existing on the property. However, the house did come with a one car garage which was contained in the house. There was no additional carport. Mr. Burmester stated that several of his neighbors had constructed carports onto this same model house. Ms. Ardis inquired as to how the owners of the lot next door felt about the proposed construction. Mr. Burmester stated that they had a carport built by the builder and it was located on the same side of the house as his proposed carport. Their carport was about 8 ft. from the property line. He stated that he had discussed the variance with his neighbor and was assured that there were no objections.

Ms. Ardis noted that the location of the house prevented putting the carport anywhere other than was shown on the plat. Mr. Burmester stated that his neighbors' carport was 8 ft. above

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street level. Mr. Burmester stated that he could not put the carport on the other side of his house as his wife wanted the entrance to be into the kitchen. In addition, he stated that he did not want to go to the expense of relocating his driveway.

Mr. Barnes noted that the plat already showed a garage on the property. Mr. Burmester stated there was a garage. He informed the Board that his neighbor also had a garage and a carport and used both as he had three cars.

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

R E S O L U T I O N

In Application No. V-343-79 by RAYMOND F. BURMESTER under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 1.0 ft. from side lot line (5 ft. minimum distance from side lot line required by Section 2-412) on property located at 5217 Grinnel Street, tax map reference 68-3(4)(6)11, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 5, 1980; 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 17,253 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

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

Page 162, February 5, 1980, Scheduled case for

12:00 - ROBERT F. FREEMAN, appl. under Sect. 18-401 of the Ord. to allow construction
NOON of addition to dwelling to 10.7 ft. from side lot line such that total side yards would be 20.55 ft. (8 ft. min. & 24 ft. total min. side yard req. by Sect. 3-207), located 3705 Woodburn Rd., Winterset Subd., 59-3(15)123, Providence Dist., R-2(C), 11,689 sq. ft., V-344-79.

Mr. Robert Freeman of 3705 Woodburn Road in Annandale stated that he felt that the variance should be granted because his lot was exceptionally narrow in the front of the house because of converging lot lines. He stated that there was only 9.85 ft. to the side lot line. He informed the Board that the present structure was built by vocational students and was issued a variance for the enclosed storage shed on the left side of the house. Mr. Freeman stated that he would not be getting any closer than that with his addition. He stated that by aligning the porch with the existing carport, the structure would have a better appearance than if it were offset by 3.5 ft. He requested the Board to grant the variance in order to allow him reasonable use of his property. There was no one to speak in favor of the application and no one to speak in opposition.

RESOLUTION

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In Application No. V-344-79 by ROBERT F. FREEMAN under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.7 ft. from side lot line such that total side yards would be 20.55 ft. (8 ft. min. & 24 ft. total min. side yard required by Sect. 3-207) on property located at 3705 Woodburn Road, tax map reference 59-3((15))123, County of Fairfax, Virginia, Ms. Ardis moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 5, 1980; 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 11,689 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow at the front with converging lot lines.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 163, February 5, 1980, Scheduled case of

12:10 - COLIN B. CALVERT, appl. under Sect. 3-303 of the Ord. to permit operation of a P.M. home professional office, located 13000 Melville Lane, Greenbriar Subd., 45-4((3)) 13, Springfield Dist., R-3, 10,862 sq. ft., S-349-79.

Mr. Jason Smolen, an attorney in Fairfax, represented the applicant. He provided the Board with some additional return receipt cards and photographs of the subject property. He stated that one of the pictures would show the parking on the site. Another picture showed Melville Lane and the character of the houses. Mr. Smolen stated that there was one person present to speak on behalf of the application. Mr. Smolen stated that Mr. Calvert had been an accountant for five years. His hours are 9 A.M. to 5 P.M. He stated that those hours would continue to be necessary in order for him to have help inside his office. However, there would not be more than two employees. Mr. Smolen stated that the business was conducted exclusively through the mail. Mr. Calvert does the books and processes through the mail. His employees help process and take care of the mailing back of the books. The majority of the volume is through the mail. Mr. Smolen stated that the only actual visits by car would be the employees of which there were two. The driveway can be expanded if necessary. However, the applicant only has one car and the employees each have their own car so there would always be space available. Mr. Smolen stated that the property was on a corner lot. Employees or anyone coming to visit would pull in on Manor Hall Lane and would not impede into the area too far. The structure was a single family dwelling. He stated that the Calvert family lived there exclusively and did not own any other residence. He also stated that Mrs. Calvert occasionally works but could not be categorized as an employee. Even if she were to be included it would only bring the total number of persons involved in the operation to four persons.

A neighbor from 13113 Mercury Lane informed the Board that she had visited the Calvert property on several occasions. As a resident, she stated that this use would not have any adverse effect on the community at all. She stated that there has been an enormous amount of traffic there. She stated that she had not seen any people coming in or out at all. There

Page 164, February 5, 1980
COLIN B. CALVERT
(continued)

was no one else to speak in favor of the application. Mr. Ben DelosReyes, an attorney, spoke in opposition to the use. He stated that he did not represent any group or any individual. He was a resident of the area and lived about 400 to 500 ft. from the subject property. He stated that the points he wanted to bring out were (1) the streets were used quite heavily by students from five years of age to high school age. He stated that the County has to put radar out quite frequently to catch speeders. (2) There are only four parking spaces proposed. (3) The covenants are against using the property for a business. (4) He also stated that it had been observed that different people come in and out carrying heavy packages and there were business machines on the premises. Mr. DelosReyes stated that if one business was allowed to operate in the area, then everybody should be allowed including himself for a patent office. He stated that there was another question that the Board should think about and that was the impact. He stated that there had not been any impact statement in terms of health of the small children crossing the street five days a week. He inquired as to the added impact of gasoline exhaust fumes.

During rebuttal, Mr. Smolen stated that he had already expressed that the impact would be basically non-existent. He stated that the operation was done totally through the mail and he did not believe that was any impact on the community. Mr. Smolen informed the Board that the applicant has been operating this business out of his home for the past five years. Mr. Smolen stated that many of the neighbors had expressed that they did not object to the special permit. There would not be any change proposed for the exterior of the property. There would never be more than two employees and there was ample room for parking on the site. Mr. Smolen stated that Mr. Calvert served a need in the community without impacting on anyone.

Ms. Ardis inquired about the business machines on the premises. Mr. Smolen stated that the only machines were typewriters, calculators, etc. Ms. Ardis stated she had only been curious as to whether there were any heavy equipment. Mr. Smolen stated that there were blinds or curtains on the windows of the office.

Page 164, February 5, 1980
COLIN B. CALVERT

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-349-79 by COLIN B. CALVERT under Section 3-303 of the Fairfax County Zoning Ordinance to permit operation of a home professional office on property located at 13000 Melville Lane, tax map reference 45-4((3))13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on February 5, 1980; 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 10,862 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

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R E S O L U T I O N

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4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of employees shall be two (2).
8. The hours of operation shall be 9 A.M. to 5 P.M., Monday through Friday.
9. This permit is granted for a period of three (3) years.

Ms. Ardis seconded the motion.

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

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12:20 - BELDON D. SCOTT, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 30 ft. from lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10825 Greene Drive, (Route 4301), 117-2((2))53, Mt. Vernon Dist., 52,674 sq. ft., R-E, V-233-79.
(Deferred from October 16, 1979 at request of applicant and from January 15, 1980 at request of applicant because of pending special exception.)

The Board was in receipt of a letter requesting withdrawal of the variance application. It was the unanimous consensus of the Board to allow the withdrawal without prejudice.

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Page 165, February 5, 1980, After Agenda Item

Stanislaw Toczek, M.D., S-345-79: Chairman Smith inquired if Mr. DiGiulian had had an opportunity to review the record in this application. Mr. DiGiulian stated that he had listened to the tapes but wanted time in order to view the site. He asked the Chairman to continue the deferral for one week.

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Page 165, February 5, 1980, After Agenda Item

David Molumby, V-212-79: The Board was in receipt of a letter from Mrs. Glen Tomlinson concerning the Board's handling of a deferred application for a variance to subdivide property on Beulah Road. The variance was scheduled for Sept. 18, 1979 but was deferred for notices. The Board held the hearing on October 16, 1979 and deferred the decision until November 20, 1979. The hearing had been closed on October 16th; however on November 20th, the Chairman allowed the Board members to ask additional questions. The absent members asked the attorney to highlight his request. Following that, the Chairman asked if there was any additional testimony from the audience. There was no one to speak in favor of the request; however, one gentleman came forward to speak in opposition. After that, Ms. Ardis moved to grant the variance with the two standard limitations. Mrs. Tomlinson was upset at the Board having handled the matter in this fashion. Chairman Smith instructed the Clerk to write Mrs. Tomlinson a letter informing her of the exact actions that had been taken.

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Page 165, February 5, 1980, After Agenda Item

Roger Sponaule, V-311-79: The Board had requested a report from the Zoning Inspector with respect to Mr. Edgar W. Collins' letter regarding possible violations on Mr. Sponaule's property. After review of the memorandum received from the Zoning Inspectors, the Board stated that there was no justification for a rehearing and denied Mr. Collin's request for one. The Clerk was instructed to write to Mr. Collins advising of this action and to include a copy of the memorandum from the inspector.

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Page 165, February 5, 1980, After Agenda Item

David D. Vanover, S-318-79: The Board was in receipt of a letter from the Zoning Administrator to Mr. Hudson Nagle with respect to home professional offices. Mr. Nagle had raised several questions regarding them after the Board granted a home professional office special permit to Mr. Vanover to operate a publishing office from his home. Chairman Smith read the letter into the record.

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The Board wished Ms. Ardis well. She was resigning from the Board of Zoning Appeals effective this date in order to accept a judgeship in the General District Court system.

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There being no further business, the Board adjourned at 1:05 P.M.

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

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Jan. 12, 1982.

APPROVED: January 12, 1982

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 12, 1980. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes and John Yaremchuk. (Ms. Ardis had resigned from the Board effective 2/5/80 and had not been replaced.)

The Chairman opened the meeting at 10:15 A.M. and then convened the hearing in order to discuss legal matters with Ed Finnegan from the County Attorney's Office. At 10:35 A.M., the Board reconvened the hearing and Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case.

10:00 - DUKE STREET PROPERTIES & THE RUG MAN, appl. under Sect. 18-401 of the Ord. A.M. to allow yard display of merchandise in required yard (Sect. 2-504 req. that no goods shall be displayed in any req. yard in any C District), located 6906 Richmond Highway, 92-2((18))1, Mt. Vernon Dist., C-8, 82,241 sq. ft., V-80-V-004.

10:00 THE RUG MAN, appl. under Sect. 18-301 of the Ord. to appeal the Zoning A.M. Administrator's decision that display of goods in a required yard of applicant's property constitutes a violation of Sect. 2-504 of the Zoning Ordinance, located 6906 Richmond Hwy., 92-2((1))1, Mt. Vernon Dist., 82,241 sq. ft., C-8, A-189-79.

Mr. Thomas Dugan, an attorney, represented the applicant. Chairman Smith noted that there were a number of people at the hearing interested in the matter. He stated that the required notices were not in order and he was concerned since this matter had been pending since July of 1979. The Board deferred these cases until March 4, 1980 at 11:55 A.M. for the appeal and 12:10 P.M. for the variance. Chairman Smith informed Mr. Dugan that unless the notices were in order for the next hearing, the applications would be dismissed. Mr. Dugan stated that he understood.

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Page 167, February 12, 1980, Scheduled case for

10:30 - PERRY TAYLOR, JR., appl. under Sect. 18-401 of the Ord. to allow house to A.M. remain 3.2 ft. from one side lot line & 5.4 ft. from the other (20 ft. min. side yard req. by Sect. 3-107), located 1640 LaSalle Ave., Hunting Ridge Subd., 30-3((2))201, Dranesville Dist., R-1, 6,500 sq. ft., V-347-79.

Mr. Perry Monn, an attorney representing the applicant, informed the Board that this application had been filed in addition to another pending variance application for T. M. Baker, Co. for Hunting Ridge on lots 200 and 201. He was advised by the Chairman that each application would be considered separately and would have to stand on its own merits. Mr. Monn stated that the variance they were requesting was under the hardship section of the Ordinance. It was a substandard lot both as to area and width. He stated that the applicant needed 14.6 ft. on the left and 16.8 ft. on the right. Mr. Monn advised the Board that the other two lots were in different ownership. A porch which was formerly connected to a house on lot 201 extended over into lot 200. The porch had been demolished in September of 1978. Mr. Monn stated that this was a situation where the house has been in existence since 1951. All of the lots are substandard. The variance had been applied for in order to comply with the Zoning Ordinance requirements and to correct any confusion on the title due to the removal of the porch.

In response to questions from the Board, Mr. Monn stated that Mr. Taylor purchased the property in 1978. Chairman Smith inquired if Mr. Taylor purchased all three lots and was advised that he had only acquired lot 201. Chairman Smith inquired if Mr. Taylor had purchased the property after the removal of the porch and was informed that demolition had been accomplished in June of 1979. In response to a question about the ownership of lots 200 and 202, Mr. Monn replied that the T. M. Baker Company owned these lots. Chairman Smith inquired as to whether T. M. Baker Company had owned lot 201 at any time and was informed it had. The Company sold lot 201 to Mr. Taylor and erected single family homes on the other lots. Mr. Monn advised the Board that the Zoning Administrator allowed an administrative variance under the 20% reduction for a side yard for the three houses constructed. Mr. Covington informed the Board that the 15% provision has since been removed from the Zoning Ordinance. Mr. DiGiulian inquired if all three lots had been under the same ownership at the time the building permit was issued and was informed that they had been.

There was no one else to speak in favor of the application. Mr. Robert McGinnis spoke in opposition on behalf of his client who resided at 1636 La Salle Avenue in Hunting Ridge. He stated that Mrs. Berez bought lot 199 in July of 1979. Lot 199 was immediately adjacent

PERRY TAYLOR
(continued)

to lot 200. She purchased her home from the Baker Company. Mr. McGinnis informed the Board that at the time Mrs. Berez purchased her home, she understood that there was not to be any changes. He stated that she did not want any house that close because it would decrease the air flow and destroy the value of the property. Mr. McGinnis stated that Mr. Berez objected to both variances. He stated that these lots were small. Mrs. Berez' house had been built in accordance with the Zoning Ordinance requirements and she felt that the others should comply with the Code as well.

The next speaker in opposition was Mr. Manchehr of 1633 LaSalle Avenue. He stated that he had appeared on December 5, 1978 and was opposed to the construction on lot 200. Chairman Smith advised the speaker that this variance request was on lot 201 to allow a house to remain. He stated that was the only discussion at the present time. Mr. Manchehr stated that the applicants were not asking for conformance, they were trying to reduce the side yard. Chairman Smith stated that the application was seeking to allow the house to remain 3.2 ft. from the side yard. Mr. Manchehr stated that that had nothing to do with a variance. Chairman Smith advised Mr. Manchehr that the variance he was referring to would be heard next. This variance involved an existing dwelling. Mr. Manchehr advised the Board that the area was in opposition to the variance request. Mr. Manchehr did not have any comments about the house on lot 201.

During rebuttal, Mr. Monn stated that the applicant was only trying to clear a cloud on the title. In response to whether Mr. Taylor had any connection with the T. M. Baker Company, Mr. Monn stated that he did not. He stated that Mr. Taylor purchased the property in July of 1978. He informed the Board that Mr. Taylor had been aware of the non-conformance at that time. Chairman Smith inquired as to how Mr. Taylor was able to purchase the lot with part of the structure on another lot without having to purchase the other lot also. Mr. Monn stated that the house was not on the other lot, only the porch. The porch had been added after 1960 after the house had been constructed. Mr. Taylor purchased the property assuming that the porch would be removed as he did not have any use for it. Chairman Smith stated that according to the plat, quite a bit of the porch had been on the property line. Chairman Smith inquired if Mr. Taylor was present at the hearing and was informed that he was not. Chairman Smith inquired as to why he was not present since he was the applicant. Mr. Monn informed the Chairman that he had been asked to represent Mr. Taylor. Chairman Smith inquired if Mr. Taylor had been aware of the problem when he purchased the property and was informed that he had been. Chairman Smith inquired if Mr. Taylor was aware that it was in violation of the Zoning Ordinance. Mr. Monn stated that he had not. Mr. Taylor had only been aware that the setback was grandfathered under the existing Code because it was an old subdivision. Mr. Yaremchuk inquired as to how long the house had been there before Mr. Taylor purchased it and was informed 27 years. Mr. Yaremchuk inquired as to how it could go for 27 years without being in violation. Mr. DiGiulian stated that the building permit had been issued for the lot with lot 200 being included. Mr. Monn stated that it had been Mr. Taylor's understanding that the porch was going to be removed. Consequently, he made an application for a permit to demolish the porch. Mr. DiGiulian stated that the staff report indicated that lots 202, 201 and 200 were shown for the building permit application. Mr. Monn stated that that happened several times where homes were shown on several lots. Mr. Yaremchuk stated that the lots were merged. Mr. Monn stated that someone had sold off the lot leaving it substandard. Mr. Yaremchuk stated that it appeared that whoever sold off the property knew that it was in violation. He stated that person should have come to the Board for a variance before he sold the property. The applicant in this variance was an innocent bystander. Mr. Yaremchuk stated that the builder knew what he was doing. Mr. Monn stated that was why they were here today, in order to correct the technical problem. Mr. Monn stated that this was grandfathered. He stated that it was fair to say that when a house is on a substandard lot. Mr. Monn stated that he represented Mr. Taylor and not the builder. Chairman Smith stated that the builder, T. M. Baker Company did this. Mr. Taylor participated in the demolition request. Chairman Smith stated that this was self-created hardship. He stated that he had no problems with some of the statements but with the shape of the history of the situation. Mr. DiGiulian inquired if Mr. Taylor resided on the property and was informed it was a rental property. Mr. DiGiulian inquired as to what recourse Mr. Taylor had. Mr. Monn stated the recourse was to suffer any financial hardship when he tries to sell the property again. When asked whether there was any recourse to the T. M. Baker Company, Mr. Monn replied that he did not know. Mr. DiGiulian stated that if Mr. Taylor knew that the porch had to be removed, he must have assumed that then the property would be in compliance. Mr. Monn stated that Mr. Taylor owned lot 201 free and clear. He stated that all the applicant was trying to do was remove the cloud so it would not create a hardship for future purchasers. Mr. DiGiulian inquired as to when Mr. Taylor became aware that the setbacks were in violation. Mr. Monn stated that he did not know. Mr. DiGiulian inquired if there were other houses within 3 ft. of the property line. Mr. Monn stated that he did not think there were. Mr. DiGiulian stated that he did not think so either. Chairman Smith inquired if Mr. Taylor lived in the area. Mr. Barnes stated that he thought Mr. Taylor should appear before the Board to answer some of the questions since the attorney did not seem to know. Mr. DiGiulian stated that he did not think the Board was getting all of the answers it needed in order to make a decision on the matter.

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Chairman Smith suggested that the Board defer the matter until a later date to receive additional testimony from Mr. Taylor. He inquired as to how much time the attorney would need. Mr. Monn stated that he could say that when Mr. Taylor took the property over, he was unsophisticated and did not consult counsel. He stated that Mr. Taylor knew that the setbacks were less than required but felt that it would not be a problem because it was grandfathered. Chairman Smith stated that it was a non-conforming structure as to that particular lot. It also included the two other lots. By removing the one lot, it brought it into con-formity and the removal of the porch did not correct the situation. Chairman Smith stated that the Board needed to know whether this was a self-inflicted situation and whether Mr. Taylor was aware of the changes taking place.

Mr. DiGiulian stated that he still wanted to know what generated the request for a variance and inquired as to whether it was Mr. Yates' letter refusing Mr. Baker a building permit for lot 200. Mr. Monn stated that was the reason for filing a variance as it was deemed to be an unlawful removal of the porch. The applicant applied for a demolition permit to demolish a non-existing porch. Mr. Baker applied for the permit and then lot 200 was free and clear. Mr. Monn stated that somebody would want to build on 200 in years to come. He stated that they did not have to come seeking a variance except to comply with Mr. Yates' request. Mr. DiGiulian stated that as long as lots 200 and 201 were in the same ownership, there was not a problem. Mr. Monn stated that there were not in the same ownership. He stated that there was nothing to prevent the sale of either one. The encroachment onto lot 200 did not prevent the sale or the transfer of the title. He stated that the older structures are being removed and more modern homes are being built in the area. These homes were smaller and more energy efficient.

The Board deferred the variance application of Perry Taylor until February 26, 1980 at 11:45 A.M. in order to have the applicant present to answer questions of the Board.

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Page 169, February 12, 1980, Scheduled case for

10:40 - T. M. BAKER CO., INC., appl. under Sect. 18-401 of the Ord. to allow construction of house to 8 ft. from side lot line & 14 ft. from other (20 ft. min. side yard req. by Sect. 3-107), located 1638 La Salle Ave., Hunting Ridge Subd., 30-3((2))200, Dranesville Dist., R-1, 6,500 sq. ft., V-348-79.

Mr. Monn, an attorney, represented the T. M. Baker Company, Inc. For information regarding this variance, please refer to the verbatim transcript in the Clerk's Office.

Page 169, February 12, 1980
T. M. BAKER CO., INC.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-348-79 by T. M. BAKER CO., INC. under Section 18-401 of the Zoning Ordinance to allow construction of house 8 ft. from side lot line, on property located 1638 La Salle Avenue, tax map reference 30-3((2))200, 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 12, 1980; and

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

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0.

11:00 - HERBERT G. LEE, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 22 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-307), located 7801 Sycamore Dr., Holmes Run Acres, 59-2((8))(2)14, Providence Dist., R-3, 12,508 sq. ft., V-352-79.

Mr. Herbert Lee of 7801 Sycamore Drive informed the BZA that the subdivision he lived in was built about 30 years ago. The house is very small and the scale of the homes throughout the area are also small. They are very small as compared to others in the County. There are a great majority of the homes which have been added onto at one time or another. Mr. Lee stated that his house is very cramped and that he needed extra space to accommodate the extra storage space. He stated that he proposed to add an area of 600 sq. ft. to the house that would include a large master bedroom and a second bathroom and a new kitchen. He stated that he presently had a screened porch which was added to the house in 1969. He stated that this was the logical place to construct the addition. The proposed addition would incorporate the existing screened porch as well as an extra area. Accordingly, a variance was necessary to allow one corner to come within 22 ft. of the front property line. Mr. Lee stated that the variance would affect only one corner of the addition.

In response to questions from the Board, Mr. Lee stated that he has owned the property for 10 years. Mr. DiGiulian inquired if the addition would affect the sight distance. Mr. Lee responded that his property was a large site and that there was ample space on three sides and good vision of the street. Mr. Lee stated that his addition would not interfere with sight distance at all.

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

Page 170, February 12, 1980
HERBERT G. LEE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-352-79 by HERBERT G. LEE under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 22 ft. from front lot line (30 ft. minimum front yard required by Section 3-307), on property located at 7801 Sycamore Drive, tax map reference 59-2((8))(2)14, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 12, 1980; 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 12,508 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

11:10 - JOHN J. PRAMIK, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 5.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8619 Bradgate Rd., Stratford Landing Subd., 111-1((6))(25)6, Mt. Vernon Dist., R-3, 12,631 sq. ft., V-355-79.

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Mr. John Pramik of 8619 Bradgate Road stated that he and his wife bought the house in 1963. There was a concrete slab for the driveway set back 2 ft. from the house. He stated that he believed that this was intended as a floor for a carport or a garage but was never built because of finances. Mr. Pramik stated that he never made any attempt to build on it at that time. He indicated that they use their cars frequently and the ice and snow during the past winter made it extremely hazardous. Mr. Pramik stated that his proposed carport would be 14 ft. wide and would be adequate for their needs. They were proposing to use the existing concrete slab which was 5.1 ft. from the side lot line and which would require a variance. Mr. Pramik stated that his neighbor does not object and he presented the Board with a letter of support from that neighbor. He further stated that all of his other neighbors also support the request. Mr. Pramik stated that the majority of the homes are already equipped with a garage or a carport so that his request was compatible. Mr. Pramik informed the Board that prior to the Zoning Ordinance which went into effect in 1978, he would not have needed a variance. He also informed the Board that a variance had been granted to his neighbor across the street and his addition was within 3 1/2 ft. of the property line.

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

Page 171, February 12, 1980
JOHN J. PRAMIK

Board of Zoning Appeals

RESOLUTION

In Application No. V-355-79 by JOHN J. PRAMIK under Section 18-401 of the Zoning Ordinance to allow construction of carport to addition to dwelling to 5.1 ft. from side lot line (12 ft. minimum side yard required by Section 3-307), on property located at 8619 Bradgate Road, tax map reference 111-1((6))(25)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 February 12, 1980; 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 12,631 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0.

11:20 - WARREN & CHARLOTTE WINCHESTER, appl. under Sect. 18-401 of the Ord. to allow
 A.M. subd. of parcel into two lots such that one would have a lot width of 10 ft. and
 the other a width of 86 ft. (100 ft. min. lot width req. by Sect. 3-206) and to
 allow dwelling to remain 11.7 ft. from side lot line (15 ft. min. side yard req.
 by Sect. 3-207), located 4304 Robertson Blvd., Mt. Vernon Park Subd., 110-2((2))
 27B, Mt. Vernon Dist., R-2, 45,100 sq. ft., V-332-79.
 (DEFERRED FROM JANUARY 22, 1980 FOR READVERTISEMENT OF VARIANCE.)

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Mr. Warren Winchester of 4304 Robertson Blvd. stated that his variance request was supported by two of his neighbors. Mr. Winchester stated the hardship was this property had an unusual shape being 300 ft. in length. He indicated that the back half of his property was of no use to him because of the way his house was situated on the lot. He indicated that nothing could be gained if he sold the house by itself.

In response to questions from the Board, Mr. Winchester stated that he lived on the property and has lived there for 2 1/2 years. There was no one else to speak in support of the application. The following person spoke in opposition to the request.

Mrs. Steelwill, an owner of 4331 Mt. Vernon Highway, stated that her property adjoined the Winchester's property at the back. She indicated that this property was within a controlled drainage area and that drainage was a real concern for this area. She stated that she believed any change would cause more runoff to the adjoining property owners. She requested that if the variance were approved, that it be approved contingent upon on site review of the property with adjoining property owners. She further requested that no fill be allowed on the lot as it would affect the drainage. She stated that they fight the water as it is a very delicate problem. She indicated that the Park Authority was trying to take care of the problems. Mrs. Steelwill informed the Board that there was large ditch not shown on any of the County maps and stated that it should have been indicated on the applicant's plats as it was 4 ft. deep. Mr. Smith stated that he would accept the letter presented by Mrs. Steelwill for the record.

During rebuttal, Mr. Winchester stated that he would be happy to comply with the request of the Park Authority and would make sure that any future owners were aware of the Park Authority's stipulations. Mr. Winchester stated that the contours of his property were higher than any other lots. He indicated that there should not be any fill required whatsoever.

Page 172, February 12, 1980
 WARREN & CHARLOTTE WINCHESTER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-332-79 by WARREN & CHARLOTTE WINCHESTER under Section 18-401 of the Zoning Ordinance to allow subdivision of parcel into 2 lots such that one would have a lot width of 10 ft. and the other a lot width of 86 ft. to allow dwelling to remain 11.7 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207) on property located 4304 Robertson Boulevard, tax map reference 110-3((2))27B, 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 12, 1980; 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 45,100 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

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

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.

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2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
 3. Any construction will not block or deter the flow of existing drainage across the lot.
- Mr. Yaremchuk seconded the motion.

This motion passed by a vote of 3 to 1 (Mr. Smith).

Page 173, February 12, 1980, Scheduled case for

11:45 - ST. ANDREWS LUTHERAN CHURCH, appl. under Sect. 3-303 of the Ord. to permit construction and operation of a church, located 14703 Cranoak; 14628, 14630, 14632, 14634, 14636, 14638, 14640 & 14642 Soucy Pl., Chalet Woods Subd., 54-1((6))1-9, Springfield Dist., R-3, 2.69 acres, S-351-79.

Mr. Mike Lemay, an architect in Reston, represented the church. Pastor Sorenson was also present to answer any questions the Board might have. In response to questions from the Board, Mr. Lemay stated that the property consisted of 2.69 acres and R. C. Hawkins owned the property. He indicated that there was a copy of the contract to purchase contained in the BZA file. Mr. Lemay stated that they were proposing seating for 240 people. Parking would be provided for 69 cars and they would allow for future expansion. The site plan would only require 68 parking spaces. He stated that it was their hope that the building would provide worship and education needs for St. Andrews Lutheran Church. The design of the building would be a rough design that would blend in with the neighboring area. It would be of wood and brick. At the present time, the church was made up of 36 families.

There was no one else to speak in support of the application and no one to speak in opposition. However, the Board was in receipt of a letter in opposition from Mr. Edward T. Clemons which was made a part of the record.

Page 173, February 12, 1980
ST. ANDREWS LUTHERAN CHURCH

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-351-79 by ST. ANDREWS LUTHERAN CHURCH under Section 3-303 of the Fairfax County Zoning Ordinance to permit construction and operation of a church on property located at 14703 Cranoak, tax map reference 54-1((6))1-9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on February 12, 1980; 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-3.
3. That the area of the lot is 2.69 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of memberships shall be 270.
8. The hours of operation shall be normal church hours.
9. The number of parking spaces shall be 69.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

BOARD RECESS

At this point in the meeting, the Board recessed for approximately five minutes and reconvened the meeting at 12:10 P.M. to take up the remaining agenda.

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Page 174, February 12, 1980, Scheduled case for

12:00 - HENRIETTE TONG NGUYEN, appl. under Sect. 3-203 of the Ord. to permit operation of
P.M. a home professional office, located 4108 Downing Street, Englandboro Subd.,
61-3((2))11, Mason Dist., R-2, 26,068 sq. ft., S-353-79.

Mrs. Henriette Nguyen informed the Board that she lived at 4108 Downing Street in Annandale and was applying for a home professional office for a part-time office to take care of emergency cases. She stated that she was a medical doctor and has an office at the Northern Virginia Doctors Hospital. In response to questions from the Board, Mrs. Nguyen stated she has lived at this residence for 6 years and had a small practice. She further informed the Board that she would not put up a sign and would not have any employees. She stated that she would only see two patients per day and that her patients could use her driveway to park. Mrs. Nguyen stated that in her judgment, this use would not create any traffic problem or disturbance to the area.

The following persons spoke in support of the application. Mr. O'Flaherty informed the Board that he lived about 100 yards from Mrs. Nguyen's property. He asked that the Board consider granting this use for a one year period to allow Dr. Nguyen to prove or disprove the fact as to whether or not the use could be compatible with the area. He indicated that he did not believe there would be any more than an additional half-dozen vehicles because of the use. The only question was whether this use would damage or change the residential character of the area and Mr. O'Flaherty stated that in his opinion, it would not. He informed the Board that he had known Dr. Nguyen for eight years. He stated that this use would be conducted after the normal hours at the hospital and would allow her to be at home with her children. He stated that this was not a commercial development.

The next speaker in support was Mrs. Jane Callahan who indicated that this use would be an asset to the area and would be helpful to the area. She indicated that she had a very large family and they had several cars themselves.

There was no one else to speak in support of the application. The following persons spoke in opposition to the application. Mr. Roy Fisher of 4008 Oxford Street read a petition and a letter from Supervisor Davis which was in opposition to the proposed use. He stated that he objected to the establishment of any commercial venture in this area. He questioned the reason for having an office for just two patients a day. Further, he stated that if this was for emergency care as stated by the applicant, that the hospital was the better equipped place to handle such situations. In addition, Mr. Fisher stated that this use would increase traffic, noise and congestion. He stated that this street was a bypass between Columbia Pike and Old Columbia Pike. The applicant's driveway exited onto Downing Street and Oxford Street. The patients would have to back out into the street. Mr. Fisher stated that the office would add more traffic, increase congestion and endanger the safety of their children. He stated that there were 35 signatures on the petition. Mr. Fisher stated that he has lived in the area for 15 years. Mr. Fisher stated that this use would set a precedent and allow commercial encroachment into the area.

Mrs. Critchlow of 4041 Oxford Street in Annandale spoke in opposition. She stated that she lived on the corner and people coming to the proposed use would have to back out. She stated that she has been in this area for 28 years. When she purchased her property, there was only fields and farms. She stated that they have kept commercialism out of the area. She indicated that this use would set a precedent.

During rebuttal, Mrs. Nguyen stated again that she would not put up a sign for her office. There would not be traffic as she would only have two patients per day. She stated that she would see most of her patients at the hospital. She stated that she would not create any problems for the area.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-353-79 by HENRIETTE TONG NGUYEN under Section 3-203 of the Fairfax County Zoning Ordinance to permit operation of a home professional office on property located at 4108 Downing Street, tax map reference 61-3((2))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 February 12, 1980; 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 26,068 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0.

12:15 - COMMUNITY COVENANT CHURCH, appl. under Sect. 3-103 of the Ord. to amend P.M. S-49-74 to permit addition of temporary trailer classroom to existing church facilities, located 7081 Sydenstricker Rd., 89-3((1))3A, Springfield Dist., R-1, 5.0 acres, S-354-79.

Reverend James Swanson of 6624 Raynor Drive in Springfield represented the church. The church was located at 7018 Sydenstricker Road in Springfield. In response to questions from the Board about the size of the proposed trailer, Rev. Swanson indicated that they had not yet purchased one. He stated that the maximum size would be 14 ft. x 60 ft. Rev. Swanson stated that the existing parking was adequate. He stated that they had a letter from the Hunt Valley Swim Club allowing the church to use an additional 20 parking spaces if needed. Rev. Swanson stated that the church did not anticipate any additional parking since the people were already in worship. The approximate length of time for the trailer was proposed for three years. Rev. Swanson stated that the trailer was only a temporary use. Chairman Smith informed the Board that the trailer should be limited for a specific period of time. Mr. Yaremchuk stated that five years should give the church enough flexibility. Rev. Swanson stated that the trailer was only a classroom and would adjoin the church. It was not a self-contained unit.

Mr. Holston spoke in favor of the application. He stated that he had lived in the area since 1969. He stated that the church was experiencing a rapid growth and was running out of classroom space. One class was presently meeting in someone's home. There were also boy and girls scout meetings at this location. Mr. Holston stated that it would be beneficial to have more room. Mr. Holston stated that the classroom trailer would be used by all of the people in the community. The trailer would be located adjacent to the existing parking spaces and would not take up any parking spaces.

There was no one to speak in opposition.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

R E S O L U T I O N

WHEREAS, Application No. S-354-79 by COMMUNITY COVENANT CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-49-74 to permit addition of temporary trailer classroom to existing church facilities on property located at 7081 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 February 12, 1980; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 5.0 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, and

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0.

Page 176, February 12, 1980, Deferred case of

STANISLAW K. TOCZEK, M.D., LTD., appl. under Sect. 3-403 of the Ord. to permit operation of a home professional office, located 6319 Olmi-Landrith Dr., Bucknell Manor, 83-3((13))(F)1, Mt. Vernon Dist., R-4, 2.097 acres, S-349-79.

The Chairman inquired of Mr. DiGiulian if he had had an opportunity to listen to the tapes and whether he was prepared to participate in the decision of the deferred case of Stanislaw K. Toczek which was heard by the Board on January 29, 1980 and resulted in a 2 to 2 vote. Mr. DiGiulian stated that he was prepared to vote in the matter.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-345-79 by STANISLAW & ARIADNE TOCZEK under Section 3-403 of the Fairfax County Zoning Ordinance to permit operation of a home professional office on property located at 6319 Olmi-Landrith Drive, tax map reference 83-3((13))(F)1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

R E S O L U T I O N

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WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on January 29, 1980 and deferred for decision until February 12, 1980; 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 2.097 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 in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of patients shall be one (1) at any one time with a maximum of four (4) per day.
8. The hours of operation shall be 10 A.M. to 6 P.M., Monday through Friday.
9. The number of parking spaces shall be four (4).
10. This permit is granted for a period of one (1) year.

Mr. Barnes seconded the motion.

The motion*failed by a vote of 2 to 3 (Messrs. Yaremchuk, Smith and DiGiulian).

Page 177, February 12, 1980, After Agenda Items

The Clerk presented a letter addressed to Mr. Hudson Nagle in response to his letter regarding home professional offices for review and signature by the Chairman. The letter was approved by the Board and the Chairman signed it.

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Page 177, February 12, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for March 6, 1979; March 13, 1979 and March 20, 1979. Mr. Barnes moved that the Minutes be approved as amended. Mr. DiGiulian seconded the motion.

// There being no further business, the Board adjourned at 1:20 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 January 19, 1980

APPROVED: January 26, 1980
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, February 19, 1980. The following Board Members were Present: Daniel Smith, Chairman; George Barnes and John Yaremchuk. (Mr. DiGiulian was absent.)

The Chairman called the meeting to order at 8:10 P.M. and Mr. Barnes led the prayer.

The Chairman informed the applicants present that there were only three Board members present as a member was absent and another one having been appointed to a judgeship in the General District Court. He stated that the applicants could request a deferral or proceed with the hearing.

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

8:00 P.M. - YORKTOWN CHILD CARE CENTER, appl. under Sect. 4-803 of the Ordinance to permit child care center, located 8621 Lee Highway, 49-3((6))18 & 19, Providence Dist., C-8, 0.73 acres, S-356-79.

Mr. John Saborin represented the child care center. He informed the Board that this child care center had been operating in the Yorktown Apartments and was being moved as the apartments were being converted to condominiums. Mrs. Frances Bathelder was the operator and has been running the school for 13 years. In addition, she has several other schools in the area with as high as 118 children attending. Because the apartments are being converted, Mrs. Bathelder began an intensive search to relocate her school and found the property at 8621 Lee Highway. Mr. Saborin stated that Mrs. Bathelder has discussed the move with the parents of the children and they were elated with the new location. The new location was centrally located for all of the parents presently using the facility. Mr. Saborin stated that this special permit application met all of the requirements of the Ordinance. The children would be arriving by private automobile. There would not be any buses used to transport children. The children would begin arriving at 7:00 A.M. Generally, there would only be two parents dropping off children at the same time. There would be a minimum of staff present and as more children began arriving, the staff would increase. The majority of the staff would be present during the middle of the day and would begin decreasing about 2:30 in the afternoon.

In response to questions from the Board, Mr. Saborin stated that Mrs. Bathelder was asking permission for 100 children. The hours of operation would be 6:30 A.M. to 6:30 P.M., five days a week. Mr. Saborin stated that generally there was a 15% absentee rate which would reduce the number of children to 85.

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

Page 178, February 19, 1980
YORKTOWN CHILD CARE CENTER

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-356-79 by YORKTOWN CHILD CARE CENTER under Section 4-803 of the Fairfax County Zoning Ordinance to permit child care center on property located at 8621 Lee Highway, tax map reference 49-3((6))18 & 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 February 19, 1980; 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 0.73 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:

RESOLUTION

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1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 100.
8. The hours of operation shall be 6:30 A.M. to 6:30 P.M., five days a week.
9. The number of parking spaces shall be 11.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. DiGiulian being absent).

Page 179, February 19, 1980, Scheduled case for

8:15 - THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, appl. under Sect. 3-103 of the P.M. Ord. to permit operation of a church, located 6944 Sydenstricker Rd., 89-1((1))14A, Springfield Dist., R-1, 145,455 sq. ft., S-80-S-001.

Mr. James Rees, an attorney in McLean, represented the church. He stated that the application was to allow a church to be constructed on Sydenstricker Road. The building would be in harmony with the nature and spirit of the use. Mr. Rees stated that this would be a place of worship and religious education for 175 families. The church would operation from 6:00 A.M. until 11:00 P.M., seven days a week. Primarily, the church would be used for 8 hours on Sunday and 3 to 4 hours during the week for night activities and occasional daytime activities on Saturday. There would be a maximum of 207 parking spaces provided on the site plan. Mr. Yaremchuk stated that the site plan only indicated a total of 181 parking spaces. Mr. Rees stated that was correct and further indicated that the staff report required a minimum of 80 parking spaces. Chairman Smith noted that apparently the architect had erred in his computation for the required number of parking spaces. as the staff report stated a requirement for 80 spaces for the proposed use and the architect had provided 181. Mr. Rees stated that this special permit application complied with the R-3 zoning requirements. He further stated that all uses would be submitted for Site Plan approval and asked the BZA to grant the application.

Mr. Michael LeMay, architect in Reston, informed the Board that the construction materials would be a grayish brown brick which would relate to the site. He indicated that they might have a wood shingled roof or at least a color related to the area would be used. In response to questions from the Board, Mr. LeMay stated that the membership was about 175 families. and that the maximum membership would be 200 families. Mr. Covington stated that the seating capacity would be 317 seats in the sanctuary.

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

Page 179, February 19, 1980
THE CHURCH OF JESUS CHRIST OF
LATTER DAY SAINTS

Board of Zoning Appeals

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-S-001 by THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS under Section 3-103 of the Fairfax County Zoning Ordinance to permit operation of a church on property located at 6944 Sydenstricker Road, tax map reference 89-1((1))14A, 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 19, 1980; 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 145,455 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This Special Permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number for seating capacity shall be 317.
8. The hours of operation shall be normal hours of church operation.
9. The number of parking spaces shall be 181.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. DiGiulian being absent).

 Page 180, February 19, 1980, Scheduled case for

8:30 - THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, appl. under Sect. 3-303 of the Ord. to permit operation of a church, located 1911 Prices Lane, Mallinson Subd., 111-1((1))2, Mt. Vernon Dist., R-3, 317,988 sq. ft., S-80-V-003.

As the required notices to property owners was not in order, the Board deferred the special permit application until March 18, 1980 at 9:00 P.M.

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Page 180, February 19, 1980, Scheduled case for

8:45 - DISMAS HOUSE, INC., appl. under Sect. 3-103 of the Ord. to allow continuance of a school of general education for eight students as permitted by S-294-78, now expired, located 7701, Old Telegraph Rd., Piney Run Subd., 100-1((9))4, Lee Dist., R-1, 2.36 acres, S-80-L-004.

Mr. Robert Fourneour of Rt. 1 in Purcellville, Va. informed the Board that he was a member of the Board of Dismas House. He stated that Dismas House was a private non-profit school of private education and a home for eight residents. He stated that they have been in operation for the past three years. The present special permit had expired. He stated that they did not reapply as they thought they would come under the County's new Group Home Ordinance. Mr. Covington informed the Board that Dismas House did not qualify under the new Group Home Ordinance. In response to questions from the Board, Mr. Covington stated that there have not been any complaints about Dismas House.

Mr. Reichardt, the former Director of Dismas House, gave the Board a brief background of the school. Mr. Reichardt stated that the school has eight boys. There are four parking spaces provided. Mr. Covington informed the Board that in the other special permit, there was a restriction that none of the students attend any public school. Mr. Reichardt stated that they were asking for permission to have the boys attend vocational training at the public high school. In response to questions from the Board, Mr. Covington stated that the last special permit was granted for a period of three years with the Zoning Administrator empowered to grant three one-year extensions. Mr. Reichardt again requested that they be allowed to allow the boys to attend the local public school. Chairman Smith informed Mr. Reichardt that the provision restricting the boys from attending the local school was under the special permit which had expired. He explained that unless the Board specifically included that provision in the new resolution that the school would no longer be governed by it.

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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

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-L-004 by DISMAS HOUSE, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to allow continuance of a school of general education for eight students as permitted by S-294-78 on property located at 7701 Old Telegraph Road, tax map reference 100-1((9))4, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on February 19, 1980; and

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

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

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless 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 in 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 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 eight (8).
8. The number of parking spaces shall be four (4).
9. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three one-year extensions.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. DiGiulian being absent).

Page 182, February 19, 1980, After Agenda Items

The Board was in receipt of a request from Mr. Charles Runyon regarding the special permit for Great Falls Roman Catholic Church, S-281-78. Chairman Smith asked the Clerk to bring the matter to the Board at its next meeting.

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Page 182, February 19, 1980, After Agenda Items

The Board was in receipt of a request from Mr. William E. Donnelly, III regarding reconsideration of the Board's denial of the special permit application of Stanislaw & Ariadne Toczek for a home professional office. Chairman Smith stated that the Board had several letters objecting to the reconsideration. It was the consensus of the Board to postpone decision on the reconsideration for one week.

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Page 182, February 19, 1980, Scheduled case for

9:00 P.M. - NAUTILUS UNLIMITED, INC., appl. under Sect. 4-603 of the Ord. to permit health club in approximately 2,500 sq. ft., within Burke Village Center, located 9560 Burke Road, Burke Village Center Subd., 78-1((1))33A, Springfield Dist., C-6, 8.82 acres, S-80-S-005.

Mr. George Komar of 9603 Bel Glade Street in Fairfax stated that he was applying for a special permit to operate a Nautilus Center for training and fitness. The hours of operation would be the same as the other stores in the Burke Centre, from 7 A.M. to 10 P.M., seven days a week. He stated that they would have a maximum of 400 members, both male and female. Mr. Komar stated that there would be one staff member on duty at all times. As the membership increased, they would add additional staff. The employees would be trained in Florida where the Nautilus Headquarters was located. In addition, there was another training place located in High Point, North Carolina. Mr. Komar stated that he felt the Burke area was a great location for such a facility. He indicated that the health club would be family oriented and that they would allow children.

In response to questions from the Board, Mr. Komar stated that the health club would be located to the left of the Giant Food Store and contained 2,464 sq. ft. of space. Mr. Covington informed the Board that the applicant's statement indicated a total of 2,500 sq. ft. With respect to the hours of operation from 7 A.M. to 10 P.M., Mr. Komar stated that the club would not actually begin those hours until the membership expanded. Mr. Yaremchuk indicated that 10 P.M. was early for closing for this type of use. Mr. Komar stated that most of the other clubs in the area close at 9 P.M.

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

Page 182, February 19, 1980
NAUTILUS UNLIMITED, INC.

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-S-005 by NAUTILUS UNLIMITED, INC. under Section 4-603 of the Fairfax County Zoning Ordinance to permit health club in approximately 2,500 sq. ft. within Burke Village Center on property located at 9560 Burke Road, tax map reference 78-1((1))33A, 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 19, 1980; 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 8.82 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:

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RESOLUTION

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of memberships shall be 400.
8. The hours of operation shall be 7 A.M. to 11 P.M., seven days a week.
9. In accordance with Preliminary Engineering comments, a revised parking tabulation should be provided to include the subject use under Section 11-104, par. 17 of the Zoning Ordinance as it relates to all other uses in the shopping center and the number of parking spaces required versus the number of spaces provided.

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Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. DiGiulian being absent):

Page 183, February 19, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of the Minutes for March 27, 1979. Mr. Barnes moved and Mr. Yaremchuk seconded that the Minutes of March 27, 1979 be approved as amended. The vote passed by 3 to 0 (Mr. DiGiulian being absent).

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Page 183, February 19, 1980, Scheduled case for

9:15 - GREAT FALLS ANIMAL HOSPITAL, appl. under Sect. 4-603 of the Ord. to allow P.M. veterinary clinic in 590 sq. ft. within Building 19 of the Village Center Shopping Center, located 9911 Georgetown Pike, 13-1(1)par. 6 & 3A, Dranesville Dist., C-6, 12.93 acres, S-80-D-006.

Ms. D. H. Mitchelitch of 10125 Colvin Run Road in Great Falls, Va. informed the Board that this was an application for a special permit for a veterinary clinic in a shopping center located on Walker Road. The hours of operation would be between 8 A.M. to 8 P.M.; however the clinic would not be open all twelve hours. She stated that the clinic would be operated on an appointment only basis as they were limited to three cars at any one time.

Chairman Smith inquired if the clinic would keep any dogs or cats overnight. Mr. Covington informed the Board that under the Zoning Ordinance, a clinic could not keep more than four animals overnight. Ms. Mitchelitch informed the Board that the main animal hospital was located on Colvin Run Road. There were no further questions from the Board.

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

Page 183, February 19, 1980
GREAT FALLS ANIMAL HOSPITAL

Board of Zoning Appeals

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-D-006 by GREAT FALLS ANIMAL HOSPITAL under Section 4-603 of the Fairfax County Zoning Ordinance to allow veterinary clinic in 590 sq. ft. within building 19 of Village Center Shopping Center on property located at 9911 Georgetown Pike, tax map reference 13-1(1)par. 6 & 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 February 19, 1980; and

R E S O L U T I O N

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

1. That the applicant is the lessee.
2. That the present zoning is C-6.
3. That the area of the lot is 12.93 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. DiGiulian being absent).

// There being no further business, the Board adjourned at 9:30 P.M.

Sandra L. Hicks

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

Daniel Smith

 DANIEL SMITH, CHAIRMAN

Submitted to the Board on January 19, 1982.

APPROVED: January 26, 1982.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 26, 1980. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes and John Yaremchuk.

The Chairman called the meeting to order at 10:25 A.M. and Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case.

10:00 - MR. LOUIS SZTAN, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8.3 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 9908 Montclair Court, Town & Country Garden Subd., 38-3((20))71, Centreville Dist., R-2, 22,518 sq. ft., V-80-C-001.

Mr. Louis Sztan of 9908 Montclair Court in Vienna, VA informed the Board that he wanted to build a two car garage. He stated that his immediate neighbor had added to his carport to make a garage which was what he was planning to do now. Chairman Smith inquired as to why the double garage had to be 25 ft. in width. Mr. Sztan explained that the chimney protruded into the area by 2 1/2 ft. He stated that if the garage was reduced in size, he would not be able to park his station wagon. He further stated that if the garage was cut down in size, it would reduce the usefulness of it. Chairman Smith inquired as to the topographic reason for requesting the variance. Mr. Sztan stated that the area shown on the plat was the only logical place since the carport was existing. He stated that there not any other area on his property on which to construct the garage. Mr. Sztan stated that another justification for the variance was the savings in gasoline if he had a garage. He added that it would also increase the value of his property.

Mr. DiGiulian noted that the applicant's property was irregular in shape. Mr. Sztan stated that his property was trapezoid. Mr. Sztan stated that he only had about 20 ft. on each side of his house to the property line and would require a variance either way. The structure would be 8.3 ft. from the side lot line and about 30 ft. distance between the garage and the neighbor's nearest structure. Mr. Sztan stated that the house next door had a garage on that end of the house. Mr. Barnes noted that the problem was that the garage would end up being just as close to the lot line on either side of the applicant's property.

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

Page 185, February 26, 1980
MR. LOUIS SZTAN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-C-001 by LOUIS SZTAN under Section 18-401 of the Ordinance to allow construction of garage addition to dwelling to 8.3 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 9908 Montclair Court, tax map reference 38-3((20))71, 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 26, 1980; 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 22,518 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging lot lines.

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

 Page 186, February 26, 1980, Scheduled case for

10:10 - WILLIAM E. CONRAD, JR., ET. UX. BOEHLY-YOUNG PARTNERSHIP, appl. under Sect. 18-401 A.M. of the Ord. to allow resubd. into 5 lots, 3 of which would have width of 10 ft. each (80 ft. min. lot width req. by Sect. 3-306), located 1474 Pathfinder Lane, West McLean Subd., 30-2((7))(8)30 & 35, Dranesville Dist., R-3, 86,008 sq. ft., V-80-D-002.

Mr. Robert Young, a partner of Boehly-Young, located at 1439 Engleside Avenue in McLean informed the Board that the justification for the variance relied on the irregular shape of the property. He stated that the lot was very long and was one of the oldest subdivisions in McLean. Mr. Young stated that these lots were only 25 ft. in width but 350 ft. in depth. The additional justification for the variance was that the variance would allow a resubdivision of the property which would permit the existing structure to remain. Mr. Young stated that the property has not been developed to the maximum extent. The resubdivision would be in harmony with the surrounding area in terms of size of the lots. He stated that the only variance being requested was for the pipestem lots. The lots meet all other requirements of the Ordinance.

In response to questions from the Board, Mr. Young stated that neither Mr. Conrad nor the Boehly-Young Partnership owned any other property in the immediate area. The subject property was owned entirely by Mr. Conrad. In response to when the original subdivision was recorded, Mr. Young stated he believed it was back in the early 30's. Mr. Young stated that Mr. Conrad owned a substantial number of these 25 ft. lots and wished to develop them into a reasonable size which was allowed under the Ordinance. In response to the type of houses to be built, Mr. Young stated they would be in the \$200,000 price range. In response to why the property could not be developed without a variance, Mr. Young stated that it could be developed with a 50 ft. road and still get the same number of houses but it would be a much less desirable development plan. He stated that the neighbors would be worse off. Mr. Young informed the Board that they had examined other ways to develop the property but this plan seemed to be the most favorable all the way around.

There was no one else to speak in support of the application. The following persons spoke in opposition to the variance. Mr. Frederick B. Lundahl of 1456 Pathfinder Lane presented the Board with a letter of opposition signed by residents in the area. He stated that he represented 9 residents in the area on Pathfinder Lane. He stated that their concern was not to the pipestem lots or the development of the property but to the way in which the developer intended to seek access to the public road. Mr. Lundahl stated that according to the plan submitted by the applicants, it would require going across the small park known as Pathfinder Park. He stated that this area does not exist as it does on the official maps of the neighborhood. He stated that what appeared on the official map was a dual carriage lane, one lane of which has never been completed. He stated that this land has been dedicated to the public use and has been used as a park. Mr. Lundahl stated that this was the only park in their area. He stated that the residents were encouraged by the improvement to the area but preferred that they pipestem through Meadowbrook which would give access to the new lots and also preserve the community's small park. Mr. Lundahl stated that was the residents only concern. He indicated that they had expressed this concern to the developer and again stated that they preferred the pipestem access on Meadowbrook Avenue.

Ms. Karen Harwood from the County Attorney's Office also spoke with respect to the variance. She informed the Board that she had been notified about this application the day before from Supervisor Falck's office. Ms. Harwood stated that the record plat had been recorded in 1922. Seventy feet along the easterly boundary had been dedicated to public use. In addition, there was a 5 ft. easement on the property that had been reserved for sidewalk. There was a 20 ft. setback for buildings from the property line. Ms. Harwood informed the Board that she had talked with officials in DEM and it was her understanding that there are several alternate access points across Pathfinder Lane. However, it would require Board of Supervisors approval because it would go across County-owned property. She stated that Mr. Oscar Hendrickson of DEM had suggested the access be directed to Meadowbrook Avenue. This was not shown on the developer's plan but access could be provided through lot 1 which the applicant was going to keep. Ms. Harwood stated that if the Board should grant the variance and not require access to Meadowbrook Avenue, she suggested that the BZA approval be conditioned upon the Board of Supervisors approving access through another means which was decided upon by the Board of Supervisors.

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Mr. DiGiulian questioned whether the only portion of Pathfinder Lane that was state right-of-way was the portion that was improved and Ms. Harwood assured him that was correct. He then questioned who had the title to the property. Ms. Harwood stated that the County dedicated the land to public use. Ms. Harwood and Mr. Yaremchuk discussed whether the County or the State would be the one controlling the land. Ms. Harwood stated that she wanted to put the applicant on notice that he would have to get approval for access from Pathfinder Lane. Mr. DiGiulian stated that the applicant had frontage on a public right-of-way and he could not see building a pipestem around on a 90% curve. Chairman Smith stated his only concern was finding out where the access would go before final action was taken on the variance. Mr. DiGiulian stated that the BZA could only give the applicant approval for the subdivision of the land. He stated that how they achieve the connection to a public street was their problem. He stated that the BZA could not grant an easement or an entrance permit to any street. Mr. Yaremchuk agreed with Mr. DiGiulian.

Chairman Smith stated that the file contained two letters of opposition which would be a part of the record.

During rebuttal, Mr. Young stated that they were by no means wedded to the access indicated on the site plan. He indicated that all of the information they had reflected the "park" to be State owned rather than County owned. He stated that he had talked with DEM about the street. Mr. Young stated he would be happy to have the access go along the existing right-of-way but there was conflicting rules between the County and State with respect to sight distance, width of road, etc. Mr. Young stated that it was his understanding that the BZA would only be ruling with respect to the pipestem and that the plat could have the actual entrance road totally eliminated from the plat and not affect the public hearing. Mr. Young stated that he did not oppose the alternative routes but was caught in a bind between the State and County requirements. He stated that he would be happy to work out these problems with the area residents.

Chairman Smith stated that the problems should have been worked out prior to the hearing. He stated that if the Board members felt differently, they could act on the plat submitted with the application. Mr. DiGiulian stated that whenever you get into a situation with the State and the County, it might be years before the applicant could come back to the BZA with a plat showing the access. Chairman Smith stated that the applicant would not be able to develop the property until he worked out the problems. Mr. Yaremchuk stated he did not believe the BZA had the authority to control the development.

R E S O L U T I O N

In Application No. V-80-D-002 by WILLIAM E. CONRAD, JR. ET. UX. BOEHLY-YOUNG PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow resubdivision into 5 lots, 3 of which would have width of 10 ft. each (80 ft. minimum lot width required by Sect. 3-306) on property located at 1474 Pathfinder Lane, tax map reference 30-2((7))(8)30 & 35, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 26, 1980; 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 86,008 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, specifically long and narrow.

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

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

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

R E S O L U T I O N

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

Page 188, February 26, 1980, Scheduled case for

10:20 A.M. - DAVID H. HOPKINS, appl. under Sect. 18-401 of the Ord. to allow construction of deck over existing patio to 14.5 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 8703 Nero St., Canterbury Woods Subd., 70-3(5)283, Annandale Dist., R-3, 14,177 sq. ft., V-80-A-003.

Mr. David Hopkins of the above address informed the Board that his application was based primarily on the fact that the property was irregularly shaped and had a hardship because of the location of the house on the property. He stated that the house was located in a corner of the property. Mr. Hopkins stated that there was no way to build the deck because of the shape of the lot and the house without interfering with the Ordinance requirements. Because of that fact, he asked the Board to grant the variance to allow him to build the deck and screened porch.

Mr. DiGiulian inquired as to whether it was possible to slide the deck down toward the house. Mr. Hopkins stated that was not possible because at the other end of the house was the basement. The sliding glass door was located in the middle of the house. He stated that even if slid the deck down toward the other end of the house, it would still be in the 25 ft. setback area. He stated that the lot did angle away but moving the deck would only help to a slight degree. Mr. Hopkins stated that his neighbors did not object to the construction.

Chairman Smith asked for clarification as to what was proposed. Mr. Hopkins stated that on the first level would be a screened porch and that the deck would be on the second level. The deck would be open.

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-80-A-003 by DAVID H. HOPKINS under Section 18-401 of the Zoning Ordinance to allow construction of deck over existing patio to 14.5 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-307) on property located at 8703 Nero Street, tax map reference 70-3(5)283, 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 26, 1980; 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 14,177 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

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

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

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R E S O L U T I O N

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

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Page 189, February 26, 1980, Scheduled case for

10:30 A.M. - EUGENE & MARY LUNDGREN, appl. under Sect. 18-401 of the Ord. to allow construction of 6 ft. high brick wall with 7 ft. high pillars within the required front yard (4 ft. maximum height for wall in front yard required by Sect. 10-105) and within the corner triangle of the corner lot (obstructions to lateral vision above 3½ ft. in height & below 10 ft. in height prohibited by Sect. 2-505), located 6368 Lynwood Hill Road, Lynwood Subd., 31-1((17))46, Dranesville Dist., R-2, 16,122 sq. ft., V-340-79.
(Deferred from February 5, 1980 at request of applicant).

The Board was in receipt of another letter from the applicant's agent, Mr. Hal Simmons, requesting another deferral of the variance application. Mr. Barnes moved that the Board grant the deferral. Mr. Yaremchuk seconded the motion. The motion unanimously. The variance was deferred until April 22, 1980 at 10:00 A.M. at the request of the applicant.

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Page 189, February 26, 1980, Scheduled case for

10:40 A.M. - L. RANDOLPH WILLIAMS, appl. under Sect. 18-401 of the Ord. to allow construction of a 6 ft. high brick wall with 7 ft. high pillars within the req. front yard 94 ft. max. height for wall in front yard req. by Sect. 10-105) and within the corner triangle of a corner lot (obstructions to lateral vision above 3½ ft. in height & below 10 ft. in height prohibited by Sect. 2-505), located 6367 Lynwood Hill Rd., Lynwood Subd., 31-1((17))45, Dranesville Dist., R-2, 17,318 sq. ft., V-341-79.
(Deferred from February 5, 1980 at request of applicant).

The Board was in receipt of a letter from the applicant's agent, Mr. Hal Simmons, requesting another deferral of the variance application. Mr. Barnes moved that the Board grant the deferral. Mr. Yaremchuk seconded the motion. The motion passed unanimously. The variance was deferred until April 22, 1980 at 10:10 A.M. at the request of the applicant.

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Page 189, February 26, 1980, Scheduled case for

10:50 A.M. - ANTHONY J. DE RIGGE, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 10 ft. from side lot line (12 ft. minimum side yard req. by Sect. 3-307), located 7936 Wellington Rd., Hollin Hall Village Subd., 102-2((2))1, Mt. Vernon Dist., R-3, 10,175 sq. ft., V-80-V-005.

Mr. Anthony De Rigge of the above address stated that he wanted to build an addition to the back of his house. He indicated that the setback was 12 ft. from the side line and that the existing house only had 10 ft. on the side. The law had changed since the house was built. Mr. De Rigge stated that he wanted to keep the original lines of the house. Currently, there existed a shed that housed the plumbing where he now proposed to construct the addition. Mr. De Rigge stated that his lot was only 65 ft. in width. He stated that he had drawn up plans to build at the back center of the house but was informed by the F.C.W.A. that the main water line ran through there and the addition was not feasible at that location. Mr. De Rigge stated that there was no other location in which to extend onto his house. He stated that his house was small and he needed the extra space.

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-80-V-005 by ANTHONY J. DE RIGGE under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 7936 Wellington Rd., tax map reference 102-2((2))1, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 26, 1980; 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 10,175 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, specifically long, and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

This motion passed by a vote of 3 to 1 (Mr. Smith).

Page 190, February 26, 1980, Scheduled case for

11:00 - LEO J. KELLY, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport to garage to 7.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 4606 Holburn Avenue, Chapel Woods Subd., 70-1((11))7, Annandale Dist., R-3, 12,505 sq. ft., V-80-A-006.

Mr. Leo J. Kelly of 4606 Holburn Avenue informed the Board that his present carport was 7.5 ft. from the side lot line. He stated that he wanted to enclose his current carport without extending it. The only way to do that was to request a variance. Mr. Kelly stated that his property slopes off in the back so he could not build in that area. Mr. Kelly stated that the enclosure of the carport into a garage would enhance the property in aesthetic value. Mr. DiGiulian stated that the only photographs in the file were of the front of the house and inquired if the rear yard sloped like it showed in the front. Mr. Kelly stated that the front yard was the most level and that it sloped off even more in the back of the property.

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-80-A-006 by LEO J. KELLY under Section 18-401 of the Zoning Ordinance to allow enclosure of carport to garage to 7.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 4606 Holburn Avenue, tax map reference 70-1((11))7, 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 26, 1980; and

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

R E S O L U T I O N

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1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 12,505 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

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

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

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

Mr. Yaremchuk seconded the motion.

This motion passed by a vote of 3 to 1 (Mr. Smith).

Page 191, February 26, 1980, Recess

At 11:20 A.M., the Board recessed for a short period and reconvened the hearing at 11:40 A.M. to take up the remaining agenda.

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Page 191, February 26, 1980, Scheduled case for

11:10 - JOHN P. & BETSY W. FERRY, appl. under Sect. 18-401 of the Ord. to allow construction A.M. of a 2-story addition to 30.0 ft. from front lot line and 8.25 ft. from side lot line (35 ft. min. front yard & 12 ft. min. side yard req. by Sect. 3-207), located 6559 Jay Miller Drive, Lake Barcroft Subd., 60-4((13))285, Mason Dist., R-2, 18,128 sq. ft., V-80-M-008.

Mr. William Pickens, an architect at 427 N. Wade Street in Arlington, stated that the justification for the variance request was the unusual topographic conditions of the property. He stated that the plat showed the property to be a corner lot. The western portion of the property has a pond created by an old rock quarry. Because of the topography and the storm sewer that feeds into the pond, the only location to add an addition to the house was to the eastern and southern side. In response to questions from the Board, Mr. Pickens stated that Mr. and Mrs. Ferry have owned the property for three years. The house was constructed in 1975. Mr. DiGiulian asked the architect for more information about the water and sewer that would be under the addition. Mr. Pickens stated that it was his understanding that the existing house on lot 286-A was existing. There was one piece of ground which was subdivided into lot 285 and lot 286-A and lot 286. Because of the original house location, the water and sewer line came down to Jay Miller Drive. When the house was constructed in 1975, an easement was entered into and relocated for the purpose of constructing the house. Mr. Pickens stated that Mr. Ferry was willing and in agreement to providing the engineering studies to maintain the sewer and water easement to the property behind him. He stated that Mr. Pickens would maintain the water and sewer easement at his own expense. Mr. Pickens stated that the variance being requested was only 5 ft. He indicated that Mr. Ferry could build a 10 ft. addition without a variance but it would still go into the sewer easement. Mr. Pickens stated that they wanted to accommodate the neighbors and also wanted to build onto the house.

Mr. DiGiulian inquired if Mr. Ferry was going to relocate the lines after he got the engineering studies. Mr. Pickens replied that since the original line was constructed, seven sewer lines have been added up Woodland Circle. There was an existing manhole along the common boundary lines to Mr. Ferry and Mr. Schneider. He stated that the elevation of the manhole would allow another line and still service Mr. Ferry's property. Mr. Pickens stated that another proposal would be to relocate the lines somewhere else on the property. He stated that they would have to do some studies to determine the best solution. Mr. Pickens indicated that they wanted to clear the variance first before they went to the expense of studies for relocation purposes. Mr. DiGiulian inquired if Mr. Ferry was willing to relocate the lines to get them out from under the addition and was assured he would do so. Mr. Pickens further stated that he wanted the BZA to know that Mr. Ferry also owned lot 284 which he had purchased after buying this home. He stated that Mr. Ferry had no intention of building on

this lot. It was a buildable lot and had site plan approval but it was not Mr. Ferry's intention to build. Mr. Pickens stated that Mr. Ferry wanted to retain the land around the pond to keep from overcrowding the neighborhood.

There was no one else to speak in support of the application. The following persons spoke in opposition. Dr. Roger Schneider of 3721 Woodlane Circle, owner of lot 286, stated that he was in the direct line of site of the proposed addition. He presented the Board with a petition signed by eleven neighbors who also were opposed to the request. Dr. Schneider stated that at the time the house was built, it was the maximum that could be built at the time under the zoning laws. He stated it was a five bedroom house with 4½ baths and was a 2½ story colonial. Dr. Schneider stated that it was not a small house by any means. Now, the applicants are trying to take advantage of the change in the zoning laws to put the addition. In addition, they are asking for an increase in the house size to be stretched towards the front lot line. Dr. Schneider stated that the Ferrys did purchase the additional land on the other side of the quarry. Dr. Schneider stated that Mr. Ferry knew of the existence of the quarry and, therefore, could not cite that as a hardship. Dr. Schneider stated that the sewer line was illegally broken and they had to hire a lawyer to obtain the sewer easement for them. The present lay of the sewer line is downhill and has many curves. He stated that to run the sewer line to Woodland Circle would mean going uphill and it would produce right angle curves. He stated that Mr. Ferry has lived in the house for three years. He stated that the neighbors who had signed the petition objected to the probable change in the appearance to their neighborhood. He stated that if the variance were granted, this would be an oversized house. Furthermore, it would allow it to be built within 8 ft. of neighboring property. In essence, it would change the appearance of the area and the value of the neighborhood. If the variance were granted, it would set a precedent.

Mr. Yaremchuk inquired if Dr. Schneider objected to the two story addition and was informed that he did because it would change the whole appearance of the entire circle. Dr. Schneider stated that this was a corner lot and everyone would have to look at it. He stated that he had put in 12 ft. trees to try to shield the existing house because it was such a large structure. Mr. DiGiulian inquired as to how far the house was situated back from Woodland Circle and was informed it was 45 ft. Dr. Schneider stated that the front of his home overlapped the east corner of Mr. Ferry's house next to the park. Mr. Barnes inquired as to how many trees would have to be cut down in order to construct the addition. Dr. Schneider stated that about 6 to 8 trees would have to be removed to accommodate the addition itself. He also indicated that he was concerned about the root system for the other trees near the addition. Dr. Schneider stated that there were all hardwood trees being 60 ft. in height or more.

The next speaker in opposition was Mrs. Joe Cochran of 3718 Woodland Circle. She stated that her home was directly across the street from the proposed variance. Mrs. Cochran informed the Board that she had lived there for 20 years and raised her family here. She stated that when she looked out of her home, she had no other place to look as Mr. Ferry's home was right in front of her. She stated that this was a cul-de-sac and the addition was a mighty big one. She stated that she did not want it to built.

The next speaker in opposition was Mrs. Beth Thybony of 3714 Woodland Circle who stated that she had the same objections as Mrs. Cochran and agreed wholeheartedly with her statements.

The next speaker was Mrs. Helen C. Richmond of 3723 Woodland Circle who stated she objected because she believed it would set an undesirable precedent in the area.

There was no one else to speak in opposition. During rebuttal, Mr. Pickens stated that only 3 to 4 trees would have to be removed on the western side of the house for the proposed addition. He stated that Dr. Schneider's house did set back from the existing corner where the addition was proposed but it was the garage end of his home. Mr. Pickens stated that Mr. Hunsberger had gone out and drawn the sewer line when it was constructed. They have not the engineering studies yet. Mr. Pickens stated that Mr. Ferry has small children and wants to put a very nice addition onto the existing home.

R E S O L U T I O N

In Application No. V-80-M-008 by JOHN P. & BETSY W. FERRY under Section 18-401 of the Zoning Ordinance to allow construction of a 2-story addition to 30 ft. from front lot line and 8.25 ft. from side lot line (35 ft. minimum front yard and 12 ft. minimum side yard required by Section 3-207), on property located at 6559 Jay Miller Drive, tax map reference 60-4((13)) 285, 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

RESOLUTION

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 26, 1980; 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 18,128 sq. ft.

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0.

Page 193, February 26, 1980, Scheduled case for

11:20 - CATHERINE SHOUSE & WOLF TRAP BARN FOUNDATION, appl. under Sect. 18-401 of the A.M. Ord. to allow driveways & parking lots at cultural center with other than a dustless surface (dustless surface req. by Sect. 11-102, par. 14), located 1635 Wolf Trap Rd., 28-2((1))32, Centreville Dist., R-1, 6.9 acres, V-80-C-007.

The Board was in receipt of a letter stating that the required notices had not gone out and the agent, Mr. Thomas Lawson, was requesting a deferral. The Board rescheduled the variance for March 25, 1980 at 12:00 Noon for notices.

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Page 193, February 26, 1980, Scheduled case for

11:30 - REHEARING: JAMES N. & KIM S. WILKINSON, appl. under Sect. 18-401 of the Ord. A.M. to allow construction of garage addition to dwelling to 17.2 ft. from front property line (30 ft. front yard req. by Sect. 3-307), located 11023 Pumpkin Place, Westmore Knolls Subd., 57-1((27))13, R-3, 19,093 sq. ft., V-283-79. (Deferred from February 5, 1980 for notices).

Mr. Robert Lawrence, an attorney in Fairfax, represented the applicants. He informed the Board that this variance came originally on November 20, 1979 when Mrs. Wilkinson represented herself. Mr. Lawrence stated that this was a request for a two-car garage and permission to convert the carport into a breezeway for the applicants' child. Mr. Lawrence stated he had requested a rehearing because of the size of the lot and the shape of the property. The original proposal was for a 23 ft. garage. The Board granted the request in-part, without the breezeway. Mrs. Wilkinson had not anticipated any problem with the variance and had not retained counsel. Mr. Lawrence stated that they were not asking for a 20 ft. garage. This would house two cars and keep them out of the weather.

Mr. DiGiulian inquired as to what would be the setback from Rust Road. Mr. Lawrence stated that he had amended the application to conform with the new request. Chairman Smith inquired if new plats had been submitted and was informed that since it was a reconsideration, the applicants had not gone to the expense of preparing new plats. Mr. Lawrence stated that there was not any problem from the standpoint of safety from Rust Road. He had submitted pictures showing the layout of the property. The garage would set back a considerable distance from the road. The parking pad is 23 ft. The building permit was issued for a 23 ft. pad. The reasons for the breezeway were: (1) that the rear yard was actually only a side yard in width; (2) the applicants would like to have an area for their 11 month old child to play without being exposed to the road in front or the slope at the back of the property. Mr. Lawrence stated that there was very steep slope in the rear yard. Mr. Lawrence stated if the applicants were to construct a deck in the rear yard, it would encroach onto the property line. There would not be any privacy because then there would only be 4 ft. from the property line. They cannot have a privacy fence and the child could fall off the deck. The deck would have to be 8 ft. in height which would be a violation of the Code. This was because of the step-down basement entrance. Mr. Lawrence informed the Board that he had submitted a sketch of the lots in the neighborhood to show how the applicants' property was different from all the other lots in the subdivision. There was a sewer easement in the front yard facing Pumpkin Place which precludes the use of the front yard. The rear yard slopes and the house location was dictated by the location of the sewer easement.

Page 194, February 26, 1980
REHEARING: JAMES N. & KIM S. WILKINSON
(continued)

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The breezeway will allow the applicants to use the outdoor area with privacy and provide safety for their child. In addition, Mr. and Mrs. Wilkinson have the approval of their neighbors for the variance. Mr. Lawrence asked the Board to grant approval for the 20 ft. garage.

Mr. John Peranzi of 11022 Pumpkin Place spoke in support of the application. He stated that what the Wilkinsons were proposing would be an enhancement to the area. He further stated that their home would be the first one that anyone sees when they enter Westmore Knolls. The people who had moved into Westmore Knolls to date, no one had voiced any objection to the request. Mr. Peranzi asked the Board to grant the request.

Page 194, February 26, 1980 Board of Zoning Appeals
REHEARING: JAMES N. & KIM S. WILKINSON

R E S O L U T I O N

In Application No. V-283-79 by JAMES N. & KIM S. WILKINSON under Section 18-401 of the Zoning Ordinance to allow garage addition to dwelling to 17.2 ft. from front lot line (30 ft. min. front yard required by Section 3-307) on property located at 11023 Pumpkin Plaza, tax map reference 57-1((27))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 all applicable State and County Codes and with the by-laws of 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 26, 1980; and deferred from February 5, 1980 for notices; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 19,093 sq. ft.
4. That the applicant's property has unusual condition in that it has streets on three (3) sides.

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART*(to allow the garage addition to dwelling to 20.2 ft. from front lot line) with the following limitations:

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

Mr. Barnes seconded the motion.

This motion passed by a vote of 3 to 1 (Mr. Smith).

Page 194, February 26, 1980, Scheduled case of

11:45 - PERRY TAYLOR, JR., appl. under Sect. 18-401 of the Ord. to allow house to remain A.M. 3.2 ft. from one side lot line & 5.4 ft. from other (20 ft. min. side yard req. by Sect. 3-107), located 1640 La Salle Ave., Hunting Ridge Subd., 30-3((2))201, Dranesville Dist., R-1, 6,500 sq. ft., V-347-79. (Deferred from February 12, 1980 to have applicant present).

The Board was in receipt of a letter from the applicant's agent, Mr. Terry Mahn, requesting a withdrawal of the application. Mr. Barnes moved that the variance be withdrawn without prejudice. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0.

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Page 195, February 26, 1980, After Agenda Items

Doniphan, V-290-78: The Board was in receipt of a letter from Mr. Charles E. Runyon requesting an extension of the time limit for the variance granted on January 9, 1979. In as much as the variance had already expired, it was the consensus of the Board members present to deny the request.

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Page 195, February 26, 1980, After Agenda Items

Great Falls Roman Catholic Church, S-281-78: The Board was in receipt of a letter from Mr. Charles E. Runyon requesting an extension of the special permit granted to the Great Falls Roman Catholic Church on December 12, 1978. In as much as the special permit had expired more than a year ago, the Board unanimously denied the request.

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Page 195, February 26, 1980, Board Discussion

The Board discussed the problems applicants were having with respect to variances and special permits time limitations. At the present time, the applications were expiring after one year. Mr. DiGiulian moved that the Board may want to automatically grant the applications for an eighteen month period. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0. Chairman Smith asked Mr. Covington to advise the Zoning Administrator of the change and see if the Code and by-laws could be amended to reflect the change.

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Page 195, February 26, 1980, After Agenda Items

Dr. Toczek: The Board was in receipt of a letter from Mr. William Donnelly requesting the BZA to reconsider its denial of the special permit for a home professional office for Dr. Toczek. Mr. Jack E. Louton, President of the Belle Haven Civic Association, 1907 Belfield Road, reminded the Board of all the opposition to the application. He objected to a reconsideration.

Chairman Smith read the letter from Mr. Donnelly into the record. As the Board members present could not establish that Mr. Donnelly had new information to present that could not have been presented originally, it was the consensus of the Board to deny the request.

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Page 195, February 26, 1980, After Agenda Items

Emil G. & Elaine Saba, V-38-79: The Board was in receipt of a letter from Mr. Ken White requesting an extension of time on the variance granted to Mr. Emil G. Saba on March 27, 1979. Mr. DiGiulian moved that the Board grant a six month extension. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0.

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Page 195, February 26, 1980, After Agenda Items

The Board was in receipt of a letter from Mr. Frank Abbruzzetti regarding matters concerning the Planning Commission. The Board directed the Clerk to forward the letter to Mr. Jim Wyckoff, the Executive Secretary to the Planning Commission.

// There being no further business, the Board adjourned at 12:55 P.M.

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

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Feb. 2, 1982.

APPROVED: February 9, 1982

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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 4, 1980. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes and John Yaremchuk.

The Chairman called the meeting to order at 10:40 A.M. Mr. Barnes opened the meeting with a prayer.

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

10:00 SPRINGFIELD RENTAL CRANE CO., INC., appl. under Sect.
A.M. 18-301 of the Ord. to appeal Zoning Administrator's decision that storage of construction equipment on subject property is not a non-conforming use, located 10000 Van Thompson Rd., 105-2((1))8, Springfield Dist., R-1, 5.1859 acres, A-336-79. (Deferred from January 22, 1980 at request of the applicant.)

Mr. Michael Chamowitz, an attorney in Alexandria, requested the Board to grant his client another deferral in as much as notices had not been mailed in accordance with the established procedure. Chairman Smith passed over the appeal to allow the attorney the opportunity of checking on the status of the violation with the county staff.

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Page 197, March 4, 1980, Scheduled case of

10:30 PAUL F. SHIREY, TRUSTEE, appl. under Sect. 18-401 of the Ord. to
A.M. allow subd. into (3) lots, 2 of which would have width of 9.22 ft. each (150 ft. min. lot width req. by Sect. 3-106), located 7215 Clifton Rd., 85-2((1))9, Springfield Dist., R-1, 3.256 acres, V-80-S-009.

Mr. Russell Rosenberger, attorney-at-law, 9401 Lee Highway, Fairfax, represented the applicant and the Second Baptist Church. Mr. Rosenberger advised the Board that the property was located in Clifton and zoned R-1. It was owned by the Second Baptist Church with Mr. Shirey having a contract to purchase the property. Mr. Rosenberger informed the BZA that the tax map did not show that the property extended all the way back to a point; however, the plat showed this fact. He stated that they were requesting approval to divide the property into three (3) lots. Lot 1 would have frontage along Clifton Road for 187 ft. The remaining two lots would have a pipestem access with a width of 9.2 ft. each.

Mr. Rosenberger stated that the lot sizes proposed were all in excess of the 36,000 sq. ft. minimum required for the district. He stated that the request for pipestem lots did not result in irregularly shaped lots and would be fairly regularly shaped. The proposal met all the requirements of the R-1 zoning regulations except for the frontage requirements. Mr. Rosenberger stated that this parcel had existed in its present shape for a considerable period of time.

The characteristics of the development in the immediate area were lots having less than one acre and lots having 15 or more acres. Mr. Rosenberger stated that the proposed subdivision would not be inconsistent with the general area.

In summary, Mr. Rosenberger stated that the hardship for the applicant was the topography and the size and shape of the property. Mr. Rosenberger requested the Board to grant the request.

In response to questions from the Board, Mr. Rosenberger stated that the owners of the property were the Trustees of the Second Baptist Church. Chairman Smith stated that the church should have been named as applicant. The Board moved to allow the application to be amended to include the name of the church on the application. Chairman Smith inquired as to the possibility of the applicant providing the front lot with an acre as the total acreage was more than three acres. Mr. Rosenberger stated that the front lot contained 41,000 sq. ft. which met the requirements of the Ordinance. He stated that the lot was well above the 36,000 sq. ft. minimum required for the district. In response to further questions, Mr. Rosenberger stated that there was an existing house on the property which was 30 to 40 ft. back from the road.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mrs. Nancy Cleveland of 7221 Clifton Road informed the Board that she had written a letter stating her objections to the variance which was also signed by several people. The applicant had cited the narrowness of the lot as preventing him from meeting the requirements of the Zoning Ordinance. She stated that only putting one house on the property was a reasonable use of the land. The property was for sale at the fair market value of one house. If the variance were passed, the owners would gain a great deal of money on a lot that had been originally donated to the church. Mrs. Cleveland indicated that there were no unusual circumstances that would prevail in this case. In addition, the request would be a public hazard to have additional traffic coming in and out of the driveway at the proposed entrance as the road was curved. For those reasons, she asked the Board to deny the variance.

Page 198, March 4, 1980
 PAUL F. SHIREY, TRUSTEE
 (continued)

The next speaker in opposition was Mr. Robert Ellis of 386 Maple Avenue, Vienna, representing Messrs. Ralph and Steven Worth. Mr. Ellis stated that the Worth property was a thin strip of land adjoining the subject property. Chairman Smith showed the attorney a plat so he could become familiar with the request. Mr. Ellis stated that the property has a large sloping hill which required extensive grading when Mr. Worth constructed his driveway. Mr. Ellis stated that the proposed variance if granted would cause a drainage problem to Mr. Worth's property. In addition, there would not be any undue hardship on the church as they could sell the property as a single family residence and have it used as such. Mr. Ellis stated that the variance would set a precedent which would create sticky problems as more contractors would be coming in seeking variances. Another concern was that the Clifton area was very historical. The property was located 200 yards from the bend on the outskirts of Clifton and would be an eyesore.

There was no one else to speak in opposition. Chairman Smith stated that the Board was in receipt of several letters in opposition to the variance.

During rebuttal, Mr. Rosenberger stated that the church was participating in the development of the property along with the contract purchaser. Mr. Rosenberger questioned reasonable use of property. The property had been zoned R-1 for some period of time. The church had acquired the property and Mr. Rosenberger stated it did not matter whether or not the property had been a gift. He stated that applicants complied with the lot size requirements as outlined under the Ordinance. He stated that there was a good 300 ft. sight distance to the proposed driveway from Clifton Road. The proposed driveway was adjacent to the Worth driveway which would be a benefit having both driveways coming out at the same location. Mr. Rosenberger stated that this would not create any traffic hazards. Mr. Rosenberger further stated that if the BZA were concerned about the driveway, the applicant could relocate it to the northern boundary of the property. With respect to comments made regarding future requests for similar variances, Mr. Rosenberger stated that parcels 29, 30 and 31 were much larger and could be developed into a great number of lots having a public street. Mr. Rosenberger stated that they were not setting a precedent because of the difference in size of the parcels. He reminded the Board that the character of the area varied from $\frac{1}{2}$ acre up to 10 to 15 acres. In fact, Mrs. Cleveland lived on a $\frac{1}{2}$ acre lot. The proposed variance would not change the historical character of the Town of Clifton.

Page 198, March 4, 1980
 PAUL F. SHIREY, TRUSTEE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-S-009 by PAUL F. SHIREY, TRUSTEE, AND TRUSTEES OF SECOND BAPTIST CHURCH under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, 2 of which would have width of 9.22 ft. each (150 ft. minimum lot width required by Sect. 3-106) on property located at 7215 Clifton Road, tax map reference 85-2((1))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 March 4, 1980; 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 3.256 acres.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use 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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R E S O L U T I O N

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2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

Page 199, March 4, 1980, Recessed case of

SPRINGFIELD RENTAL CRANE CO., INC., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that storage of construction equipment on subject property is not a non-conforming use, located 10000 Van Thompson Rd., 105-2((1))8, Springfield Dist., R-1, 5.1859 acres, A-336-79. (Deferred from January 22, 1980 at request of applicant.)

This appeal had been recessed earlier in the meeting. The Chairman discussed the appeal with Mr. Chamowitz. Following discussion, the Board deferred the appeal until April 5, 1980 at 10:45 A.M. for notices. The Clerk was directed to xerox a copy of the mailing list and forward it to Mr. Chamowitz.

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Page 199, March 4, 1980, Scheduled case of

10:40 RAYMOND & HILDA CHAVEZ AND ARTHUR DUANE & JUDITH M. SONNENBURG, appl. under Sect. 18-401 of the Ord. to allow subd. into two (2) lots, one of which would have width of 15 ft. (150 ft. minimum lot width required by Sect. 3-106), located 11306 Chapel Road, Calvin H. Haley & H. R. Lady Subd., 76-4((2))7, Springfield Dist., R-1, 7.02684 acres, V-80-S-010.

Mr. Duane Sonnenburg represented Mr. and Mrs. Chavez. He stated that they were asking that a variance be granted to subdivide lot 7 into 2 lots. Lot 7 was a very narrow lot. He stated that the subdivision of the lot would be compatible with the uses of the adjoining property. Mr. Sonnenburg stated that he was the owner of the adjacent lot 8 and that Mr. and Mrs. Chavez were the owners of the other adjacent parcel, lot 8-A. Mr. Sonnenburg stated that the subdivision of the lot would require an 8 ft. pipestem. The Ordinance required lot width of 150 ft. minimum. Mr. Sonnenburg stated that the subdivision would comply with all other standards of the R-1 district.

In response to questions from the Board as to the ownership of the subject parcel at the present time, Mr. Sonnenburg stated that it was jointly owned by Mr. and Mrs. Chavez and himself. He stated that he owned the adjoining lot 8 which had been subdivided for a number of years. He stated that lots 9 and 6 recently had been similarly developed. Mr. Sonnenburg stated that both he and Mr. Chavez had homes and lived on the lots adjoining the subject property. Mr. Barnes inquired as to the applicants' intent with regard to lot 7. Mr. Sonnenburg stated that they wished to subdivide so that sometime in the future they could sell it.

Mr. Yaremchuk stated that this request was similar to one which had been previously denied by the Board. He stated that this subdivision would cause a hodgepodge in the area if the Board were to grant it. Chairman Smith stated that the adjacent lots 6 and 8 had already been divided and this parcel was situated between them. Mr. Sonnenburg stated that this proposal was only for 2 lots. He stated that similar variances had been granted in this area. He stated that they were not trying to change the nature of the property but had pooled their resources to purchase the lot to protect the environment.

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

Page 199, March 4, 1980

Board of Zoning Appeals

RAYMOND & HILDA CHAVEZ AND
ARTHUR DUANE & JUDITH M. SONNENBURG

R E S O L U T I O N

In Application No. V-80-S-010 by RAYMOND & HILDA CHAVEZ AND ARTHUR DUANE & JUDITH M. SONNENBURG under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, one of which would have width of 15 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at 11306 Chapel Road, tax map reference 76-4((2))7, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

R E S O L U T I O N

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WHEREAS, following proper notice to the public a public hearing was held by the Board on March 4, 1980; 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 7.02684 acres.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

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

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

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

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Yaremchuk).

Chairman Smith stated that he had supported the variance because of the two adjoining lots which had been subdivided already. He indicated that he normally would not support such a request.

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Page 200, March 4, 1980, Scheduled case of

10:50 A.M. R. F. CRIST, appl. under Sect. 18-401 of the Ord. to allow cluster of subdivision into (7) lots such that lot (1) would have an area of 10,158 sq. ft., lot (2) 10,759 sq. ft., lot (3) 10,954 sq. ft., lot (4) 10,821 sq. ft., lot (5) 10,805 sq. ft., lot (6) 11,994 sq. ft., lot (7) 11,351 sq. ft., located David Hill Road, 28-4(1)46, Centreville Dist., R-2, 8.63 acres, V-80-C-011.

Mr. R. F. Crist of 2204 Long View Drive in Woodbridge informed the Board that he was the owner of the property and sole stockholder for the Mortgage Company. He indicated that he was the trustee but that the corporation, Model Equity Corporation had been established. In response to questions from the Chairman, Mr. Crist stated the deed was titled on Model Equity Corporation but the corporation had been dissolved under the laws of the State of Virginia which would automatically pass the title to the Trustee. Mr. Crist stated that the corporation had been dissolved in July of 1979 and there were no other stockholders. The corporation had owned the property since 1976. Chairman Smith stated that the BZA should have something in the folder regarding the dissolution of the corporation. Mr. Crist informed the Chairman he could submit the statutes. Chairman Smith advised Mr. Crist that the Board needed something to verify ownership as only a property owner was entitled to a variance. Mr. Crist stated that under the State Corporation Commission laws, the corporation was automatically dissolved when the franchise fee was not paid for a period of two years. Chairman Smith disagreed stating that a corporation may not be entitled to do business in the State but it did not dissolve the corporation. Mr. Crist stated that his attorney had advised him otherwise. Chairman Smith stated that if this was the only state in which they had been operating, his attorney might be right. He stated that he was concerned about the way the property was listed so he would prefer some record showing that Mr. Crist had the authority to act on the property. Chairman Smith stated that the Board needed to establish that Mr. Crist was the sole owner of the property.

Mr. DiGiulian asked that the Board amend the application to reflect the corporation's name and adding Mr. Crist's name as sole stockholder. Mr. Crist advised the Board that he had recently signed the Deed of Trust for the corporation and that the Title Company had accepted the fact that he was the sole trustee of the corporation. Chairman Smith stated that as the property was title to the corporation, the Board would include both names on the application and proceed with the variance.

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Mr. Crist informed the Board that he was coming before them as an applicant who had been victimized by the new Zoning Ordinance. He stated that in 1977, he applied for and obtained the right for a preliminary plan approval for a subdivision of seven lots. He showed the Board a copy of the approved preliminary plan. At that time, he stated he had sought and obtained a waiver from the Director of Environment Management for two lots without public street frontage. The property had been zoned R-17 at that time.

Mr. Crist stated that during the course of design work on the preliminary plan, it was determined that an easement was needed from two neighbors to the south of the property across the corners of their lots. Mr. Crist stated that the neighbors wanted a considerable amount of money for the easement. He stated that while he was trying to work out new plans, the County rezoned the property from R-17 to R-2. The effect was to change the minimum lot size to 13,000 sq. ft. and to change the density requirement. Mr. Crist stated that the property does not exceed the density allowed under the R-2 zone. The question remained as to whether there was a precedent for these substandard lots. Mr. Crist submitted a subdivision map showing the property in question marked in green and showing in red all lots which were substandard or below the minimum size that had been developed during the last 10 to 12 years. He stated that 90% of the lots were below the minimum 13,000 sq. ft. requirement. Many of them had recently been built upon on a 10,000 sq. ft. lot.

Mr. Crist stated that these lots had been zoned R-17 and was rezoned to R-2 by the Board of Supervisors. He stated that the Board could very well have zoned these lots R-3 which would have conformed to the area. Instead, he stated that the lots had been rezoned R-2 which made them non-conforming or substandard lots. Mr. Crist stated that the County had condoned the very action he was now requesting and because of a technicality in the new Zoning Ordinance, he was no longer permitted to develop his property. Mr. Crist stated that his hardship was because his land had been rezoned from R-17 and full density grants had been allowed for the donation of land to the Park Authority, so that now the number of lots had been changed from less than one lot to an acre to merely one-half lot per acre just because of the density requirement.

There was no one else to speak in support of the application. The following persons spoke in opposition to the request. Mr. Robert Lawrence, an attorney in Fairfax, represented Judge Taylor whose property adjoined the subject parcel. Mr. Lawrence stated that he wanted to voice Judge Taylor's concern and ask that a condition be made if the variance were approved. Mr. Crist stated that he had no objection to the condition. Mr. Lawrence submitted plats to the Board showing a location for the public street if the variance were approved. Mr. Lawrence stated that they had no objections to the lot size if the variance were granted and conditioned upon the road dedication of Nelson Drive as indicated on sheet 3. Mr. Lawrence read a letter into the record from Mr. and Mrs. Stewart who owned a parcel nearby.

The next speaker in opposition was Mr. Charles Cox of 539 Druid Hill Road who stated he was a land use consultant representing Dr. Teithers who was the owner of lot 12. He recommended disapproval as it was his opinion that if the variance were granted, it would result in the rapid deterioration of property values to the nearby properties. He also stated that another concern was the topographic problem and the fact that much of the land was in a floodplain with only a very small portion of it suitable for citing houses. He indicated that construction on the slope would result in a soil problem. He asked that the applicant provide more details as to the exact locations of the houses, footings, etc. Mr. Cox stated that there was a steep drop off Nelson Drive. Mr. Cox stated that the density problem had not been answered. He added that the donation of land to the Park Authority should not be included in the square footage to meet the density requirements.

Chairman Smith advised Mr. Cox that some of his requests for information were not reasonable for the Board to ask the applicant to submit. He stated that the question before the Board was the lot sizes. Chairman Smith stated that the other factors were not ones for the Board to get into. He indicated that if it was not feasible to build, Mr. Crist would not be allowed to do so by Subdivision Control.

There was no one else to speak in opposition. During rebuttal, Mr. Crist informed the Board that he would accept the condition of Judge Taylor and the Stewards. He also stated that most of the concerns expressed by Mr. Cox would be covered by Design Review.

Chairman Smith closed the public hearing. Chairman Smith stated that before action was taken on the variance, he would like to see the documents showing ownership which had been discussed earlier. He indicated that he was reluctant to support the variance unless he could examine the documents. He stated that the findings of fact indicated that Mr. Crist was not the owner and the Board needed evidence to show otherwise. Mr. Crist stated that he could have that information by the next meeting. He stated that the property was being transferred to a partnership that would take title in a few days.

Page 202, March 4, 1980
R. F. CRIST
(continued)

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Mr. Barnes moved that the Board defer the decision for approximately one week to allow the applicant the opportunity to provide the requested documents. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 1 (Chairman Smith).

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The Board recessed for a twenty minute period and returned at 12:25 P.M. to continue with the scheduled agenda.

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Page 202, March 4, 1980, Scheduled case of

11:00 A.M. ALBERT C. GENZLER, appl. under Sect. 18-401 of the Ord. to allow extension and enclosure of carport into a garage to 4.7 ft. from side lot line (12 ft. minimum side yard req. by Sect. 3-307), located 6103 Craft Rd., Sunny Ridge Estates Subd., 82-3((17))(E)14, Lee Dist., R-3, 10,706 sq. ft., V-80-L-012.

Mr. Albert Genzler of 6103 Craft Road informed the Board that he wa the owner of the subject property. He stated that he needed a variance to the 12 ft. setback from the side lot line. Mr. Genzler stated that his property was narrow and due to the location of the house, it was impossible for him to build in accordance with the Code. He indicated that he wanted to enclose an existing carport which was located 4.7 ft. from the rear corner and wanted to extend the rear of the carport for a workshop area. He stated he had been living in his home for 19 years and planned to retire there. He stated that he believed his request would benefit the entire area at it would not affect the neighbors. Mr. Genzler stated that was not any problem with drainage and there would still be adequate space between the two structures for maintenance access.

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

Page 202, March 4, 1980
ALBERT C. GENZLER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-L-012 by ALBERT C. GENZLER under Section 18-401 of the Ordinance to allow extension and enclosure of carport into a garage to 4.7 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 6103 Craft Road, tax map reference 82-3((17))(E)14, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 4, 1980; 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 10,706 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

R E S O L U T I O N

203

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

Page 203, March 4, 1980, Scheduled case for

11:10 WILLIAM D. & ARVILLA V. MOYERS, appl. under Sect. 18-401 of the
A.M. Ord. to allow resubd. of three (3) lots into two (2) lots, each having width
of 75 ft. (100 ft. minimum lot width required by Sect. 3-206), located 6430
Columbia Pike, River View Heights, 61-3((12))12, 13 & 14, Mason Dist., R-2,
46,923 sq. ft., V-80-M-024.

Mr. Kenneth White of Alexandria Surveys represented the applicants. He stated that they were owners of three 50 ft. lots in this subdivision and it was their intent to resubdivide these lots into two lots which would required a 25 ft. variance for each lot. Mr. White stated that the lots meet all other requirements and density for the R-2 zoning district. He further stated that the lots were irregularly shaped being long and narrow.

In response to questions from the Board, Mr. White stated that the applicants have owned the property since 1948. He stated that the applicants had lived on the property but recently moved. However, they still own the three lots. He stated that they had contract on the lots.

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

Page 203, March 4, 1980

Board of Zoning Appeals

WILLIAM D. & ARVILLA V. MOYERS

R E S O L U T I O N

In Application No. V-80-M-024 by WILLIAM D. & ARVILLA V. MOYERS under Section 178-401 of the Zoning Ordinance to allow resubdivision of 3 lots into 2 lots, each having width of 75 ft. (100 ft. minimum lot width required by Sect. 3-206) on property located at 6430 Columbia Pike, tax map reference 61-3((12))12, 13 & 14, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 4, 1980; and

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

Page 204, March 4, 1980, Scheduled case of

11:20 GEORGE A. & JOAN C. LOLLAR, appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of addition to dwelling to 32.2 ft. from front lot line (35 ft. min. front yard required by Sect. 3-207), located 7105 Coventry Road, White Oaks Subd., 93-3(9)(5)8, Mt. Vernon Dist., R-2, 16,512 sq. ft., V-80-V-025.

Mr. Lollar of 7105 Coventry Road in Alexandria informed the Board that he had applied for a variance because his existing house had a small kitchen and no dining area. He indicated that he wanted to build an addition to alleviate these problems. He stated that it was not practical to build the addition to the rear because of topographic problems. He stated that the addition would give him additional living space upstairs. Mr. Lollar stated that he had a consensus of the neighbors who were in favor of the request.

In response to questions from the Board, Mr. Lollar stated that he had lived in the home since December 1978. When asked why he could not build on the side of the house instead of the front, Mr. Lollar stated that one side was the bedroom area and on the other side was approximately the same setback with a garage. He stated that the present kitchen was located in the front center of the home. He indicated that he desired to expand the present kitchen.

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

Page 204, March 4, 1980
GEORGE A. & JOAN C. LOLLAR

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-V-025 by GEORGE A. & JOAN C. LOLLAR under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 32.2 ft. from front lot line (35 ft. minimum front yard required by Section 3-207) on property located at 7105 Coventry Road, tax map reference 93-3(9)(5)8, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 4, 1980; 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 16,512 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Yaremchuk seconded the motion.

This motion passed by a vote of 3 to 1 (Mr. Smith).

Chairman Smith interrupted the scheduled agenda in order to welcome a group of children from the Fairhill Elementary School who had stopped to see local government in action while on a field trip outing.

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11:30 CHRISTIAN FELLOWSHIP CHURCH DAY CARE CENTER, appl. under Sect.
A.M. 3-103 of the Ord. to allow child care center for 100 children, located 10237
Leesburg Pike, Milliard & McGavin Subd., 18-2((7))A & B, Dranesville Dist., R-1,
5.4 acres, S-80-D-009.

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Pastor James Ahlemann of 638 Nash Street in Herndon informed the Board that the church wished to establish a child care center in order to administer a need to the community. The hours of operation would be 6:30 A.M. to 6:30 P.M. and they were seeking permission to keep 100 children. He indicated that the church would start with six employees and build up as the need arose. Pastor Ahlemann stated that they would be in full compliance with the student/teacher ratio. It was anticipated that at full capacity, there would not be more than 50 to 60 vehicles. Pastor Ahlemann stated that these vehicles would be coming up and down Leesburg Pike anyway and, therefore, would not add any additional traffic. A fenced in play area would be provided as required by the Health Department. The children outside in the play area would be supervised at all times.

There was no one else to speak in support of the application. Mrs. Virginia Lee McGavin spoke in opposition. She resided at 10305 Leesburg Pike which was adjacent to the church. She was concerned about the children because she had two german shepherd guard dogs. When the church was built, she had asked for a row of evergreen trees between the church and her property. Now the trees had disappeared. Mrs. McGavin stated that was only one example of broken commitments made by the church. She indicated that she was extremely concerned for the safety of the children because of the dogs. She asked that a fence be constructed on the property line. Mrs. McGavin informed the Board that her property, lot C, was located in back of the church. There was no one else to speak in opposition.

During rebuttal, Pastor Ahlemann stated that the exterior work on the property was not yet completed. He stated that the trees that were there had not been planted there but had been existing. He indicated that the church had been given a variance until suitable weather to plant additional trees. Pastor Ahlemann stated that the trees would be planted. He stated that the church had been granted a special permit and they planned to have a school and children in conjunction with the church. As a church, they were not required to have a fenced-in play area. If the special permit was granted for the child care center, he stated that they would have to provide a fenced-in area. In response to questions from the Board members, Pastor Ahlemann stated that he could not remember the type of trees that were to be planted. Mrs. McGavin stated that they to be 20 ft. spruce trees. Pastor Ahlemann stated that the church was only three years old. They have been meeting in a school. He stated that they church wants to plant the trees as required but naturally wants to hold down the costs as much as possible.

Page 205, March 4, 1980
CHRISTIAN FELLOWSHIP CHURCH
DAY CARE CENTER

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-D-099 by CHRISTIAN FELLOWSHIP CHURCH DAY CARE CENTER under Section 3-103 of the Fairfax County Zoning Ordinance to allow child care center for 100 children, on property located at 10237 Leesburg Pike, tax map reference 18-2((7))A & B, County of Fairfax, 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 4, 1980; 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 5.4 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 indicatd in the application and is not transferable to other land.

R E S O L U T I O N

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

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

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

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

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The number of students shall be 100.

8. The hours of operation shall be 6:30 A.M. to 6:30 P.M., five (5) days a week.

9. The number of parking spaces shall be 182.

10. That a barrier of trees be planted along the southern boundary line of the subject property to the satisfaction of the Director of Environmental Management.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0.

Page 206, March 4, 1980, Scheduled case of

11:45 A.M. REALITY GOSPEL CHURCH, appl. under Sect. 3-103 & 3-203 of the Ord. to allow addition in land area for parking for existing church, located 5937 Franconia Rd., 81-4((3))1A & 1B, Lee Dist., 3.666 acres, R-1 & R-2, S-269-79. (Deferred from December 11, 1979 and from February 5, 1980 for up-to-date plats on parking.)

&

11:45 A.M. REALITY GOSPEL CHURCH, appl. under Sect. 18-401 of the Ord. to allow other than dustless surface for additional parking for existing church (dustless surface required by Sect. 11-102), located 5937 Franconia Rd., 81-4((3))1A & 1B, Lee Dist., R-1 & R-2, 3.666 acres, V-316-79. (Deferred from December 11, 1979 and from February 5, 1980 for up-to-date plats on parking.)

Mr. John Furneisen, Zoning Inspector, informed the Board that the violation for the Reality Gospel Church had been cleared up but that the church must still comply with the regulations. Chairman Smith inquired if the debris on the property had been left there by the church or others. Mr. Furneisen informed the Board that the church bought the additional land and tore the existing building down. Then they made a parking lot area out of the additional land. Chairman Smith stated that the plats had not shown the additional parking.

These applications were deferred until April 15, 1980 at 11:15A.M. at the request of the applicant.

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Page 206, March 4, 1980, Scheduled case of

11:45 A.M. DUKE STREET PROPERTIES & THE RUG MAN, appl. under Sect. 18-401 of the Ord. to allow yard display of merchandise in required yard (Sect. 2-504 requires that no goods shall be displayed in any required yard in any C district), located 6906 Richmond Highway, 92-2((18))1, Lee Dist., C-8, 82,241 sq. ft., V-80-L-004. (Deferred from February 5, 1980 for notices.)

For information regarding the testimony for the variance, please refer to the verbatim transcript on file in the Clerk's Office.

Page 206, March 4, 1980
 DUKE STREET PROPERTIES
 & THE RUG MAN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-L-004 by DUKE STREET PROPERTIES & THE RUG MAN under Section 18-401 of the Zoning Ordinance to allow yard display of merchandise in required yard

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R E S O L U T I O N

(Sect. 2-504) requires that no goods shall be displayed in any required yard in any "C" District, on property located at 6906 Richmond Highway, tax map reference 92-2((18))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 March 4, 1980; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-8.
3. The area of the lot is 82,241 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. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0.

Page 207, March 4, 1980, Scheduled case of

12:10 P.M. THE RUG MAN, appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's decision that display of goods in a required yard of applicant's property constitutes a violation of Sect. 2-504 of the Zoning Ordinance, located 6906 Richmond Highway, 92-2((1))1, Lee Dist., 82,241 sq. ft., C-8, A-189-79. (Deferred from September 11, 1979 for filing of variance and from February 5, 1980 for notices.)

For information relating to the testimony presented on the appeal, please refer to the verbatim transcript located in the Clerk's Office.

Page 207, March 4, 1980
THE RUG MAN

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian moved that the Board of Zoning Appeals uphold the decision of the Zoning Administrator. Mr. Yaremchuk seconded the motion and it passed unanimously by a vote of 4 to 0.

Page 207, March 4, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for April 3, 1979. Mr. Barnes moved that the Minutes be approved as amended. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0.

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Page 207, March 4, 1980, After Agenda Items

Warren Katz: The Board was in receipt of an out-of-turn hearing on the variance application of Mr. Warren Katz. It was the consensus of the Board to grant the out-of-turn hearing request. The variance was scheduled for March 25, 1980 at 12:10 P.M.

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Page 208, March 4, 1980, After Agenda Items

Neil R. McDonald: The Board was in receipt of a request from Mr. Neil R. McDonald for an out-of-turn hearing on a special permit application and a variance application. It was the consensus of the Board to schedule both applications on April 15, 1980 at 11:30 A.M.

// 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 Feb 2, 1982

APPROVED: February 9, 1982

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 11, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Gerald Hyland.

The Chairman opened the meeting at 10:05 A.M. and convened into an Executive Session with the County Attorney and the Zoning Administrator to discuss legal matters. At 11:10 A.M., the Chairman reconvened the meeting to hear the scheduled agenda items. Mr. Barnes led the meeting with a prayer.

Chairman Smith welcomed Mr. Gerald Hyland, an attorney in Alexandria, to the Board of Zoning Appeals. Mr. Hyland replaced Ms. Barbara Ardis.

The Chairman called the scheduled 10 o'clock case of

10:00 A.M. THE BOYER COMPANIES, LTD., A VIRGINIA CORPORATION, appl. under Sect. 18-301 of the Ord. to appeal the decision of the Zoning Administrator that minimum yards for Rolling Green Subdivision are not grandfathered as to Zoning Amendment #13 because grading plans were not submitted and approved prior to its adoption, located 7830 Rolling Rd., Rolling Green Subd., 98-2((1))4, Springfield Dist., R-3, 8.8132 acres, A-80-S-001.

Mr. Grayson Hanes, an attorney in Fairfax, requested the Board to pass over the appeal. He stated that he needed to amend some of his variance requests first. Chairman Smith agreed to pass over the appeal but advised Mr. Hanes that the Board would have to consider each application separately.

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Page 209, March 11, 1980, Scheduled case of

10:30 A.M. THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 8.83 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), located 7830 Rolling Rd., Rolling Green Subd., 98-2((1))par. 4, lot 3, Springfield Dist., R-3, 10,800 sq. ft., V-80-S-013.

Mr. Grayson Hanes, an attorney in Fairfax, requested the Board to allow withdrawal of the variance. Mr. DiGiulian moved that the Board grant the request and withdraw the request without prejudice. Mr. Barnes seconded the request and the motion passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 209, March 11, 1980, Scheduled case of

10:35 A.M. THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 9.83 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), located 7830 Rolling Rd., Rolling Green Subd., 98-2((1))par. 4, lot 4, Springfield Dist., R-3, 10,800 sq. ft., V-80-S-014.

Mr. Grayson Hanes, an attorney in Fairfax, represented the applicant. For background information, Mr. Hanes stated that his client purchased the property in June of 1979 but had contracted for the property in October of 1978. At that time, the property was zoned R-3. Also at that time, the side yard setbacks were different. It had been indicated that Mr. Boyer would be able to build the same kind of house he was building in another part of the County, such house having a 20 ft. total side yard. Mr. Boyer submitted his plans to the County in January of 1979. Most of the time between the contract date and final purchase had been taken up with obtaining financing. Financing had been obtained in March of 1979. The plans were submitted to the lending institution and the loan was made based on the 8 ft. side yard with a total side yard of 20 ft.

Mr. Hanes informed the Board that his client had spent over \$60,000 for all the work in plans he had submitted to the County. He was unaware that on April 9, 1979, the Board of Supervisors amended the side yard to 12 ft. The Ordinance changed from a minimum of 8 ft up to a minimum of 12 ft. Mr. Hanes stated that his client had been unaware of this change when he went to settlement in June of 1979. The day after settlement, Mr. Boyer submitted his grading plans but the plat did not show the siting of the houses on the lots. It was at this point that he found out about the change in the Ordinance. Mr. Hanes stated that the lending institution was very upset.

Mr. Hanes stated that they attempted to solve the problem by shifting the lot lines on Odell Street. He indicated that they had shifted the lot lines to the west so that the houses could meet the minimum 12 ft. setback for the side yard on some lots. Mr. Hanes stated that the property surrounding this parcel was built with the 8 ft. setback. He stated that there would not be any adverse or detrimental effect on the surrounding property.

Page 210, March 11, 1980
THE BOYER COMPANIES, LTD.
(continued)

With respect to lot 4, Mr. Hanes stated that they wanted to vary the easterly side yard to 9.83 ft. because of the location of a sanitary sewer and storm sewer situated between the lots. There was a structure within 15 ft. of the line which took up additional area. Mr. Hanes stated that they just could not shift the property line any further. He indicated that they had tried everything other than switching to a type of house that his client did not have. Mr. Hanes informed the Board that the models were already built. Mr. Hanes stated that the variance was the only way in which they could build on lot 4. Mr. Hanes stated that the justification for the variance was based on both hardship and physical conditions.

Mr. DiGiulian inquired if construction had already started on the site so that the location of the storm sewer was locked in. Mr. Hanes indicated that the houses were already under construction.

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

Page 210, March 11, 1980
THE BOYER COMPANIES, LTD.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-S-014 by THE BOYER COMPANIES, LTD. under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.83 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 7830 Rolling Road, tax map reference 98-2((1))par. 4, lot 4, 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 11, 1980; 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 10,800 sq. ft.
4. That the applicant's property has an unusual condition in that the existing location of sanitary and storm sewer lines for the subdivision will not allow owner to rearrange the proposed lots to comply with the current setback 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

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

Page 210, March 11, 1980, Scheduled case of

10:40 A.M. THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 8.83 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7830 Rolling Road, Rolling Green Subd., 98-2((1))par. 4, lot 5, Springfield Dist., R-3, 10,800 sq. ft., V-80-S-015.

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Mr. Grayson Hanes, an attorney in Fairfax, represented the applicant. He submitted a revised plat to the Board which showed the proposed locations for each house on all of the lots in the subdivision. Mr. Hanes informed the Board that the same situation as previously discussed for lot 4 existed for lot 5. In addition, the applicant was tied in to the storm sewer and its construction. He stated that the storm sewer was already in the ground. The other houses were already under construction. Mr. Hanes stated that they were seeking a 8.83 ft. side yard because of the topographic and physical conditions of the storm drain.

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-80-S-015 by THE BOYER COMPANIES, LTD. under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 8.83 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 7830 Rolling Road, tax map reference 98-2((1))par. 4, lot 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 March 11, 1980; 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 10,800 sq. ft.
4. That the applicant's property has an unusual condition in that the existing location of sanitary and storm sewer lines for the subdivision will not allow owner to rearrange the proposed lots to comply with the current setback 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

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

10:45 THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of dwelling to 9.83 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7830 Rolling Rd., Rolling Green Subd., 98-2((1))par. 4, lot 6, Springfield Dist., R-3, 10,800 sq. ft., V-80-S-016.

Mr. Grayson Hanes, an attorney in Fairfax, represented the applicant. He informed the Board that the same conditions previously cited for lots 4 and 5 existed on this lot. The physical conditions of the property and the topographic problems along with the location of the existing storm and sanitary drain prevented the applicant from rearranging his lot lines. He was requesting a variance to build within 9.83 ft. from the side lot line.

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

RESOLUTION

In Application No. V-80-S-016 by THE BOYER COMPANIES, LTD. under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 9.83 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 7830 Rolling Road, tax map reference 98-2(1)par. 4, lot 6, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 11, 1980; 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 10,800 sq. ft.
4. That the applicant's property has an unusual condition in that the existing location of sanitary and storm sewer lines for the subdivision will not allow owner to rearrange the proposed lots to comply with the current setback 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

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

Page 212, March 11, 1980, Scheduled case of

10:50 A.M. THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 8.83 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) located 7830 Rolling Rd., Rolling Green Subd., 98-2(1)par. 4, lot 7, Springfield Dist., R-3, 10,800 sq. ft., V-80-S-017.

Mr. Grayson Hanes, an attorney in Fairfax, represented the applicant. He requested the Board to withdraw the variance application. Mr. DiGiulian moved that the Board allow the withdrawal without prejudice. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 212, March 11, 1980, Scheduled case of

10:55 A.M. THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 9.83 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) located 7830 Rolling Rd., Rolling Green Subd., 98-2(1)par. 4, lot 8, Springfield Dist., R-3, 11,800 sq. ft., V-80-S-018.

Page 213, March 11, 1980
THE BOYER COMPANIES, LTD.
(continued)

Mr. Grayson Hanes, an attorney in Fairfax, requested the Board to withdraw the variance application. Mr. DiGiulian moved that the Board grant the request to withdraw without prejudice. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 213, March 11, 1980, Scheduled case of

11:00 THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of dwelling to 8.83 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7830 Rolling Rd., Rolling Green Subd., 98-2((1))par. 4, lot 9, Springfield Dist., R-3, 10,800 sq. ft., V-80-S-019.

Mr. Grayson Hanes, an attorney in Fairfax, requested the Board to withdraw the variance application. Mr. DiGiulian moved that the Board allow the withdrawal without prejudice. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 213, March 11, 1980, Scheduled case of

11:05 THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of dwelling to 9.83 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7830 Rolling Rd., Rolling Green Subd., 98-2((1))par. 4, lot 10, Springfield Dist., R-3, 10,741 sq. ft., V-80-S-020.

Mr. Grayson Hanes, an attorney in Fairfax, represented the applicant. He requested the Board to allow the withdrawal of the variance application. Mr. DiGiulian moved that the Board grant the request for withdrawal without prejudice. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 213, March 11, 1980, Scheduled case of

11:10 THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of dwelling to 8.83 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7830 Rolling Rd., Rolling Green Subd., 98-2((1))par. 4, lot 14, Springfield Dist., R-3, 15,560 sq. ft., V-80-S-021.

Mr. Grayson Hanes, an attorney in Fairfax, requested the Board to withdraw the variance application. Mr. DiGiulian moved that the Board grant the request for withdrawal without prejudice. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 213, March 11, 1980, Scheduled case of

11:15 THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of dwelling to 9.83 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7830 Rolling Rd., Rolling Green Subd., 98-2((1))par. 4, lot 15, Springfield Dist., R-3, 15,766 sq. ft., V-80-S-022.

Mr. Grayson Hanes, an attorney in Fairfax, represented the applicant. He requested the Board to withdraw the variance. Mr. DiGiulian moved that the Board allow the withdrawal of the variance without prejudice. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 213, March 11, 1980, Scheduled case of

11:20 THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of dwelling to 8.00 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7830 Rolling Rd., Rolling Green Subd., 98-2((1))par. 4, lot 21, Springfield Dist., R-3, 19,100 sq. ft., V-80-S-023.

Mr. Grayson Hanes, an attorney in Fairfax, requested the Board to withdraw the variance application. Mr. DiGiulian moved that the Board allow the withdrawal without prejudice. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 214, March 11, 1980, Recessed case of

THE BOYER COMPANIES, LTD., A VIRGINIA CORPORATION, appl. under Sect. 18-301 of the Ord. to appeal the decision of the Zoning Administrator that minimum yards for Rolling Green Subdivision are not grandfathered as to Zoning Amendment #13 because grading plans were not submitted and approved prior to its adoption, located 7830 Rolling Rd., Rolling Green Subd., 98-2((1))4, Springfield Dist., R-3, 8.8132 acres, A-80-S-001.

Chairman Smith called the recessed appeal which had been scheduled for 10 o'clock but was passed over at the request of the applicant. Mr. Grayson Hanes, an attorney in Fairfax, requested the Board to withdraw the appeal. Mr. DiGiulian moved the Board to allow the withdrawal of the appeal without prejudice. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 214, March 11, 1980, Deferred case of

R. F. CRIST, appl. under Sect. 18-401 of the Ord. to allow cluster of subd. into seven (7) lots such that lot (1) would have an area of 10,158 sq. ft., lot (2) 10,759 sq. ft., lot (3) 10,954 sq. ft., lot (4) 10,821 sq. ft., lot (5) 10,805 sq. ft., lot (6) 11,994 sq. ft., lot (7) 11,351 sq. ft., located Druid Hill Rd., 28-4((1))46, Centreville Dist., R-2, 8.6362 acres, V-80-C-011.

Chairman Smith stated that the Board had heard the requested variance the previous week and deferred it in order to get a copy of the dissolution of the corporation. Apparently, Mr. Crist was the sole owner of the property. The corporation has been dissolved or was in the process of being dissolved because Mr. Crist failed to file an annual report to the State Corporation Commission.

Mr. Barnes stated that now the Board could act on the request. Chairman Smith stated that the application had been filed in the name of Mr. Crist and if he was the sole owner, the Board could act on the variance if it so intended but it should be made to R. F. Crist. Chairman Smith informed the Board that there had been discussion and agreement at the previous hearing that prior to utilization that a portion of the property would be dedicated to Fairfax County and that the road be dedicated along the boundary line.

Chairman Smith inquired of the Zoning Administrator if he had any comments to make on the variance. Mr. Yates responded that the variance request was tantamount to a rezoning and he did not believe that a hardship had been demonstrated by Mr. Crist. Mr. Yates stated that it was not an appropriate variance. Chairman Smith inquired if the site plan had been approved by Fairfax County at any time. Mr. Yates stated that it was his understanding that it had not. Mr. Covington informed the Board that the plan would not be before them if it had been approved previously. Mr. DiGiulian stated that Mr. Crist had shown the BZA an approved preliminary plan at the last meeting. Chairman Smith inquired if the preliminary plan had been approved by the County but Mr. Yates indicated that he could not respond to that question with any accuracy. Mr. Covington inquired that if the preliminary plan had been approved, why would it not be grandfathered? Mr. DiGiulian stated that the preliminary plan had expired while Mr. Crist was trying to obtain an easement. Mr. Barnes stated that the property was then changed to the R-2 zoning category. Mr. Yates stated that if the preliminary plan had been approved, then the due diligence standard of the grandfather provision had not been carried through. He further stated that DEM had not indicated that there was any easement problem standing in the way. It was only that Mr. Crist did not satisfy the due diligence provision.

Chairman Smith stated that there was another question that he had on the variance request. There had been a letter from Mr. Lawrence outlining a condition which Mr. Crist had concurred in at the time of the public hearing. Chairman Smith inquired of Mr. Yates if he foresaw any adverse affect since there had been an approved preliminary plan. Chairman Smith indicated that he was reluctant to support the request as there was a considerable amount of land with a lot of it going to the County. Apparently, there was concern as far as the easement. Mr. Yates stated that the only recourse for Mr. Crist was a rezoning since he did not satisfy the due diligence provision of the Ordinance.

Mr. Yaremchuk stated that the BZA had granted any number of requests for development with 5 or 6 lots and inquired of Mr. Yates why this was considered a rezoning action. Mr. Yates responded that there were different circumstances involved in this application. Mr. Crist was asking for a variance to the lot area on each lot which was a deviation. Mr. Yates stated that it was not a rezoning, per se, but it was tantamount to rezoning. Mr. Yaremchuk stated that this property was an exceptionally, irregular lot with topographic problems as well as floodplain. Mr. Yaremchuk stated that he could not see how it was considered a rezoning. He further stated that this request met all of the criteria for granting a variance. The property had been rezoned from under Mr. Crist. Mr. Yates stated that the property was difficult to develop. Mr. Yates inquired as to why Mr. Crist could not live with six lots rather than the seven he was seeking. Mr. Yaremchuk stated that just one more lot in Fairfax County would not make a difference one

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R. F. CRIST
(continued)

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way or another. Mr. Covington stated that perhaps Mr. Crist could pick up an additional 3,000 sq. ft. from some other land nearby. Mr. Yaremchuk inquired as to why that question was not raised at the time of the public hearing.

At this point in the discussion, Mr. Yaremchuk moved that the staff work with Mr. Crist to determine if he could get another 3,000 sq. ft.. He stated that he would not have any problem with that solution. Mr. Yaremchuk moved that the Board defer this matter for another week or so in order for the staff to work out the problem with Mr. Crist.

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Page 215, March 11, 1980, After Agenda Items

Great Falls Roman Catholic Church: The Board was in receipt of a request from Mr. Charles Runyon for an out-of-turn hearing on a special permit application for the Great Falls Roman Catholic Church. The BZA had previously denied a request for an extension as the old permit had expired. Mr. Runyon explained that the church had been trying to work out a problem with the Fairfax County Water Authority and Fire Services and had not been aware that the special permit had expired. It was the consensus of the Board to grant the request for an out-of-turn hearing. The application was scheduled for April 22, 1980 at 11:45 A.M.

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Page 215, March 11, 1980, After Agenda Item

Chairman Smith informed the Board that it had received a memorandum from George Symanski with respect to legislation on school buses for private schools. The bill had been carried over to the next session of the General Assembly. Chairman Smith stated the BZA would continue to support Delegate Bagley in his endeavor to get the bill passed.

// There being no further business, the Board adjourned at 12:35 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 2/15/82

APPROVED: February 9, 1982
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, March 18, 1980. The following Board members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Gerald Hyland. (Mr. John DiGiulian was absent).

The meeting began at 8:25 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8 o'clock case of

8:00 KONRAD PALMER HARTL, appl. under Sect. 6-303 of the Ord. to
P.M. permit continued operation of home professional office (pastoral counseling)
permitted by S-212-78, located 11317 South Shore Rd., 17-2((12))27, Centreville
Dist., PRC, 10,357 sq. ft., S-80-C-007.

Chairman Smith stated that the special permit had been granted about a year ago and asked Mr. Hartl to inform the Board of the events of the past year and what was to continue in the future. Mr. Hartl informed the Board that he was requesting permission to continue the operation of his home office just as it had been allowed. He stated that he had not seen any groups just as the Board had previously requested. Mr. Hartl stated that all requirements had been met and he was not aware of any problems as a result of his using his home as an office. Therefore, he was requesting the Board to allow him to continue his special permit operation.

In response to questions from the Board, Mr. Hartl stated that he did not have any employees. He also indicated that the neighbors liked having him around the area all day long. He stated that he took in stray children occasionally. Chairman Smith inquired if he was connected with any church and was informed by Mr. Hartl that he was associated with St. Thomas Episcopal Church on Lewinsville Road. The hours of operation for the use were 8:00 A.M. to 8:00 P.M., Monday through Thursday. Mr. Hartl stated that he saw clients on Saturday on occasion. He further stated that he did not work on Friday.

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

Page 216, March 18, 1980
KONRAD PALMER HARTL

Board of Zoning Appeals

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-C-009 by KONRAD PALMER HARTL under Section 6-303 of the Fairfax County Zoning Ordinance to permit the continued operation of home professional office (pastoral counseling) on property located at 11317 South Shore Rd., tax map reference 17-1((12))27, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on March 18, 1980; 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 10,357 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

RESOLUTION

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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 changes) 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 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., Monday through Friday.

8. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one-year extensions.

9. All other provisions of S-212-78 not altered by this resolution shall remain in effect.

Mr. Barnes seconded the motion.

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

Page 217, March 18, 1980, Scheduled case of

8:15 P.M. PARKWOOD BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to allow building and parking lot additions to existing church, located 8726 Braddock Rd., Stone Haven Subd., 70-3((1))6, Annandale Dist., R-1, 8.6782 acres, S-80-A-008.

Mr. J. K. Ward, an architect of Ward and Hall in Springfield, represented the church. He stated that it was the desire of the church to build a modern addition and to enlarge the existing parking area. In response to questions from the Board, Mr. Ward stated that there are only 81 spaces but with the addition, the parking would be increased to 180. Mr. Ward showed the Board a sketch of the wing that was to be added. He indicated that they were only adding about 10% building area to what was already existing. Approximately 2,500 sq. ft. area would be added to the church. In addition, new parking would be added to the existing parking lot.

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

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-A-008 by PARKWOOD BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to allow building and parking lot additions to existing church, on property located at 8726 Braddock Road, tax map reference 70-3((1))6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on March 18, 1980; 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 8.6782 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

R E S O L U T I O N

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This Special Permit shall expire one year from this date unless 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 the Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal hours of church operation.
8. The number of parking spaces shall be 184.

Mr. Barnes seconded the motion.

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

Page 218, March 18, 1980, Scheduled case of

8:30 P.M. ST. LUKES ROMAN CATHOLIC CHURCH, appl. under Sect. 3-203 of the Ord. to allow addition of new church building & parking lot to existing church, located 7005 Georgetown Pike, 21-4((1))6, Dranesville Dist., R-2, 20.15 acres, S-80-D-010.

Mr. John Hushon of 1330 Merrie Ridge Lane in McLean represented the church. He stated that the proposal was to construct a worship facility on the parish property which has been owned for many years by the church. The existing school gymnasium has been used by the church but now they wish to build an addition to the worship facility. In response to questions from the Board, Mr. Hushon stated that 102 parking spaces existed at present and the church was proposing to add an additional 98 spaces making a total of 200 parking spaces on the site. The proposed seating capacity for the sanctuary would be for 750 to 800 people maximum. With regard to Georgetown Pike, Mr. Hushon stated that it was two lanes at this location, one lane in each direction. Mr. Yaremchuk stated that the Highway Department has tried to widen Georgetown Pike but the people opposed it. Mr. Hushon stated that the church was located only a few hundred yards from a major interchange with the beltway.

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

Page 218, March 18 1980
ST. LUKES ROMAN CATHOLIC 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-80-D-010 by ST. LUKES ROMAN CATHOLIC CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance to allow addition of new church building and parking lot to existing church, on property located at 7005 Georgetown Pike, tax map reference 21-4((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 March 18, 1980; 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 20.15 acres.
4. That compliance with the Site Plan Ordinance is required.

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

R E S O L U T I O N

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This Special Permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require the 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 Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal hours of church operation.
8. The number of parking spaces shall be 200.

Mr. Barnes seconded the motion.

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

Page 219, March 18, 1980, Scheduled case of

8:45 MILDRED W. FRAZER & VIVLOW & CO., INC., appl. under Sect. 3-203
P.M. of the Ord. to allow change of previously granted special permit to eliminate time limitations, located 4955 Sunset Lane, Springfield Subd., 71-4(1)12 & 23, Annandale Dist., R-2, 2.83 acres, S-80-A-011.

Chairman Smith stated that if he read the record correctly, the special permit for Mildred W. Frazer & Vivlow & Co., Inc. had expired one day after she made application to change the conditions for the school. Ms. Frazer of 4953 Sunset Lane in Annandale stated that was correct. Chairman Smith inquired as to why she had not asked that the permit be renewed when she made her request. Ms. Frazer responded that she felt that this would lift the condition. Chairman Smith stated that the special permit has now expired and that it would have been to her advantage to file for a renewal. Ms. Frazer inquired of the Chairman that if she makes the application pertaining to the expiration, whether it would not expire. Chairman Smith advised her that she should make the application to renew the special permit and ask for the limits to be lifted. He stated that she did not have a valid permit at this time. Chairman Smith indicated that Ms. Frazer needed some time to amend her present application in order to do this. Chairman Smith stated that he would listen to whatever testimony Ms. Frazer might want to present at this time.

Ms. Frazer informed the Board that she has had a school at this location since 1965. At the time she had received her first permit in 1963 at a different location, there had no limit on the permit. When she had come back to the Board for a change in the special permit, it was placed under a time limitation. Ms. Frazer stated that she did not understand why the limit was placed on it. She indicated that she has spent a great deal of money in establishing the school. She was not changing the operation. She now occupies a new building which had been granted to her by the Board. Ms. Frazer stated that she did not understand why she had to come back every three years and spend a great deal of money.

In response to Ms. Frazer's questions, Chairman Smith stated that there had been some opposition to the school. Now she had expanded it. Chairman Smith stated that he was sure the Board felt that the conditions that were set were reasonable. Ms. Frazer stated that she had only expanded her building and not her operation. Chairman Smith informed Ms. Frazer that she was not approaching this in a manner in which the Board could take an affirmative action to continue the school. He stated that he would like for her to come back with an application for a new special permit and then the Board could discuss it at that time. Ms. Frazer inquired if there was some reason why the Board felt that it

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 MILDRED W. FRAZER
 & VIVLOW & CO., INC.
 (continued)

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needed to look into her operation every three years. She inquired of the Board as to why there were some child care centers granted by the BZA that were given an unlimited time from the start of the operation. Chairman Smith stated that the Board limits schools in churches at times. Chairman Smith informed Ms. Frazer that she had a permit that was unlimited at one time. This special permit had opposition to it which was one of the reasons that a time limitation was placed on it. Chairman Smith advised Ms. Frazer that the Board has limited schools to a one year period before but in each case it was based on an individual basis.

Ms. Frazer inquired of the Chairman if the bus issue had anything to do with whether there was a limitation of coming back every three years. Chairman Smith stated that had no bearing on the special permit. He stated that had been one of the conditions along with the time limitation. Chairman Smith stated that the Board was only trying to give her an opportunity to come in with an application for a use permit which they could take action on to allow the continuation of the school. Ms. Frazer inquired if the Board could not consider her request to lift the time limitation. Mr. Barnes stated that the special permit had expired. Ms. Frazer stated that it was her understanding that the special permit would hold until the public hearing. Chairman Smith advised Ms. Frazer that she should have asked for a renewal of the special permit.

At 8:55 P.M. in the meeting, the Board recessed because the recording machine had broken down. At 9:10 P.M. after the machine had been repaired, the Board reconvened to continue with Ms. Frazer's request.

Ms. Frazer informed the Board that she had come for an elimination of the time limitation on the special permit. Ms. Frazer stated that the time limitation was the issue for her. Ms. Frazer stated that her written statement submitted with the application outlined her reasons for applying in this fashion. She stated that she needed some kind of a reason as to why she had been given a three year limit. The last two times she had been before the Board, a three year limit was placed on the special permit. Chairman Smith informed Ms. Frazer that he had tried to explain it to her before the recorder had broken down. He stated that he was not going into it again. He informed her that she had heard a previous case in which the Board had placed a one year time period on the permit.

Ms. Frazer informed the Chairman that at the last hearing on her special permit, he had been the one who objected to it. Ms. Frazer stated that she would be happy to have whatever kind of inspection was necessary but she did not want to keep coming back every three years. Again, Ms. Frazer reminded the Board that when she first started out, the special permit had no time limitation. She stressed that she did not want to keep coming back as she had invested a lifetime in the property.

Chairman Smith advised Ms. Frazer that the only way she would not have to keep coming back was to file a new application and let the Board hear the request. Ms. Frazer stated that she had made her request and that was what she was asking to be heard on tonight. Mr. Barnes informed Ms. Frazer that the special permit had expired. Ms. Frazer stated that she had an unlimited permit at first. She stated that she had asked two times previously at renewals that the permit not have a limit placed on it. Ms. Frazer stated that she was a resident of Fairfax County and a business person. She had spent over \$100,000 on this operation. Ms. Frazer stated that she wanted the matter cleared up now. She asked the Board to tell her why she had to come back.

Chairman Smith advised her that the special permit had expired and that the only way it could be renewed was for her to file to have a new permit. He stated that the Board would grant her an out-of-turn hearing, if necessary.

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

Page 220, March 18, 1980
 MILDRED W. FRAZER
 & VIVLOW & CO., INC.

Board of Zoning Appeals

RESOLUTION

Mr. Barnes made the following motion:

WHEREAS, Application No. S-80-A-011 by MILDRED W. FRAZER & VIVLOW & CO., INC. under Section 3-203 of the Fairfax County Zoning Ordinance to allow change of previously granted special permit to eliminate time limitations on property located at 4955 Sunset Lane, tax map reference 71-4((1))12 & 23, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

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. That the present zoning is R-2.
3. That the area of the lot is 2.83 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.

Mr. Yaremchuk seconded the motion.

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

Page 221, March 18, 1980, Scheduled case of

9:00 P.M. THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, appl. under Sect. 3-303 of the Ord. to permit operation of a church, located 1911 Prices Lane, Mallinson Subd., 111-1((1))2, Mt. Vernon Dist., R-3, 317,988 sq. ft., S-80-V-003. (Deferred from February 19, 1980 for notices.)

The required notices were in order. Mr. James Rees, an attorney at 8150 Leesburg Pike in Vienna, represented the church. For testimony received at the public hearing, please refer to the verbatim transcript located on file in the Clerk's Office.

The special permit application was deferred for a period of two weeks to view the site and for time to receive additional information.

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Page 221, March 18, 1980, After Agenda Items

R. F. CRIST: The Board was in receipt of a request from the County staff regarding a matter involving the application of R. F. Crist. The staff was asking the Board to defer the variance application for a period of six months to allow Mr. Crist an opportunity to seek a rezoning of his property. It was the consensus of the Board to defer the variance until September 9, 1980.

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Page 221, March 18, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for April 10, 1979. Mr. Barnes moved that the Board approve the Minutes as amended. Mr. Yaremchuk seconded the motion and it passed unanimously.

// There being no further business, the Board adjourned at 11:45 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 2/5/82

APPROVED: February 9, 1982
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 25, 1980. The following Board Members were present: Daniel Smith, Chairman; George Barnes, John Yaremchuk and Gerald Hyland. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 10:00 A.M. and the Board convened into an Executive Session with staff from the County Attorney's Office and the Zoning Administrator's Office to discuss legal matters.

At 10:35 A.M., the Board reconvened into public session and the Chairman called the scheduled 10 o'clock case of:

10:00 JAMES C. KING, appl. under Sect. 18-301 of the Ord. to appeal
A.M. Zoning Administrator's decision that appellant's business operation is not a permitted use in the R-1 District, located 3661 West Ox Road, Piney Ridge Subd., 46-1((1))5, R-1, Centreville Dist., 12.00009 acres, A-80-C-002.

&
10:15 JAMES C. KING, appl. under Sect. 18-401 of the Ord. to allow
A.M. operation of a business as a home occupation in R-1, with storage of stock in trade on premises (storage, display, or sale of stock in trade on premises prohibited by Sect. 10-304), located 3661 West Ox Rd., Piney Ridge Subd., 46-1((1))5, Centreville Dist., R-1, 12.00009 acres, V-80-C-029.

As the required notices were not in order, the Chairman announced that the appeal and variance application would have to be deferred. The Board had been requested to defer the cases until a night meeting. The Board deferred both applications until Tuesday, April 29, 1980 at 9:00 P.M.

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Page 222, March 25, 1980, Scheduled case of

10:30 JAMES A. B. HADMAN, appl. under Sect. 18-401 of the Ord. to
A.M. allow subd. into (2) lots, one of which would have a width of 30 ft. (100 ft. minimum lot width required by Sect. 3-206), located 4504 Olley Lane, Little Run Estates Subd., 69-2((2))6C, Annandale Dist., R-2, 2.00009 acres, V-80-A-026.

Ms. Karen Hadman informed the Board that she was making this request on behalf of her husband's family and herself. She stated that a brief had been prepared which had been distributed to Board members. Ms. Hadman stated that they were seeking a lot width variance. The plat showed the size, shape, etc. of the lots. The material submitted with the application showed the location of other houses in the area, photographs of the area and a petition signed by the neighbors who were in support of the request.

Ms. Hadman stated that they were proposing that a variance be granted for a subdivision of two acres into two lots. The variance would allow a 1½ acre pipestem on an existing 30 ft. pipestem. Ms. Hadman stated that if the variance were approved, both lots would be in compliance with the covenants of the Little Run Estates Subdivision.

Ms. Hadman informed the Board that lot 6C was an irregular L-shaped lot. It was the result of a previously approved subdivision. The lot was bisected by an easement. All of the lots from the original lot 6 could be called pipestem lots. The lots were restricted from having access to Olley Lane. Lots 6B, 6C and 6D were granted a waiver for no frontage on Olley Lane at all.

Ms. Hadman stated that they felt they were making a reasonable request that was consistent with the other lots. She stated that the photographs were keyed to the plat. View 1 showed the house on lot 6D to the left and the house on lot 6C. She showed the Board a picture of where the outlet road met Olley Road. The photographs were submitted to the Board in order to give them an idea of the size of the lot she was proposing to subdivide. Ms. Hadman stated that the lot was level and buildable. There are many trees to provide privacy. The line of evergreens screen the view from the street and across from Little Run Elementary School.

Ms. Hadman stated that their present driveway for lot 6C already was a pipestem access. There was a 24 ft. easement provided to serve lots 6A & 6C which bisects the property. Ms. Hadman assured the Board that this variance would in no way interfere with the easements. She stated that this was an unusual situation resulting from a past approved subdivision.

She stated that the topography and terrain were well suited to the proposed variance. There was excellent screening provided. There was no indication that approval would have any adverse impact on the area. Olley Road was a very well maintained road.

Ms. Hadman stated that the average lot size in the area was one acre which was twice the area required for the zone. This approval would make any further subdivision of lot 6 unlikely. She stated that the remainder of the brief were statements from adjoining property owners who were in favor of the variance. Ms. Hadman informed the Board that it was her understanding that there was opposition from the former owners of the property. She stated that was her reason for placing a petition in support of the variance from the neighbors. In addition, she asked the neighbors in the audience who supported her request to stand. Four persons stood up in support of the request.

Mr. Homer Bacos, a real estate broker, spoke in support of the variance. He informed the Board that he did not have any financial interest in the variance. He stated that the Little Run Estates Association had no objection to the variance. The proposal met all of the requirements of the covenants.

There was no one else to speak in support of the application. Ms. Dorothy Bratter of 4506 Olley Lane spoke in opposition. She informed the Board that she and her husband had sold lot 6C to Mr. and Mrs. Hadman. She stated that it was a two acre parcel they had purchased knowing about the easement and what was on it. Ms. Bratter stated that she had a petition with sixteen names and addresses on it of people living in the area who objected to the resubdivision. Ms. Bratter stated that she had sold her house as it was too large with the children gone. They had built a smaller house. One of the covenants for the area was that only one house be built on 2 1/4 acres. Ms. Bratter stated that the signers of the petition strongly resented and objected to the Hadman's request. She stated that this was a corner lot. Little Run Estates has established covenants for only one house per 2 1/4 acres. She stated that it was their desire to keep the land in a rural atmosphere. Ms. Bratter stated that the Hadmans were military and planned to leave the area in July. She stated that they were only trying to milk the neighborhood, leaving it for everyone else to have to deal with.

Mr. Morton Bratter informed the Board that the subdivision had been created in 1977. Lot C consisting of two acres had been sold to the Hadmans in 1978. He stated that they were well aware of the road and easements going through it. He stated that they knew that it was a corner lot and could not be subdivided again. Mr. Bratter stated that the road cutting the lot in half had no bearing on the justification for a variance. He stated that was the way they bought the property. Mr. Bratter stated that Dr. Hadman had once asked him what would happen if he tried to subdivide. Mr. Bratter had told him that he could not do that as all of the lots must have two or more acres for the area. Mr. Bratter stated that he and his wife have been residents for the past 20 years. He stated that he was not a transient. He stated that he had lived in the Hadman's house before they sold it.

Mr. Bratter stated that when he subdivided the original parcel, the County had requested the lots to be without street frontage. He had agreed that the County was correct as it should have an easement in the rear rather than coming out on the street. Mr. Hadman stated that at one time he was given the impression that the Hadmans loved this piece of ground and wanted to stay in the area after he got out of the Navy. Now, they plan to leave the area for good. Mr. Bratter stated that he opposed the further subdivision of the corner lot.

Mr. Yaremchuk questioned Mr. Bratter about the petition presented in opposition. He stated that it bothered him that the petition mentioned the fact the Hadmans were transients. Mr. Yaremchuk inquired as to whether they had the right to subdivide. He stated that they were not breaking any laws as far as he was concerned.

The next speaker in opposition was Mr. Herbert S. Ghent, a realtor. He stated that he had sold the property to Mr. and Mrs. Hadman but was opposed to the request for further subdivision.

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During rebuttal, Ms. Hadman stated that she had been told when they purchased the property that the reason lot 6C had been cut up this way was to have two acres for a horse. She stated that she had spoken with people in the County and had been given the understanding that there was a very good chance that this request might be approved. Ms. Hadman stated that her husband was military. She stated that they do love the house and the lot. They did not feel that they would be doing injury to anyone in the area. Ms. Hadman stated that the petition submitted in support was signed by people from Little Run Estates subdivision.

Mrs. Bratter interjected that she believe in free enterprise also. Chairman Smith informed her she was making a statement and not asking a question. Therefore, he ruled her out of order.

Page 224, March 25, 1980 Board of Zoning Appeals
 JAMES A. B. HADMAN

R E S O L U T I O N

In Application No. V-80-A-026 by JAMES A. B. HADMAN under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, one of which would have a width of 30 ft. (100 ft. minimum lot width required by Sect. 3-206) on property located at 4504 Olley Lane, tax map reference 69-2((2))6C, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 25, 1980; 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 2.0009 acres.
4. That the applicant's property is exceptionally irregular in shape.

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

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

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

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

Mr. Barnes seconded the motion.

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

Page 224, March 25, 1980, Scheduled case of

10:40 A.M. ALAN J. ZOELLNER, appl. under Sect. 18-406 of the Ord. to allow dwelling addition to remain 8.0 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), located 5625 Bradley Blvd., Dowden Terrace Subd., 61-4((13))(8)34, Mason Dist., R-3, 20,010 sq. ft., V-80-M-027.

Mr. Alan Zoellner informed the Board that he had had an idea to build a house for several years. He stated that he had called the Zoning Office and had plans drawn up which left an 8 ft. offset. Mr. Zoellner stated that he called his builder and through administrative error, the plan

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ALAN J. ZOELLNER
(continued)

submitted did not show the 8 ft. setback. Instead, it indicated a 12 ft. setback. Mr. Zoellner stated that he was not in compliance and was seeking a variance to remedy the situation.

Chairman Smith inquired if construction was completed. Mr. Zoellner stated that it was not. It was under roof and he had stopped construction when he was told that it was not in compliance with the Ordinance. When questioned further by the Board about the plan submitted to the County, Mr. Zoellner stated that he had started his plans for building about ten years ago. He stated that when he had gotten his money together last year, he called the County and was told there was a total 20 ft. offset. Mr. Zoellner stated that apparently the document that the builder had submitted for approval showed the 32 ft. addition but it did not indicate that the addition set back 8 ft.

Mr. Yarenychuk inquired if Mr. Zoellner had been caught by the change in the Ordinance. He replied that he had been. Chairman Smith stated that the building plans showed a 12 ft. setback but then Mr. Zoeller had apparently gone back to his original plans.

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

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ALAN J. ZOELLNER

R E S O L U T I O N

Mr. Yarenychuk made the following motion:

WHEREAS, Application No. V-80-M-027 by ALAN J. ZOELLNER under Section 18-406 of the Fairfax County Zoning Ordinance to allow dwelling addition to remain 8 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 5625 Bradley Blvd., tax map reference 61-4((13))(8)34, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on March 25, 1980; and

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

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

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

This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. Barnes seconded the motion.

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

Page 225, March 25, 1980, Scheduled case of

10:50 EUGENE R. GREETHER, M.D., appl. under Sect. 18-401 of the Ord.
A.M. to allow resubd. of two (2) existing lots into 2 lots, one of which would have a width of 15 ft. (80 ft. min. lot width req. by Sect. 3-306), located 4010 Franconia Rd., E. F. Cannon Subd., 82-2((4))4 & 5B, Lee Dist., R-3, 57,457 sq. ft., V-80-L-028.

Mr. William Cummings, attorney-at-law, represented Dr. Grether. For information regarding the testimony presented at the public hearing, please refer to the verbatim transcript on file in the Clerk's Office.

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EUGENE R. GREETHER, M.D.

R E S O L U T I O N

In Application No. V-80-L-028 by EUGENE R. GREETHER, M.D. under Section 18-401 of the Zoning Ordinance to allow resubdivision of two existing lots

R E S O L U T I O N

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into 2 lots, one of which would have a width of 15 ft. (80 ft. minimum lot width required by Sect. 3-306) on property located at 4010 Franconia Road, tax map reference 82-2((4))4 & 5B, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 25, 1980; and

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

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

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

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

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

Mr. Barnes seconded the motion.

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

 Page 226, March 25, 1980, Scheduled case of

11:00 EDWARD C. & SUSAN WEINER, appl. under Sect. 18-401 of the Ord.
 A.M. to allow construction of a shed addition to carport to 4 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207 & 10-105), located 6424 Cavalier Corridor, Barcroft Lakes Shores, 61-1((11))518, Mason Dist., R-2, 13,376 sq. ft., V-80-M-030.

Mr. Edward Weiner informed the Board that he was requesting a variance to 4 ft. from the side lot line to allow construction of an enclosed shed which would be attached to the carport. The lot was heavily treed. In addition, all of the surrounding lots were heavily treed. Mr. Weiner stated that he had a fence which was 15 ft. from his house. The attached carport comes to within 10 ft. of the side lot line. He stated that he proposed to build a shed addition to the attached carport. Mr. Weiner stated that it was impossible to build the shed with sufficient access to the rear of his property or even to build it in the front of the carport. Therefore, they were asking to have the variance for the shed to contain garden tools, etc. which are now placed at the side of the carport.

Chairman Smith advised the applicant that the existing carport did not meet the setback and he was requesting to put the shed entirely in the setback area. Mr. Weiner stated that this would not interfere with the land use or other property owners. He stated that he did not know whether there was any opposition to his request.

Mr. Barnes stated that from looking at the photographs, there were plenty of trees. He stated that Mr. Weiner could construct the shed in the rear of the property and not have to cut down any trees. He inquired as to whether the applicant wanted the shed or the trees. Mr. Yaremchuk inquired if the shed would be in a more convenient location in the front than in the back. At present, the garden tools are in the open along with the woodpile. Mr. Yaremchuk stated that he would hate to see buildings scattered all over the back yard.

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

RESOLUTION

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In Application No. V-80-M-030 by EDWARD C. & SUSAN WEINER under Section 18-401 of the Zoning Ordinance to allow construction of a shed addition to carport to 4 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207 & 10-105) on property located at 6424 Cavalier Corridor, tax map reference 61-1((11))518, County of Fairfax, Virginia, Mr. Yarenchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 25, 1980; 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 13,376 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existin buildings on the subject property.

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

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

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

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

Mr. Hyland seconded the motion.

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

Page 227, March 25, 1980, Scheduled case of

11:10 RANDOLPH M. TEAGUE, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of two-story addition to dwelling to 11.5 ft. from side lot line
(15 ft. min. side yard req. by Sect. 3-207), located 4205 Kilbourne Dr.,
Rutherford Subd., 69-2((6))179, Annandale Dist., R-2, 15,000 sq. ft.,
V-80-A-031.

Mr. Randolph Teague stated that he wished to build a two car garage. He stated that there was vandalism in the area and that he wished to retire here. Mr. Teague stated that he wanted to enlarge the present kitchen and dining area. There was no other location that he could place the addition because of the elevation and the size. Mr. Teague stated that the adjacent lot was on a lower level than his lot. There were some trees so the addition should not affect the neighbor.

In response to questions from the Board, Mr. Teague stated that he has owned his property for four years and planned to continue living here. Mr. Hyland inquired about the situation of the lot to the right. Mr. Teague stated that there was a one story home next to them and it was on a lower level. The street sloped down and the neighbor was about 5 ft. lower. Mr. Barnes inquired as to where Mr. and Mrs. Dunning lived as there was a letter of opposition in the file from them. Mr. Teague stated that they lived down the street.

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

RESOLUTION

In Application No. V-80-A-031 by RANDOLPH M. TEAGUE under Section 18-401 of the Zoning Ordinance to allow construction of two-story addition to dwelling to 11.5 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 4205 Kilbourne Drive, tax map reference 69-2(6)179, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 25, 1980; 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 15,000 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. Barnes seconded the motion.

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

Page 228, March 25, 1980, Scheduled case of

11:20 RESCOM, INC., appl. under Sect. 18-401 of the Ord. to allow
A.M. parking areas and driveways, in connection with an approved
special exception office use, without a dustless surface, as req.
by Sect. 11-102, located 1446 Ingleside Avenue, West McLean
Subd., Dranesville Dist., 30-2(7)120, 21 7 22, R-3, 9,375 sq.
ft., V-80-D-032.

Ms. Minerva Andrews, an attorney in Fairfax, represented the applicant. She stated that the applicant, Rescom, Inc. of 1446 Ingleside Avenue in McLean, was requesting a variance to the requirement that parking area and driveways shall be controlled by a dustless surface. Ms. Andrews stated that this request was in connection with an office use. She stated that Rescom, Inc. had obtained a special exception for the use of the property for a commercial office subject to certain development conditions. The plat contained the improvements that the Board of Supervisors had requested. One of the main objections of the neighbors was the reduction of street water runoff. She stated that the neighbors maintained that at the time the garage was constructed, it increased the runoff. One requirement was that storm water retention facility be maintained on the site. Another concern was that the driveways and parking areas not be paved. Ms. Andrews stated that a bluestone gravel area would permit water to infiltrate and it would slow down the water runoff. Ms. Andrews stated that this variance application would benefit the applicant as well as the neighbors. The property was quite small, being only 9,375 sq. ft. in area. The driveway goes around the building. She stated that you have to drive quite slowly i in order to negotiate. Ms. Andrews assured the Board that there would not be any problem with dust being raised. Ms. Andrews stated that they anticipated no more than ten vehicle trips per day which was no more than the average household would generate. Ms. Andrews stated that strict application of the Code would be a hardship on the applicant. Due to the small size of the lot, it would not be feasible to pave and the requirement to do so would deprive the applicant of the reasonable use of his property. The bluestone would not be injurious to anyone and would benefit everybody.

Chairman Smith stated that the special exception for the office use was limited to a five year period. He inquired if the applicant was aware of the staff comments about the paving which they felt was required. Mr. Yaremchuk informed the Board that he was familiar with the property and stated it would detract from the property if it was paved. Mr. Yaremchuk stated that from reading the staff comments, it appeared they wanted the whole area paved. Chairman Smith stated that the recommendation was for the travel aisles to be paved and the two parking areas in the front would also be included. Mr. Yaremchuk stated that he did not think it was a reasonable request. He reminded the Chairman that the staff proposal was only a recommendation and not a requirement. Mr. Yaremchuk stated that he did not agree with the staff comments on this case. Chairman Smith stated that only a certain area should be paved. Mr. Yaremchuk stated that the area was bluestone gravel now and there was no muddy area there. Mr. Barnes stated that if the area was hard-surfaced, there would be a tremendous amount of runoff. Mr. Yaremchuk stated that if the area was paved, it would not be in keeping with the area. Chairman Smith stated that the paving was a reasonable request and would prevent muddy conditions. Ms. Andrews informed the Board that in this area, 75% of the driveways were gravel and not paved. Chairman Smith stated that the office use was under a special exception and one of their staff comments had been to pave the travel aisles and driveways. Mr. Yaremchuk stated that the staff report did not say anything about paving. Chairman Smith stated that the report required dedication in the front and for the right-of-way.

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-80-D-032 by RESCOM, INC. under Section 18-401 of the Zoning Ordinance to allow parking areas of driveways without a dustless surface on property located at 1446 Ingleside Avenue, tax map reference 30-2((7))(1)20, 21 & 22, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 25, 1980; and

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

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-3.
- 3. The area of the lot is 9,375 sq. ft.

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

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

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

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

Mr. Barnes seconded the motion.

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

Chairman Smith inquired if Mr. Yaremchuk wanted to make the variance concurrent with the Special Exception approval. Mr. Yaremchuk stated that it was his intent that the variance was only good for five years.

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Page 230, March 25, 1980, Scheduled case of

11:30 CHRISTOPHER W. WALKER, JOHN NEWMAN SEXTON, DVM & CHARLES BALFOUR
A.M. PATTON, DVM, appl. under Sect. 4-203 of the Ord. to allow veterinary clinic,
located 5427 Backlick Rd., 80-2((1))9, Annandale Dist., C-2, 0.991 acres,
S-80-A-002.

The Board was in receipt of a request from Mr. Bernard Fagelson, attorney for the applicant, for a deferral of the application. It was the consensus of the Board to grant the deferral and the application was rescheduled for April 8, 1980 at 12:00 Noon.

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Page 230, March 25, 1980, Scheduled cases of

11:45 RESTON ROLLER RINK, INC., appl. under Sect. 18-401 of the
A.M. Ordinance to allow construction of skating facilities to 50 ft. from adjoining
property in R District (100 ft. min. setback for such building req. by Sect.
8-503), located North of Sunset Hills Rd. on Michael Faraday Ct., 18-3((5))par.
6, Centreville Dist., I-5, 2.3071 acres, V-80-C-038.

&
11:50 RESTON ROLLER RINK, INC., appl. under Sect. 5-503 of the Ord.
A.M. to amend S-350-79 for roller skating rink to permit enlargement and relocation
of building, located 1808 Michael Faraday Court, North of Sunset Hills Rd.,
approx. 600 ft. East of Wiehle Ave., Sunset Hills Rd. intersection,
18-3((5))par. 6, Centreville Dist., I-5, 2.307 acres, S-80-C-012.

Mr. Grayson Hanes, attorney for the applicant, informed the Board that Reston Roller Rink, Inc. was requesting a variance. If the variance were approved, they would then request the amendment of the special permit that was granted in January of this year. He stated that what they were asking for was already approved sometime ago.

Chairman Smith advised Mr. Hanes that the Board would hear both applications concurrently. He stated that there were only three Board members present who had been present in January when the special permit was granted originally. He asked the attorney to give the other Board member some background but to be as brief as possible.

Mr. Hanes stated that the parcel was 2.3 acres in area. There was a contract to purchase the land as far back as 1978 and in the contract, it specifically stated that the property could only be used as a roller rink. An application was made to the BZA for exactly the structure that was being sought now with the exact setbacks that were in existence at that time. In June of 1978, the BZA granted the original special permit. Unfortunately, construction did not begin within the one year approval period and the permit lapsed. The applicant had not requested an extension of the permit.

In December of 1979, the applicant filed a new application for the same structure and used the same site plan. Mr. Hanes stated that the structure was approved back in 1979 by all of the officials of Reston, the Architectural Review Board, the RCA Homeowners Association, and that the site plan was ready for bonding but the applicant had let it expire. So, it was in December of 1979 that the applicant came back to the BZA with the exact request which had been approved previously. Mr. Hanes stated that the day before the hearing, they had recognized the change in the Fairfax County Ordinance and determined that the setbacks could no longer be waived by DEM. Mr. Hanes informed the Board that the variance they were now requesting had been waived by DEM previously. However, under the current Ordinance, that power was taken away and given to the BZA. The day before the hearing which was scheduled in January, Mr. Hanes had determined that the BZA could not grant the variance without a variance application being filed. For that reason, they had moved the building back to 100 ft. which put the structure right on the north property line. Mr. Hanes stated that it would have made it difficult to build right on the property line. In addition, no one in Reston felt that it was a proper way to site the building. Mr. Hanes stated that they had chopped 12 ft. off of the building in order to meet setbacks and get through the public hearing in January of 1979.

Now, Mr. Hanes advised the Board that they were requesting a variance. The property had been filled and the building would have to be constructed on fill. Mr. Hanes indicated that it was filled with the express purpose of siting the building. He stated that the topography was created by Reston when they sold the site. The topo drops off into a cliff. Mr.

Hanes stated that it was impossible to site the building even though there is 50 ft. on that side. Mr. Hanes informed the Board that they had tried to turn the building around but then there would not be any setback at all on the cul-de-sac called Michael Faraday Court.

Because of the constraints and because they were required to go through the site plan approval process with DEM, they had to put the storm drainage easements along the front and put to record an easement giving access to an adjoining competitor and other easements of record which made it practically impossible to build what they intended. Mr. Hanes stated that this was a roller rink. They had to chop off 12 ft. from the building and felt it was reasonable to add the 12 ft. back onto the building to make a better roller rink. Mr. Hanes stated that they were not asking for anything different from what had already been approved at one time. He further indicated that they were not increasing the capacity, the number of people, the number of parking spaces, or changing the hours of operation. Mr. Hanes assured the Board that the only change was the relocation of the building within 50 ft. of the right-of-way of what used to be the Old Dominion Railroad which was now owned by the Regional Park Authority.

The Regional Park Authority property was zoned residential but it was a 100 ft. strip running from Bluemont to Arlington. It is to be used as a hike and bike trail. Within the area are the high tension wires for Vepco. Mr. Hanes stated that it was a questionable residential use in his opinion and really more of an industrial use. Also within that right-of-way was the City of Fairfax's water main that runs up to Goose Creek. Mr. Hanes stated that he had given notice to the Regional Park Authority and that Mr. David Hopkins had been at the hearing earlier to state that they had no objections to the application.

Mr. Hanes stated that this property was a very difficult site to develop. The topography makes it impossible to build a roller rink that would be usable and practical unless the variance were granted. For that reason, along with the unusual characteristics of the site, Mr. Hanes requested the Board to grant the variance. If granted, they would then ask that the use permit that is in existence be amended to reflect the additional 12 ft. structure.

Mr. Yaremchuk inquired as to the unusual situation. Mr. Hanes stated that the topography dropped off on the westerly side of the property and that was the justification for the variance. The topography runs up and if the building was sited back to the property line, it would be difficult to build the structure.

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

RESOLUTION

In Application No. V-80-C-038 by RESTON ROLLER RINK, INC. under Section 18-401 of the Zoning Ordinance to allow construction of skating facilities to 50 ft. from adjoining property in R District (100 ft. minimum setback for such building required by Sect. 8-503) on property located north of Sunset Hills Road on Michael Faraday Court, tax map reference 18-3((5))par. 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 March 25, 1980; 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 2.3071 acres.
4. That the applicant's property has exceptional problems.

R E S O L U T I O N

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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

Mr. Barnes seconded the motion.

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

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-D-012 by RESTON ROLLER RINK, INC. under Section 5-503 of the Fairfax County Zoning Ordinance to amend S-350-79 for roller skating rink to permit enlargement and relocation of building on property located at 1808 Michael Faraday Court, North of Sunset Hills Road, approximately 600 ft. east of Wiehle Avenue/Sunset Hills Road intersection, tax map reference 18-3((5))par. 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 March 25, 1980; and

WHEREAS, the Board had 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 2.307 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

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

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

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

RESOLUTION

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-350-79 not altered by this resolution shall remain in effect.

Mr. Barnes seconded the motion.

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

Page 233, March 25, 1980, Scheduled case of

12:00 CATHERINE SHOUSE & WOLF TRAP BARN FOUNDATION, appl. under Sect.
NOON 18-401 of the Ord. to allow driveways & parking lots at cultural center with other than a dustless surface (dustless surface req. by Sect. 11-102, par. 14), located 1635 Wolf Trap Rd., 28-2((1))32, Centreville Dist., R-1, 6.9 acres, V-80-C-007. (Deferred from February 26, 1980 for notices and because special exception was deferred.)

Mr. Thomas Lawson, attorney for the applicant, informed the Board that the special exception for a cultural center had been granted by the Board of Supervisors on March 10th. Now, they were asking for a variance to the dustless surface requirement for the parking area only. He stated that the whole concept of the cultural center was for an informal setting. The site was being landscaped in keeping with its natural setting. Special plants and trees were being provided to turn the area into a garden setting. In order to keep the cultural center as informal and natural as possible, the applicant wanted to put crushed stone in the parking areas. Mr. Lawson stated that from an environmental standpoint, there were many advantages for crushed stone. He stated that it would control water runoff as the water would be able to penetrate the soil. Mr. Lawson stated that if there was a concern to people in area, it would be that the area not generate dust. Mr. Lawson informed the Board that they were not asking for a variance to the driving aisles as they would have to be paved. The travel lanes would be paved. Only the parking area would be crushed stone. He stated that if the crushed stone was treated properly, there would not be any dust generated. Mr. Lawson informed the Board that this cultural center was a considerable distance from any neighboring homes. The parking areas had been pushed towards the northern part of the site to be 400 to 500 ft. away from the nearest house. On the other side, the property was owned by Catherine Shouse.

Chairman Smith stated that if only the parking area was being included in the request for a variance to the dustless surface requirement, that it would take care of the staff recommendation in the staff report.

There was no one else to speak in support of the application. The following person spoke in opposition to the request. Mr. Lee R. Donais of 9208 Bois Avenue informed the Board that he was President of the Trails Subdivision to the south of the proposed cultural center. He stated that they wanted the Ordinance requirement for a dustless surface to be upheld. Mr. Donais stated that the dust pollution could not totally be taken care of at this point. All of the wind comes from the north. The parking lot was elevated. The dust blows completely into their subdivision. Another consideration was the excessive noise generated by bluestone gravel. Mr. Donais stated that performances at the center often go past 11 o'clock at night and ancillary services beyond that. The noise generated by the gravel was unfair to the residents and they were asking the Board to uphold the dustless surface requirement. Mr. Donais advised the Board that they had taken the time to examine the alternatives to gravel which were cement, grid work in a checkerboard pattern. Chairman Smith advised Mr. Donais that it would not have the same porous advantage as crushed stone. Mr. Donais stated that the runoff was not one of their major concerns. He stated that another alternative was surface treated gravel which would eliminate dust and still maintain the rural character of the property. Mr. Donais stated that they wanted to avoid a noisy, dusty parking lot and were requesting the BZA put in some conditions as to other alternatives or deny the request.

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Mr. Yaremchuk inquired if there would be more noise on gravel than there would be on a paved surface. He inquired if Mr. Donais knew the difference in decibal level. Mr. Donais stated that the majority of the performances end at 11 o'clock. He informed the Board that the subdivision existed before the cultural center. Mr. Yaremchuk stated that the original center existed first. His point being, that anyone buying a home at that location would be aware of the situation. Mr. Donais stated that all of the land was zoned residential. Chairman Smith stated that this cultural center was an addition to the existing facility. Mr. Donais stated that it was not as this site was one-quarter mile away from the existing facility. Mr. Yaremchuk stated that the Airport Access Road divided the property in half and left this piece. Mr. Donais stated that the subdivision had enjoyed the property in its rural setting. Chairman Smith advised Mr. Donais that all of the driveways would be asphalted which would eliminate any noise problem and there would not be any dust. Mr. Donais stated that this property was on top of a hill and there was no place for the dust to go. Chairman Smith stated that there would not be any dust generated if it was properly treated. Mr. Donais requested the Board to put some condition in the granting requiring treatment. He stated that if not, it would place a burden on the neighbors to be complainants should problems arise with respect to the dust. He stated that they could live with a surface treatment if done in accordance with County Codes. The aesthetics would still be served.

There was no one else to speak in opposition. During rebuttal, Mr. Lawson stated that they would treat the gravel surface with a method similar to the Highway Department's treatment known as 21-A. He stated that it was a smoother gravel area and the problem with dust would not be created. He further stated that there would not be the high speed or traffic in this area. There were only 98 parking spaces provided with an additional 4 for handicapped persons. Mr. Lawson stated that he believed the problem of noise and dust would not exist.

With respect to other types of treatment, Mr. Lawson advised the Board that they had examined the possibility of a grounds keeper but the cost would be \$200,000 for a small portion of the property. Mr. Lawson stated that the whole cultural center was going to be turned into a garden spot. He reminded the Board that the Filene Center had been built prior to the houses which were there now.

Mr. Hyland stated that he appreciated Mr. Lawson's opinion that there would not be any problem with dust as the cars would be travelling at a slow rate of speed. He indicated, however, that first-hand experience indicated otherwise. Mr. Hyland stated that he was concerned about the dust and the kinds of controls the applicant would make or the treatment to be provided. Mr. Lawson stated that they would do whatever was necessary. He stated that he did not believe there would any dust problem. Further, he stated that the experts from the Highway Department had stated that there was not any dust problem associated with the 21-A treatment. Mr. Hyland inquired as to what plans the applicant had to treat the property at the present time. Mr. Lawson stated that he could not answer that question. He could only respond by stating that they had looked into the method. He stated that there are many different types of surfaces. The type used by the Highway Department is what they were planning on using. Mr. Lawson stated that the landscape architect was present if the Board wished to ask him any questions. Mr. Lawson stated that Mrs. Shouse was not interested in creating any problems on the site. Mr. Hyland inquired as to the cost of the treatment being proposed. Mr. Lawson stated that he could not answer that.

Chairman Smith advised Mr. Hyland that the BZA could initiate a condition to safeguard the area from any dust. He stated that the problem with noise would be nil since the driveways were going to be paved.

RESOLUTION

In Application No. V-80-C-007 by CATHERINE SHOUSE & WOLF TRAP BARN FOUNDATION under Section 18-401 of the Zoning Ordinance to allow parking lots at cultural center with other than dustless surface (dustless surface required by Sect. 11-102, par. 14), on property located at 1635 Wolf Trap Road, tax map reference 28-2((1))32, County of Fairfax, Virginia, Mr.

RESOLUTION

Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 25, 1980 and deferred from February 26, 1980 for notices; and

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

- 1. That the owner of the property is the applicant.
- 2. The present zoning is R-1.
- 3. The area of the lot is 6.9 acres.
- 4. That the applicant's property has an unusual condition in the rural setting.

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

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

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

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

Mr. Barnes seconded the motion.

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

Page 235, March 25, 1980, Scheduled case of

12:20 P.M. WARREN KATZ, appl. under Sect. 18-406 of the Ord. to allow garage to remain 7 ft. from public street right-of-way line (15 ft. min. setback from right-of-way req. by Sect. 6-307), located at 1913 Upper Lake Dr., Reston Subd., 26-2((9))(3)39, Centreville Dist., PRC, 10,475 sq. ft., V-80-C-049.

Mr. Warren Katz of 1942 Upper Lake Drive in Reston informed the Board that he had submitted a building permit which had a 15 setback and which was approved by the County. When construction began, there was a drainage easement at the back of the property so they had redesigned the building. Mr. Katz stated that they planned a detached garage and submitted it to the County. He stated that the County approved the garage subject to the connection of a fence from the garage to the house.

Mr. Katz stated that based on that stipulation, he had resubmitted the plan for a third time showing the fence connecting the garage and the house. He stated that he had been told the plan was approved. Mr. Katz stated that based on that information, he proceeded to install the garage which was a pre-fab. He stated that when he picked up the plans from the County, it was determined that the ruling with regard to the fence was not correct. He then found out he would have to apply for a variance. Mr. Katz stated that up until August of 1978, there was no setback requirement for accessory structures in the PRC zone.

Chairman Smith inquired as to what the original building permit had shown as a front setback. Mr. Katz stated that it indicated a 15 ft setback. Mr. Katz informed the Board that he had gotten notification from Design Review that if he attached a fence that it would be approved. Chairman Smith inquired if this was in writing and was informed it had been a conversation with someone from Design Review.

Mr. Covington stated that what Mr. Katz was referring to was the requirement that an accessory structure could not be located in a front yard. If it was attached to the dwelling then it would not be considered an accessory structure any longer. However, that would not relieve him of the setback requirement.

Mr. Katz stated that he had submitted another drawing showing the attachment with the fence. He stated that it had been approved. When he went back to the County to pick up the plans he was told he needed a variance. Mr. Covington informed the Board that the plans had only gotten approval as far as Design Review. Chairman Smith stated that Design Review did not approve it as far as the location was concerned. He stated that only zoning could approve the location. Mr. Katz stated that was correct but subject to the attachment of the fence and based on the Ordinance, it did comply with the Zoning Ordinance. Chairman Smith stated that it did comply but that the applicant still had to meet the setback requirements. Mr. Covington informed the Board that prior to 1978, the structure could have gone anywhere on the lot.

Mr. Katz informed the Board that there were other houses that had the same condition. He further stated that he assumed the man he had talked to in the County knew the Ordinance. Apparently, he was not aware of the setback requirement. Mr. Katz stated that there were other garages in the area which were closer than the 7 ft. he was requesting. Mr. Barnes inquired as to how anyone could back out of the garage with the structure that close to the street. He stated that you would be out in the street before you could see anything coming. Mr. Katz stated that was true but indicated that there had not been any restrictions until August of 1978. Mr. Covington stated that the Architectural Review Board would have to approve the garage. Mr. Katz stated that there was not any house on one side of the garage and the people on the other side were the ones who had reported the violation. Mr. Barnes stated that if he lived there, he would try to back into the garage in order to be able to see what was coming when he pulled out. Chairman Smith inquired who the owner of the property was. Mr. Katz stated that he was the Trustee and that the property was owned by Yeonas. He stated that one reason they had asked for the out-of-turn hearing was because the contract would run out this month.

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

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-80-C-049 by WARREN KATZ under Section 18-406 of the Fairfax County Zoning Ordinance to allow garage to remain 7 ft. from public street right-of-way line (15 ft. minimum setback from right-of-way line required by Sect. 6-307) on property located at 1913 Upper Lake Drive, tax map reference 26-2((9))(3)39, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on March 25, 1980; 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.

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.

RESOLUTION

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Mr. Barnes seconded the motion.

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

Page 237, March 25, 1980, After Agenda Items

Mt. Vernon Yacht Club: The Board was in receipt of a request from the Mt. Vernon Yacht Club regarding an out-of-turn hearing. It was the consensus of the Board to grant the request and the application was scheduled for Tuesday, May 6, 1980.

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Page 237, March 25, 1980, After Agenda Items

Peter Klaassen: The Board was in receipt of a request from Mrs. Hoshall regarding the screening requirements for the special permit granted to Peter & Wilhelmina Klaassen for the operation of a child care center. It was the consensus of the Board that the original resolution stood and that the screening must be provided in accordance with the resolution.

// 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 2/5/82.

APPROVED: February 9, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 8, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (arriving at 10:30 A.M.); George Barnes; John Yaremchuk and Gerald Hyland.

The Chairman opened the meeting at 10:10 A.M. and convened into an Executive Session with the Zoning Administrator and his staff. At 11:00 A.M., the Board reconvened the meeting and Mr. Barnes led the prayer.

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

10:00 NEIL R. & CATHERINE R. McDONALD, appl. under Sect. 18-301 of A.M. the Ord. to appeal decision of Zoning Administrator that a free-standing sign is not allowed on the premises pursuant to Sect. 12-209), located 1500 Chain Bridge Road, West McLean Subd., 30-2((7))(2)1-6, Dranesville Dist., R-3, 22,762 sq. ft., A-80-D-003.

The Board was in receipt of a request from the applicant asking the Board to withdraw the appeal. It was the consensus of the Board to allow the withdrawal without prejudice.

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Page 238, April 8, 1980, Scheduled case of

10:30 RODNEY D. & MARGUERETTE M. BERAN, appl. under Sect. 18-401 of A.M. the Ord. to allow construction of garage addition to 8.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4206 Kilbourne Dr., Rutherford Subd., 69-2((6))236, Annandale Dist., R-2, 15,006 sq. ft., V-80-A-033.

Mr. Rodney Beran of the above address informed the Board that he believed a garage would be a good addition to his home. It would allow for more parking area off the street, protect his personal property and allow the pursuit of hobbies like auto repair, woodworking and ceramics. In response to questions from the Board, Mr. Beran stated that the pool shown on the plat was existing at the present time. He stated that he had owned his property for 1 1/2 years.

Colonel Teague spoke in support of the application. He stated that he had an addition approved for a garage with a second story. He stated that he felt the garage was a good addition. Col. Teague stated that he had had a tremendous amount of damage to his cars from parking in the street. He stated that he had not heard of any problem or complaints in the area about the construction of garages. He urged the Board to grant Mr. Beran's request.

There was no one else to speak in support of the application and no one to speak in opposition. However, the Board was in receipt of a opposition letter from Mrs. Dunning of 4209 Kilbourne Lane. Chairman Smith read the letter into the record.

During rebuttal, Mr. Beran informed the Board that he had not talked to the Dunnings about their opposition. He stated that he had mentioned to them last summer that he wanted to build a garage and they had not indicated any objection. Mr. Beran stated that he had a statement from some of his neighbors who were in support of the variance. He presented the Board with a petition in support of his request.

Page 238, April 8, 1980 Board of Zoning Appeals
RODNEY D. & MARGUERETTE M. BERAN

R E S O L U T I O N

In Application No. V-80-A-033 by §RODNEY D. & MARGUERETTE BERAN under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to 8.8 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 4206 Kilbourne Drive, tax map reference 69-2((6))236, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the followig resolution:

WHEREAS, the captioned application has been properly filed in accordance 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 April 8, 1980; 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 15,006 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing storm sewer easement and has an unusual condition in the location of the existing pool.

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

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

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

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

Mr. Yaremchuk seconded the motion.

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

Page 239, April 8, 1980, Scheduled case of

10:40 A.M. RICHARD C. STRACHAN, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 15.5 ft. from street front lot line (30 ft. min. front yard req. by Sect. 3-407), located 3016 Wallace Dr., Woodley North Subd., 50-3((5))(5)39, Providence Dist., R-4, 7,966 sq. ft., V-80-P-034.

Mr. Richard C. Strachan of 3016 Wallace Drive in Falls Church stated that he wanted to make a two car garage for extra storage and parking of his vehicles. He stated that his house was a rambler without a basement. The garage would afford a hobby shop for refinishing furniture. He stated that the addition would take the place of the carport which was already there. Mr. Strachan stated that this was the only logical place on his property to construct the garage.

In response to questions from the Board, Mr. Strachan stated that he has owned his property for ten years. He indicated that the garage would enhance the looks of the property. The carport is screened in with a flat roof and is not near as nice as an enclosed garage would be.

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-80-P-034 by RICHARD C. STRACHAN under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 15.5 ft. from street front lot line (30 ft. minimum front yard required by Section 3-407) on property located at 3016 Wallace Drive, tax map reference 50-3((5))(5)39, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 8, 1980; and

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

RESOLUTION

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1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 7,966 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

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

Mr. DiGiulian seconded the motion.

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

 Page 240, April 8, 1980, Scheduled case of

10:50 A.M. CHILDER'S BUILDERS, INC., appl. under Sect. 18-401 of the Ord.
 to allow construction of dwelling to 26.2 ft. from front lot line & 8 ft. from side lot line (30 ft. min. front yard & 10 ft. min. side yards req. by Sect. 3-407), located 6536 Old Chesterbrook Rd., 30-4((1))61A, Dranesville Dist., R-4, 9,844 sq. ft., V-80-D-035.

Mr. Mac Arnold, an attorney in Fairfax, represented the applicant. Mr. Arnold stated that the subdivision plat provided with the application showed that lot A was on Old Chesterbrook Road. He stated that this was an application to vary the front setback requirements to 26.2 ft. from the front lot line. The Ordinance required 30 ft. Mr. Arnold stated that there was a dedication to the County of 25 ft. across the entire frontage of the subject property. This was done at the request of the Director of Environmental Management. Dedication was made on January 15, 1979. At that time, the requirement for the front setback was 25 ft. On January 16, 1979, the Board of Supervisors amended the requirement and changed the front setback to 30 ft. This had caused a hardship to the applicant.

Mr. Arnold stated that the second part of the variance request was to vary the side lot line from 8 ft. to 10 ft.. He stated that when this subdivision was approved, there was only a side yard requirement of 8 ft. That requirement was also changed by the Board of Supervisors in April of 1979 from 8 ft. to 10 ft. and that also created a hardship. Mr. Arnold stated that the question was whether the developer was trying to put too large a house on the lot. The zoning district was R-4. The average lot size for the R-4 zone was 8,800 sq. ft. This lot was 9,844 sq. ft. It was 1,000 sq. ft. larger than the average lot size. The lot size does not include the area dedicated to the County.

Mr. Arnold explained to the Board that the problem that had been created was that the lot was odd shaped and did not come in a regular size. If the lot was regularly shaped, there would not be a problem. He stated that this was a situation which would permit the BZA to allow the variance so the developer could construct a house on the lot. Mr. Arnold stated that Mr. Joe Childers had been a builder for 23 years and lived one block away from the subject property.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mr. R. M. McGowan, a retired Navy Captain, presented the Board with a petition signed by 31 neighbors who were opposed to the variance request. Mr. McGowan stated that he lived on the corner facing the lot in question. He stated that he had lived there for 18 years. He stated that this situation would face him for the rest of his life. Mr. McGowan stated that the date of the hearing being right after the Easter weekend had prevented many people from attending the public hearing. The signatures on the petition are from neighbors living close to the subject property. Mr. McGowan informed the Board that this was not a run of the mill variance. It would change the area's appearance and it would be too close to the neighbors. The other homes are more generously spaced. Even with the 8 ft. variance, it would have to be thrust forward out

of line with the other homes in the area. The lot was situated at the head of Dempsey Street where it would be seen from many angles. Mr. McGowan submitted photographs to show the Board how far the structure would jut out and to indicate the location of the neighbor's homes in relation to the proposed variance.

Mr. McGowan informed the Board that it was important to test the variance against the restrictions. He stated that many lots in the area would be vulnerable. If the precedent were permitted, it would be a classic case of "there goes the neighborhood". Mr. McGowan stated that the house would be located closer than 8 ft. from the side lot line because of a large chimney which would occupy a good deal of the area.

The next speaker in opposition was Ms. Mary Ann Butra of Old Chesterbrook Road. She stated that the Code with the recommendation of 30 ft. front setback was the bare minimum. Further, 10 ft. on the side was not the best setback and to use part of that was the bare minimum. She stated that this house was being planned in her front yard and that her house was only 40 ft. away. She stated that the house would jut out of line with the other houses. She also mentioned that the house was only one family. She informed the Board that this was a self-created hardship. She explained that the lot was larger originally and because of the subdivision by Mr. Childers, the lot had become too narrow for the size house he wanted to construct. She stated that Mr. Arnold had mentioned that the applicant purchased the property in good faith. She informed the Board that so had they purchased their property in good faith.

The next speaker was Mr. David Murphy. He stated his wife owned the property at 6538 Old Chesterbrook Road and has owned it for three years. He indicated that she had spent over \$3,000 to enlarge the patio and landscape the property. It had been designed to enhance the neighborhood. Mr. Murphy stated that the lot next door was for single family homes. He stated that he and his wife would be the ones most directly affected by the new house. The house would be well out in front. Mr. Murphy stated that he strongly supported the petition which was signed in opposition to the variance.

There was no one else to speak in opposition. During rebuttal, Mr. Arnold stated that the variance would not change the neighborhood. With respect to the hardship, he stated that it had been created because of the request of the County to dedicate the land. Mr. Childers had been caught in a catch-22 situation. Mr. Childers is experienced in building homes. He lives in the neighborhood. If the variance were denied, then a smaller house would have to be constructed. Mr. Arnold stated that a hardship did exist and asked the Board to grant the variance.

Mr. Yaremchuk stated that Mr. Childers had dedicated land for the right-of-way and was now being penalized for being a good guy. There were no further comments from the Board.

R E S O L U T I O N

In Application No. V-80-D-035 by CHILDER'S BUILDERS, INC. under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 26.2 ft. from front lot line & 8 ft. from side lot line (30 ft. minimum front yard & 10 ft. minimum side yards required by Sect. 3-407) on property located at 6536 Old Chesterbrook Road, tax map reference 30-4((1))61A, 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 8, 1980; 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 9,844 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging lot lines and has an unusual condition in the requirement for dedication along Old Chesterbrook Road.

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

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

R E S O L U T I O N

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. Smith & Mr. Hyland).

Chairman Smith stated that he voted against the variance because he felt the house could be moved back which would comply with the Zoning Ordinance setback requirements. In addition, he stated that the applicant should have gotten a building permit before dedication. Mr. DiGiulian stated that it might be the year 1990 before the applicant was able to get a building permit.

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Page 242, April 8, 1980, Scheduled case of

11:00 CHILDER'S BUILDERS, INC., appl. under Sect. 18-401 of the Ord.
 A.M. to allow construction of dwelling to 26 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-407), located 1624 - 8th Place, 30-4((1))618, Dranesville Dist., R-4, 8,406 sq. ft., V-80-D-036.

Mr. Mac Arnold represented the applicant. He stated that this application involved lot B or lot #2 as shown on the plat. Mr. Arnold stated that this was a situation similar to the previous application. In this case, the applicant needs a variance from the front setback to build 26 ft. instead of the required 30 ft. In this instance, there was a requirement from DEM for dedication for 30 ft. from the existing lot lines. The road is not a through road. Mr. Arnold stated that the question, again, was whether the house was too large for the lot. Mr. Arnold stated that this lot was larger than the average lot in the area. The applicant wants to site the house on the property to its best location.

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

Page 242, April 8, 1980
 CHILDER'S BUILDERS, INC.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-D-036 by CHILDER'S BUILDERS, INC. under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 26 ft. from front lot line (30 ft. minimum front yard required by Sect. 3-407) on property located at 1624 - 8th Place, tax map reference 30-4((1))618, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 8, 1980; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 8,406 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging lot lines and being shallow; and has an unusual condition in the requirement for dedication along Old Chesterbrook Road.

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

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

RESOLUTION

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1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. Smith & Mr. Hyland).

A speaker from the audience questioned the Chairman as to why the concerns and feelings of so many people had not been taken into consideration. Chairman Smith assured the gentleman that the concerns were taken into consideration.

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Page 243, April 8, 1981, Scheduled case of

11:10 SOPHIE M. SLAHETKA, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of enclosed addition to dwelling to 5.5 ft. from side lot
line (10 ft. min. side yard req. by Sect. 3-407), located 4402 Medford Dr.,
Annandale Terrace Subd., 71-1((15))106, Annandale Dist., R-4, 8,401 sq. ft.,
V-80-A-037.

Ms. Sophie Slahetka of 4402 Medford Drive in Annandale informed the Board that she had owned her property for 24 years. She stated that she wanted to fully enclose the partially enclosed carport. The carport was 5.5 ft. from the side lot line. She stated that the enclosure of the carport would enhance the neighborhood by screening all materials stored on the property. In addition, it would make her home more secure. Ms. Slahetka stated that at least five cars had been hit on Medford Drive, two of which had been hers. She stated that she wants to keep things under lock and not as accessible to anyone. She stated that gasoline had been stolen from her cars. Ms. Slahetka stated that she was widow and lived alone. Another consideration was that the elements would be less harmful to her belongings and she would feel more secure if the variance were granted.

Chairman Smith stated that there was a building permit and inquired if she had already constructed the addition. Ms. Slahetka stated that she was waiting for the variance so she could complete the brick work. Chairman Smith inquired as to how the carport got so close to the lot line. Ms. Slahetka stated that she had submitted her plans for a carport. Then she had put in a temporary wall to keep the wind off.

Ms. L. P. Hooper informed the Board that she lived on the side on which the building was being placed. She indicated that the garage would enhance the area rather than a carport.

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

RESOLUTION

In Application No. V-80-A-037 by SOPHIE SLAHETKA under Section 18-401 of the Zoning Ordinance to allow construction of enclosed addition to dwelling to 5.5 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at 4402 Medford Drive, tax map reference 71-1((15))106, 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 8, 1980; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 8,401 sq. ft.

R E S O L U T I O N

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4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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

Mr. Yaremchuk seconded the motion.

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

Page 244, April 8, 1980, Scheduled case of

11:20 GREENSBORO ASSOCIATES, appl. under Sect. 18-401 of the Ord. to
A.M. allow 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., Leasco
Subd., 29-3(15)2, Dranesville Dist., C-4, 174,240 sq. ft., V-80-D-039.

Mr. Art Walsh, an attorney, represented the applicant. He stated that the property was located on the Leasco site and that it had two frontages. Based on the interpretation of the Zoning Ordinance, the definition of the front yard was the short frontage. Mr. Walsh stated that despite the fact that their entrance would be off of Pinnacle Drive, the front yard for setback purposes would be off of Greensboro Drive. The property was irregularly shaped. The frontage was 250 ft. on Greensboro Drive and 450 ft. frontage on Pinnacle. The property slopes off to the north. Mr. Walsh stated that when the parking lot was designed, they did not think they needed a variance because it was a surface lot. There would be a level tucked underneath which would provide parking not visible from the south. He stated that the property would have the appearance of being a structured lot. Parking would be located underneath the structured lot which would be at the rear of the property. Mr. Walsh stated that they thought they qualified as a parking lot which would only require a 4 ft. setback. The engineers had submitted the plans and it was ruled by the Zoning Administrator that it qualified as a parking structure because even though it didn't come up out of the ground, the parking structure frontage to the west was not enclosed. It would have to be totally enclosed in order not to be qualified as a structure.

Chairman Smith inquired about the parking levels and was informed by Mr. Walsh that one level of parking would be underground and one level above ground. Mr. Walsh stated that there would not be any greater impact on the rear yard properties than there would be if the structure were a surface lot. The property to the south was an institutional use being a microwave tower owned by the U.S. Government. The other frontage was zoned C-8 which was now under construction as a Clyde's Restaurant. The only residentially zoned land was the microwave tower property. All other property was commercially zoned.

Chairman Smith inquired if a variance would be necessary if the rear property had been zoned commercial. Mr. Walsh stated that it was his understanding that the reason the applicant had to meet the setback requirements was because it was a structure. If it had only been surface parking, the setback would only be 4 ft.

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

Page 244, April 8, 1980
GREENSBORO ASSOCIATES

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-D-039 by GREENSBORO ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of parking structure to 11 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 4-407) on property located at Pinnacle & Greensboro Drive, tax map reference 29-3(15)2, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

RESOLUTION

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 8, 1980; 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-4.
3. 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 problems.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 245, April 8, 1980, Scheduled case of

11:30 A.M. TAMARON INVESTMENTS, appl. under Sect. 18-401 of the Ord. to remove building restriction from a recorded outlet by allowing lot width of 129.11 ft. (175 ft. min. lot width for corner lot req. by Sect. 3-106), located Maple Branch Rd., Countryview Subd., 86-1((1))pt. 2, Springfield Dist., R-1, .9205 acres, V-80-S-040.

Mr. James Birch, President of the corporation which was the general partner of Tamaron Investments, informed the Board that some of the things related on the staff findings of fact were not accurate. He stated that he was the owner of the property and not Mr. Kincheloe. The lot area was 40,000 sq. ft., the amount required for a one acre lot. The frontage was 322 ft. along Maple Branch Road. Mr. Birch stated that the lot originally was part of a lot he had purchased along Clifton Road. His engineer drew up the plans for a subdivision of four lots which was rejected because the County required a 15 ft. dedication. Mr. Birch stated that Maple Branch cut in very sharply. When the County took 15 ft. from Clifton Road, it moved his measurement and then they wanted 15 ft. off of Maple Branch Road for the dedication. Mr. Birch stated that he lost 45 ft. in frontage. Other than the required frontage for Clifton Road, the lot meets all other requirements of a one acre lot. It had a perc test which had been given approval for a four bedroom house. Mr. Birch stated that he had heard that if the County took the land, you were entitled to some consideration. Mr. Birch informed the Board that he had lost the land and indicated that he had to donate the land to the County, but it was not by choice. He stated that the people do not want a wide road in this area. The 15 ft. would be used as if still part of the lot.

Mr. Birch stated that there was 342 ft. of frontage but because of the placement of the perc test along Clifton Road, it took up about 100 sq. ft. The septic has to be located 10 ft. from the lot line and 10 ft. from the house. He stated that 130 ft. was the closest the house could be to the road. The house would be facing Maple Branch Road. Mr. Birch requested that the variance be granted so the lot could be utilized as a building lot.

Chairman Smith inquired about the ownership of the property. Mr. Covington stated that the land records indicated Gordon Kincheloe as the owner and that was all he had to go on. Chairman Smith asked for a copy of the title and Mr. Birch presented him with it. Chairman Smith stated that there was no doubt that Tamaron Investments was the owner of

Page 246, April 8, 1980
TAMARON INVESTMENTS
(continued)

the property as the taxes had been paid and stated that the record would show Tamaron Investments as the legal owners of the property.

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

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TAMARON INVESTMENTS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-S-040 by TAMARON INVESTMENTS under Section 18-401 of the Zoning Ordinance to remove building restrictions from a recorded outlot by allowing lot width of 129.11 ft. (175 ft. minimum lot width for corner lot required by Sect. 3-106) on property located at Maple Branch Road, tax map reference 86-1((1))pt. 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 April 8, 1980; 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 .9205 acres.
4. That the applicant's property is exceptionally irregular in shape including narrow and has frontage on two roads; and has an unusual condition in the requirement for dedication along Clifton Road and Maple Branch Road.

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

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

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

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

Mr. Yaremchuk seconded the motion.

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

Page 246, April 8, 1980, Scheduled case of

11:45 A.M. BARBARA A. COUNTS, appl. under Sect. 3-303 of the Ord. to allow family day care home, located 1646 1st Place, El Nido Subd., 31-3((3))(3)1, Dranesville Dist., R-3, 11,025 sq. ft., S-80-0-013.

As a variance was necessary to the bulk regulations for the R-3 zoning district, the Board deferred the special permit application to allow the applicant the opportunity to file for the variance. It was the consensus of the Board to defer the application for a period of thirty days.

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Page 246, April 8, 1980, Scheduled case of

12:00 NOON CHRISTOPHER W. WALKER, JOHN NEWMAN SEXTON, DVM & CHARLES BALFOUR PATTON, DVM., appl. under Sect. 4-203 of the Ord. to allow veterinary clinic, located 5427 Backlick Rd., 80-2((1))9, Annandale Dist., C-2, 0.991 acres, S-80-A-002. (Deferred from March 25, 1980 as Board of Supervisors deferred rezoning application.)

Mr. Bernard Fagelson, attorney for the applicants, informed the Board that on April 1st, the Board of Supervisors had approved the rezoning application subject to certain profers. The proposed use is for a veterinary clinic. The clinic is on a parcel of land now zoned C-2 bounded on both sides by C-2 and at the rear by industrial. The property is located on BacklickRoad. The site plan has been proffered. The only stipulation was that the Board of Supervisors had required the final site plan to be returned prior to final approval. The veterinary clinic would be in strict compliance with the Ordinance which permitted it. The hours of operation would be 10 A.M. to 7 P.M., seven days a week. The doctors and staff would be at the clinic at 8 A.M. but they would not see clients until 10 A.M. However, if someone wanted to drop by and leave a pet, they would be able to do so. Mr. Fagelson stated that the area could use this type of service. There was no opposition to the clinic.

Mr. Thomas J. D. Williams, Jr. of 7096 Leewood Forest Drive spoke in support of the clinic. He stated that this was a high density area. He stated that Mr. Fagelson had met all of their concerns. Therefore, on behalf of the Leewood Forest Civic Association and the North Springfield Civic Association, he voiced support of the application.

There was no one else to speak in support of the application and no one to speak in opposition. However, the Board was in receipt of a letter from Mr. Kamether who was in opposition to the use.

Page 247, April 8, 1980 Board of Zoning Appeals
CHRISTOPHER W. WALKER, JOHN NEWMAN SEXTON, D.V.M.
& CHARLES BALFOUR PATTON, D.V.M.

R E S O L U T I O N

Mr. DiGiulian made the following motion

WHEREAS, Application No. S-80-A-002 by CHRISTOPHER W. WALKER, JOHN NEWMAN SEXTON, D.V.M. & CHARLES BALFOUR PATTON, D.V.M. under Section 4-203 of the Fairfax County Zoning Ordinance to allow veterinary clinic on property located at 5427 Backlick Road, tax map reference 80-2((1))9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 8, 1980 and deferred from March 25, 1980; 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-2.
3. That the area of the lot is 0.991 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

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 CHRISTOPHER W. WALKER, JOHN NEWMAN SEXTON, DVM
 & CHARLES BALFOUR PATTON, DVM
 (continued)

Board of Zoning Appeals

RESOLUTION

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 7:00 P.M., seven days a week.
8. The number of parking spaces shall be 21.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 248, April 8, 1980, Recess

At 1:15 P.M., the Board recessed for a short period of time. The Board reconvened the meeting at 1:35 P.M. to continue with the scheduled agenda.

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Page 248, April 8, 1980, Scheduled case of

12:15 P.M. THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, appl. under Sect. 3-303 of the Ord. to permit operation of a church, located 1911 Prices Lanes, Mallinson Subd., 111-1((1))2, Mt. Vernon Dist., R-3, 317,988 sq. ft., S-80-V-003. (Deferred from February 19, 1980 for Notices and from March 18, 1980 for viewing of property and full Board in order to make decision.)

Mr. James Rees, an attorney, represented the church. For testimony regarding the public hearing, please refer to the verbatim transcript on file in the Clerk's Office.

Page 248, April 8, 1980
 THE CHURCH OF JESUS CHRIST
 OF LATTER-DAY SAINTS

Board of Zoning Appeals

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-V-003 by THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS under Section 3-303 of the Fairfax County Zoning Ordinance to permit operation of a church on property located at 1911 Prices Lane, tax map reference 111-1((1))2, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notices to the public and a public hearing by the Board of Zoning Appeals held on March 18, 1980 and deferred for decision until April 8, 1980 and deferred from February 19, 1980 for notices; and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 317,988 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

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 seating capacity shall be 317.
- 8. The hours of operation shall be normal church related activities.
- 9. The number of parking spaces shall be 207.
- 10. No trees shall be disturbed within 170 ft. of the northern right-of-way line of the parkway.
- 11. No trees or grading in any manner shall be performed within 25 ft. of Prices Lane southern right-of-way line. Additional screening and supplemental plantings shall be provided along Prices Lane at the discretion of the Director of Environmental Management.
- 12. Means of ingress and egress shall be via Lucia Lane.

Mr. DiGiulian second
ed the motion.

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

Page 249, April 8, 1980, After Agenda Items

A-Z Secretarial Service: The Board was in receipt of a request for an extension of a special permit granted April 6, 1979 to A-Z Secretarial Service for a school of special education. Mr. Barnes moved that the Board grant a six month extension of the special permit. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

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Page 249, April 8, 1980, After Agenda Items

JUNCAL: The Board was in receipt of a request for an extension of the variance granted on the Juncal property. Mr. Hyland moved that the Board grant a six month extension of the variance. Mr. Barnes seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

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Page 249, April 8, 1980, After Agenda Items

ROBERT E. SHOUN: The Board was in receipt of a request for an out-of-turn hearing on a variance application of Mr. Robert E. Shoun. It was the consensus of the Board to grant the request and the hearing was scheduled for May 13, 1980 at 11:30 A.M.

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Page 249, April 8, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of BZA Minutes for April 17, 1979 and April 24, 1979. Mr. Barnes moved that the Minutes be approved as amended. Mr. Hyland seconded the motion and it passed unanimously.

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Page 249, April 8, 1980, After Agenda Items

R. M. CARRERA: The Board was in receipt of a letter asking for clarification of the Board's motion for V-301-77 granted to Mr. R. M. Carrera on December 13, 1977. Ms. Kelsey explained to the Board that the hearing on the variance application, the Board had passed a condition that no more than two driveways would be used for the development. The citizens opposed the variance application because of the traffic and the loss of trees. The engineer submitted a grading plan and a clearing plan. There are two driveways to the property line for lots 37B and 38. After it leaves the property line, it joins together for one common entrance. Ms. Kelsey stated that it was more than two driveways for the development.

Chairman Smith stated that Mr. Yaremchuk had made the original motion and the variance had been supported by Mr. Barnes and Mr. DiGiulian. He stated that the intent was very clear; only two driveways for the entire development.

Mr. DiGiulian stated that with respect to condition no. 3 of the resolution, the intent was no more than two driveways to serve the development. Mr. Covington inquired if that

Page 250, April 8, 1980, After Agenda Item
R. M. CARRERA
(continued)

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referred to the driveway that went all the way back or just the curb cut. Mr. Yates stated that the staff needed clarification. Mr. DiGiulian stated that it has to be connected in. Mr. Yates stated that the engineer felt that this plan served the intent of the BZA. Mr. DiGiulian stated that it did not serve the intent of the Board.

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Page 250, April 8, 1980, After Agenda Items

Formal Position of BZA on Sect. 18-108 on Refiling: Chairman Smith stated that there was no limit on refiling an application as far as time was concerned as long as it was a new applicant or a new appellant. He stated that would include a variance application also after there was a new owner. He stated that the Zoning Administrator wanted a formal resolution from the Board regarding their feelings on the matter.

It was the consensus of the Board members after discussing the matter, that a new application could be filed with no time limitation as long as it was a new applicant. The Board stressed the fact that the new applicant could not have been associated or connected with a previous application any way, either as an owner or an applicant.

Mr. Yaremchuk inquired if the Zoning Administrator had a problem with this position. Mr. Yates stated that he had no problem with anyone applying. Historically, the staff had applied the one year limitation to the property, i.e., rezoning applications.

// There being no further business, the Board adjourned at 2:10 P.M.

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

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: February 9, 1982
Date

Submitted to the Board on 2/5/82

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 15, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes (arriving at 10:40 A.M.); John Yarenchuk and Gerald Hyland (leaving at 4:00 P.M.).

The Chairman called the meeting to order at 9:40 A.M. and the Board convened into an Executive Session to discuss legal matters with the County Attorney's Office and the Zoning Administrator's staff. At 10:25 A.M. the Board reconvened into public session to continue with the scheduled agenda.

The Chairman called the scheduled 10 o'clock case of

10:00 ROBERT CLARK, appl. under Sect. 18-401 of the Ord. to allow
A.M. horse barn to remain 13.3 ft. from side lot line (40 ft. min. side yard req. for such structure req. by Sect. 10-105), located 11825 Shady Mill Lane, Hidden Valley Subd., 36-1((8))1, Centreville Dist.; R-E, 5.0 acres, V-296-79.

The Board was in receipt of a letter from Mr. Clark requesting a deferral of the hearing until May 6, 1980 as he was out of town. Mr. Melnick was at the hearing and stated his objections to the deferral. He indicated that this matter had been deferred previously as Mr. Donohue was out of town. Chairman Smith stated that it appeared that the matter was not being pursued in a timely manner. He stated that unless Mr. Clark appeared at the next scheduled meeting, the variance would be dismissed for lack of interest. Mr. Hyland moved that the Board grant the deferral until May 6, 1980 but notify Mr. Clark that the Board would not allow any further deferrals. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 (Mr. Barnes not being present at this time.)

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Page 251, April 15, 1980, Scheduled case of

10:10 H. HUGH & MARGUERITE PORTER, appl. under Sect. 18-301 of the
A.M. Ord. to appeal Zoning Administrator's decision that appellant's barrier is an obstruction to drainage in violation of Sect. 2-602), located 7100 Enterprise Avenue, Broyhill's McLean Estates, 30-1((12))145, Dranesville Dist., R-3, 12,728 sq. ft., A-80-D-004.

Mr. H. Hugh Porter of 7100 Enterprise Avenue in McLean had requested that all witnesses be sworn in before testifying. Mr. Gerald Hyland had every person who would testify stand and be sworn in. The appellant had presented an attachment to the appeal which stated:

"The applicant appeals the determination of the violation based on correspondence in the file, conversations with County employees and on the following grounds to wit:

1. The language of the ordinance as drafted is too vague, ambiguous, and incapable of definite interpretation as to be constitutional.
2. The ordinance is discriminatory between classes of property owners.
3. The determination of the Zoning Enforcement Agency is capricious, arbitrary and not based on facts and evidence.
4. The County itself is guilty of laches.
5. The County has refused to consider all evidence and facts available in the case.
6. The aggrieved property owner has complied with all instruction issued by County agencies.
7. The ordinance extinguished the right of recourse between property owners with implied covenants which run with the land from a grantor in common.
8. The County has totally disregarded the plat restrictions and Constitutional rights of the appellant.

For the above reasons the applicant respectfully requests that the matter be set for hearing and that all parties attending be duly sworn. It is also requested that the members and staff of the County involved in this matter appear and give testimony under oath.

The applicant requests that the cost be assessed the complainant and that my costs be returned to me."

Chairman Smith advised the appellant that the Board of Zoning Appeals was not the proper forum for some of his allegations and they would be eliminated from the Board's consideration. The Chairman stated that the Board would only consider items nos. 3, 4 and 5. Chairman Smith inquired if Mr. Porter had cleared the violation and was informed

by Mr. Porter that the alleged violation had not been cleared. Chairman Smith inquired if Mr. Porter had made any changes to the property since the last inspection and was informed that Mr. Porter was not aware of the date of the inspection. Chairman Smith inquired if Mr. Porter had made any changes to the property within the last 10 days and was informed he had not.

With respect to item no. 7 in the appellant's statement, Chairman Smith stated that was something the Board would have to consider based on the information before it and in the form of material documents and oral testimony. Item no. 8 about rights of the appellant and constitutional rights were not matters for the BZA. Mr. Porter stated that perhaps items no. 8 and 9 could be joined with item no. 3.

Chairman Smith asked the Zoning Administrator to present his case. Ms. Jane Kelsey of the Zoning Administrator's Office stated that the Porter property was located at 7100 Enterprise Avenue in Broyhill Estates Subdivision. Paragraph 1 of Sect. 2-602 stated that no building shall be erected on any land or contours of the land in any manner that would change or interfere with the drainage of such land. Ms. Kelsey stated that on May 3, 1979, a notice of violation was issued to Mr. Porter. Since that time various correspondence had gone between Mr. Porter, his neighbors and County staff. The property had been inspected by Mr. W. C. Smith from Design Review who was present at the hearing to answer any questions from the Board. Mr. Claude Kennedy of Zoning Enforcement had inspected the property and was also present at the hearing.

Ms. Kelsey stated that Mr. Nolan, an adjacent property owner, was present and would testify as to the barrier and problems caused by it. She further stated that there was one row of concrete blocks under the stockade fence. The fill and the blocks constituted a barrier and caused a climbing of water onto lot 228. Ms. Kelsey stated that Mr. Kennedy could testify as to how the property existed at the last inspection.

Mr. Claude Kennedy informed the Board that along with Mr. Smith and Ms. Kelsey, he had made an inspection of the subject property on April 9, 1980. The barrier was still in place. They had noted that it had rained the night before and water was standing in the rear yard of lot 228. This was at the point where the row of cement blocks were installed. In response to a question from the Chairman, Mr. Kennedy stated that he had not reinspected the property since the 9th. Three inspections had been made of the property: one on March 23, 1979; second on January 14, 1980 and the third on April 9, 1980. Chairman Smith inquired as to whether there had been any changes to the property since the inspections. Mr. Kennedy stated that the only change had been in a few weeks after the first inspection, the blocks were fashioned in a more permanent manner.

Ms. Kelsey next asked that Mr. W. C. Smith testify as to technical aspects of the drainage violation. Mr. Smith informed the Board that he was called to go out and investigate a complaint from the Nolan family. He stated that he had gone to the property with Mr. Kennedy and another inspector. Mrs. Nolan took them through the house and showed them water stains in the framing of the basement. He stated that the Nolans were afraid that the house would be flooded because of the water problem with the cement block barrier put in the drainage way. He stated that he walked out into the rear yard and there was a cinder block wall up with a polyethylene wrapping around it. Mr. Smith stated he then returned to his office to do some computations. With a 10 year storm, there would not be any obvious property damage resultant from the dam. He stated that there would be a nuisance of ponding water from the blockage which was evident from the photographs taken and several on-site visitations. Mr. Smith stated that the wet basement was unique in that type of soil because it was notorious for a high water table. Mr. Smith stated that he was of the opinion that there would be no property damage but more of a nuisance factor. However, he did state that it was blocking the drainage way that was there at the present time. Chairman Smith inquired if Mr. Smith felt this to be a violation of Sect. 2-602 of the Ordinance and he responded that it was.

Mr. Hyland inquired of Mr. Smith that if the blocks were removed whether it would eliminate the ponding. Mr. Smith stated that there had been some fill on the downhill side of the wall. In addition, some shubbery had been planted. He indicated that the wall would have to come down and the water would have to get through the fill. Mr. Hyland inquired as to how much fill was there. Mr. Smith stated that there were 8 inch blocks with about 2 inches submerged underground leaving 4 to 6 inches of material blocking the drainage. Mr. Smith stated that he had not seen any water draining through there as the polyethylene was causing it to keep from draining.

Mr. Yaremchuk inquired if the block was in a crucial location as far as the drainage was concerned. Mr. Smith stated that it was. Mr. Yaremchuk inquired if it was feasible to turn the water parallel to the fence on the adjoining owners. He inquired if the water drained toward the street. Mr. Smith stated that it did. Mr. Smith stated that on Mr. Nolan's property, there was a drainage easement. On Mr. Porter's property, there was a drainage covenant easement. He stated that engineering wise, it was feasible to backfill and run a drainage swale down along the property line. However, it would be a major grading job for both yards. Mr. Yaremchuk inquired if the swale had been created when

grading was done on both lots. Mr. Smith stated that it appeared that way but the files did not go back that far and they did not have the grading plan. Through observation, it appeared to be the natural drainage way. Mr. Smith stated that the drainage went to the west of Mr. Porter's house. Mr. Yaremchuk inquired if there was a swale in front of Mr. Porter's house. Mr. Smith stated that there was not a swale now but he thought that had been filled in. He stated that he had never saw the property in its original condition. He had seen Mr. Nolan's property in its original condition and the drainage swale was 20 to 25 ft. off the back of his house running the middle of his yard. Mr. Yaremchuk stated that it appeared the swale served several lots above Mr. Nolan and he was conducting the drainage through his property in accordance with the Ordinance. Mr. Yaremchuk inquired if people above the Nolan property had complained to the County. Mr. Smith stated that he had not received any complaints as it did not back up that far. Mr. Yaremchuk stated that people have to honor the drainage ways.

Ms. Kelsey submitted a copy of the plan which showed the swale running across the lots and indicating a 10 ft. easement running across lot 228. Mr. James J. Nolan of 1414 Audmar Drive stated that he was in agreement with the County's position. He stated that he had the Dewberry, Nealon and Davis engineering plans that were available to the Board for inspection purposes. He stated that the original drainage of the native land before any development had the water coursed along Mr. Porter's property line to Enterprise Avenue. The grading plan that the developer had submitted called for allowing that to continue. Mr. Nolan stated that when he had moved in several years ago, there was a storm in April. The water was coursing down towards Enterprise Avenue then. Since that time, there has been the construction of the dam and several additions to it. Mr. Nolan stated that the County did not bring out in their position the fact that Mr. Porter's land was quite steep. He stated that his land was quite flat. He stated that the possibility existed for the water to back up far enough to come in over the sill of the house.

With respect to options about where the water could be made to flow, Mr. Nolan offered three points. He stated that he had the original drainage computations for the two acre property and it indicated a rate of 5 cubic feet a second. Second, using Fairfax County's modern computations, it was another 5 cubic feet a second. Third, he stated that 4.9 cubic feet a second would fill his basement. Mr. Nolan stated that the development plans did show the course that the developer intended the water to flow. He stated that it was not pointed out that this was two acres of drains. The easement was shown on the plat. Mr. Nolan stated that he felt the only thing to do was to let the water run the course it was originally intended to go.

Mr. DiGiulian inquired whether prior to the barrier, had the water run down Mr. Nolan's lot to the Porter property and was informed it had. Mr. DiGiulian inquired as to when the barrier was constructed. Mr. Nolan replied that it was there when he bought his property but there had been several additions to it. It was recorded officially on February 24, 1979 when a major snow meltdown made the situation critical. The snow had built up against the fence and the wall and began a flooding situation. Mr. Nolan stated that he called the County emergency crew and they witnessed the flooding and suggested that the barrier be removed.

Mr. Hyland inquired about the ponding that occurred on Mr. Nolan's property and how close it had been to his residence. Mr. Nolan stated that the closest it had come was about 25 to 30 ft. from the house. Mr. Hyland inquired as to how much water. Mr. Nolan replied that it was 4 to 6 inches of water along the length of the barrier back into his yard spreading out 6 to 8 ft. With respect to other options, Mr. Nolan stated that if the water was made to go along the easement it would be 40 to 50 ft. from his residence instead of the 10 ft. it was now from his basement.

Mr. DiGiulian stated that the Board had a copy of the plat that showed lot 228. On lot 245, there was an easement covenant on Mr. Porter's property. Chairman Smith stated that there was a 5 ft. easement on the rear of each lot shown on the plat. It was determined that the west property line was the rear property line. Mr. Yaremchuk inquired if there was a swale at the rear property line. Mr. DiGiulian stated that Mr. Nolan had indicated that prior to the installation of the barrier, the water had run down the west side of the Porter property. There was a swale there at that time. Mr. Nolan stated that was correct and mentioned that water does not run uphill.

Chairman Smith called for testimony from Mr. Porter. Mr. Porter stated that he had received a portion of the County's position paper and wanted to respond to that paper. Mr. Porter referred to Item A, the background letter dated June 11, 1979, and informed the Board that he had only restored the contours of the land. He stated that the drainage easement was 5 ft. from his side fence. He stated that he had repaired a 8 to 12 ft. section after Mr. Nolan had torn down the back fence. According to Mr. Porter, a trench had been dug from Mr. Nolan's back yard into his back yard. Mr. Porter stated that the trench was dug by Mr. Nolan. He stated that Mr. Nolan had not let the water take its natural course. Mr. Porter informed the Board that the 5 ft. easement had been abandoned and there was no water coming down the rear 5 ft. of his property. On May 8,

1979, Mr. Porter stated that he responded to the notice of violation of May 2, 1979. On May 18, 1979, Mr. Kennedy wrote him in reference to that letter. Mr. Porter stated that on May 30, 1979, Mr. Coons wrote him but did not give him any alternatives. Mr. Porter stated that Mr. Smith had indicated that he would have to regrade the entire back yard and side yard to the same level that existed in Mr. Nolan's yard. Mr. Porter stated that his letter was never answered until six months later when an apology was made and the matter referred to another County agency. Mr. Porter stated that since he had not heard from the County in more than six months, he had assumed that the County had acted favorably in his behalf.

With regard to Item 6 of the position paper that a barrier clearly obstructed drainage and that blockage could cause ponding, Mr. Porter stated that was in direct conflict with what had been stated at the hearing. He stated that his entire yard had been destroyed. He indicated that the problem had not existed until Mr. Nolan began the trenching. The fence existed in 1972 and rested on the ground and had done so for many years. He stated that the unsigned letter from Chairman Herrity had never been received as it had never been approved for release but it had been released to various County officials. Mr. Porter stated that the letter was erroneous. He stated that no such swale existed. He stated that the development plan given to the Board was out-of-date. None of the improvements or additions were shown on the map and it did not show the additions to the upper properties. Mr. Porter informed the Board that the change in drainage had been caused by uprooted trees. He indicated that this was not a minor drainage problem as stated by Mr. Herrity's letter.

Mr. Porter stated that because of the many inconsistencies and administrative errors, that the matter should be dismissed. He stated that Mr. Nolan's destruction of property had changed the contours of the land. Mr. Porter stated that it was apparent that conversion to a porous from a non-porous surface would result in a detriment to the lower property owners. He stated that the County would not apply the Ordinance to protect his property. Mr. Nolan had ditched and trenched the rear and side yard in the shape of a "Y". Mr. Porter stated that without any notice, Mr. Nolan had destroyed portions of the fence and entered into his yard and dug a trench to channel water. He stated that this caused a sluice way to develop. He stated that action had eroded his property as well as causing changes to Mr. Nolan's property. Mr. Porter stated that Mr. Nolan had a tool shed on the property line which threw additional water onto lot 245. He stated that he had been caused to spend a great deal of money to restore his property. He had planted shrubs as required by the County and placed a block under the fence to retain the soil. Mr. Porter informed the Board that the appeal was quite costly. He stated that water runs into his lot and causes ponding and erosion. He stated that Mr. Nolan had done nothing to remedy the problems that he had caused.

Mr. Porter requested the Board to withdraw the notice of violation. He added that Mr. Smith had indicated that 4 to 6 inches of block was shown above ground. Mr. Porter stated that was incorrect. The block was underneath the fence and it was completely covered. He stated that the 4 to 6 inches shown was on Mr. Nolan's property where he had ditched the trench. Mr. Porter stated that the swale on Mr. Nolan's property was caused by a willow tree that had been blown down in a storm in 1973 which fell across his fence and damaged his roof. Mr. Marshall had been the owner of the property at that time. He had indicated that his insurance would pay for the damage but it had not. Mr. Marshall had the tree taken out but he never replaced all of the soil.

Mr. Porter stated that the remark made during testimony that there had been additions to the dam were incorrect. He stated that there was not any obstruction. There was never any cinderblocks. Mr. Porter asked that his wife be allowed to testify since the matter had been raised as to water damage in Mr. Nolan's basement.

Mr. Hyland inquired of Mr. Porter as to whether the photographs indicating the trenching had been shown to the County staff. Mr. Porter stated that he had attempted to show the photos but the staff had only glanced at them and ignored them. Mr. Hyland inquired as to what civil action Mr. Porter had taken with respect to the fence and the trenching. Mr. Porter indicated that he called Mr. Nolan. Mr. Nolan had stated that he would replace the fence. Mr. Porter stated that he then called the police and was advised that he could take the matter to the Magistrate's Office. Mr. Porter stated that Mr. Nolan did provide slats for the fence but he had repaired it himself. Mr. Porter stated that Mr. Nolan had dug a trench through the snow. Mr. Hyland inquired as to whether the trenching had ever been corrected. Mr. Porter stated that he had filled it in and had it tilled. That had been the fill Mr. Smith referred to earlier in his testimony. Mr. Porter stated that the shrubs had been planted at the suggestion of a County engineer. In the County's letter to Mr. Nolan, he had been advised to plant vegetation. He had been advised that the swale was caused by a lack of vegetation.

Mr. Hyland inquired as to how the ponding at the fence could be corrected. Mr. Porter stated that it could be corrected at Mr. Nolan's expense of time and money by filling in the ponding area. Chairman Smith asked for clarification as to when the tree had fallen. Mr. Porter stated that it happened during a storm under a different property owner.

Chairman Smith inquired as to whether there had been a swale under the fence at the time Mr. Nolan moved into his property. Mr. Porter stated that there had always been drainage but it was gentle. The trenching by Mr. Nolan had funneled the water into a sluiceway which caused a severe problem. Mr. Porter stated that Mr. Nolan dug two ditches through his property which connected to a channel in the center and dug it through the middle of the yard and joined it to the break in the fence and to a ditch in the Porter property. Chairman Smith inquired as to how deep the ditch had been and was informed it was ten inches. This had occurred in February of 1979. In order to restore the soil, Mr. Porter stated that if he had not put something under the fence, there would not have been anyway to fill anything. It had been referred to as a dam. Mr. Porter stated that it was only a retainer to restore the contours of his property. Chairman Smith inquired if the elevation was any higher than it had been originally and was told no.

The next speaker was Mrs. Marguerite Porter of 7100 Enterprise Avenue. She stated that in conversation with Mrs. Nolan, she mentioned the drain was stopped up in her basement. The water had stopped up in her washer. They had called Roto Rooter and it had been found that the drain was stopped up. Mrs. Porter stated that the eaves of the Nolan house did not extend out over the stairwell. The water pours off of their roof and into the stairwell. Mrs. Porter stated that no changes had been made to the cinderblocks since February. Mrs. Porter stated that Mr. Coons had called and apologized for the unsigned letter from Chairman Herrity. She stated that if the Board were to review the letter, it was a bureaucratic maze. Mrs. Porter informed the Board that she had spent the better part of her life upholding the law.

During questioning, Mr. Smith stated that there had not been any changes in contours on Mr. Nolan's property. Chairman Smith inquired of Mr. Nolan as to why he had removed a portion of the fence. Mr. Nolan responded that he had removed four slats because of the snowstorm of February 24th. He indicated that was the second flooding. On the last night when the snow melted down, he stated that he had tried to push out the block. It was frozen. Mr. Nolan stated that he and his son pulled the block out which let the water flow. He then removed four slats from the fence. Mr. Nolan stated that it was an emergency as his basement was flooding. Mr. Hyland inquired as to whether Mr. Nolan did any of the trenching mentioned earlier. He stated that he had. Mr. Nolan stated that there was a foot of snow in his yard. He trenched it to get rid of the standing water. The snow was melting. This took place in February of 1979. He stated that he took the action to get rid of an immediate water problem. Mr. Hyland inquired if the trench still existed. Mr. Nolan stated that he had only trenched through the snow and not the ground so it no longer existed. He emphasized that he had not disturbed the ground at all.

Mr. Hyland inquired of Mr. Porter as to whether the trenching had gone into the ground at all. Mr. Porter responded that on Mr. Nolan's property he was not sure how deep the trenching had been. However, on his property, the trench had been dug into the ground. Chairman Smith inquired if that was due to the fact that Mr. Nolan had pulled the cinderblock out. Mr. Porter stated that there was no cinderblock obstructing any damage. Mr. Porter stated that Mr. Nolan bought four slats but it had been more than four slats removed. He further stated that the slats had been struck with some force in a fit of temper. Mr. Porter stated who would throw water on a neighbor and then appeal himself as having clean hands.

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

Mr. Yaremchuk moved that the Board of Zoning Appeals sustain the position of the Zoning Administrator. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 1 (Mr. Hyland).

Page 255, April 15, 1980, Scheduled case of

10:45 A.M. SPRINGFIELD RENTAL CRANE CO., INC. appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that storage of construction equipment on subject property is not a non-conforming use, located 10000 Van Thompson Rd., 105-2((1))8, Springfield Dist., R-1, 5.1859 acres, A-336-79. (Deferred from January 22, 1980 at the request of the applicant and from March 4, 1980 for notices.)

Mr. Robert Lawrence, an attorney in Fairfax, represented the applicant. For testimony received at the public hearing, please refer to the verbatim transcript on file in the Clerk's Office.

At the conclusion of the public hearing, Mr. Barnes moved that the Board of Zoning Appeals overrule the Zoning Administrator. Mr. DiGiulian seconded the motion. During discussion, Chairman Smith inquired as how Mr. Barnes proposed to limit the equipment and the matter of the barn. Mr. Barnes stated that it was good that the barn existed because Mr. Thompson could house a lot of equipment in it which would help the neighbors. Mr.

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Barnes stated that he proposed to keep the conditions offered by Mr. Lawrence. Mr. DiGiulian inquired if that was the screening and the parking in the rear. Chairman Smith asked them to be more specific. Mr. Barnes stated that Mr. Lawrence had stated that they would put in some plantings and put all of the equipment in the barn and in the back of the property.

Mr. Yates stated that he would appreciate some guidance on the amount of equipment that Mr. Thompson would be allowed to store on the property. Mr. Barnes stated that he had room enough for five or six pieces of equipment. Mr. Yates stated that if business was good, Mr. Thompson might have 100 bulldozers there.

Mr. Lawrence informed the Board that his client would be willing to stipulate to six cranes and two trucks with no more increase in number.

The vote on the motion to overrule the Zoning Administrator passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Mr. Yaremchuk).

Page 256, April 15, 1980, Scheduled case of

11:15 REALITY GOSPEL CHURCH, appl. under Sect. 3-103 & 3-203 of the
A.M. Ord. to allow addition in land area for parking for existing church, located
5937 Franconia Rd., 81-4((3))1A & 1B, Lee Dist., 3.666 acres, R-1 & R-2,
S-269-79. (Deferred from December 11, 1979; February 5, 1980 and March 4, 1980
for revised plats on parking.)

11:15 REALITY GOSPEL CHURCH, appl. under Sect. 18-401 of the Ord. to
A.M. allow other than dustless surface for additional parking for existing church
(dustless surface req. by Sect. 11-102), located 5937 Franconia Rd.,
81-4((3))1A & 1B, Lee Dist., R-1 & R-2, 3.666 acres, V-316-79. (Deferred from
December 11, 1979; February 5, 1980 and March 4, 1980 for revised plats on
parking.)

Reverend Cox represented the church. Chairman Smith inquired if the revised plat answered Mr. DiGiulian's concerns. Mr. DiGiulian stated that he thought it did. The plat indicated a total of 217 parking spaces.

There being no further questions on the matter, the Chairman closed the public hearing.

Page 256, April 15, 1980
REALITY GOSPEL 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-269-79 by REALITY GOSPEL CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to allow addition in land area for parking for existing church on property located at 5937 Franconia Road, tax map reference 81-4((3))1A & 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 April 15, 1980 and deferred from December 11, 1979; February 5, 1980 and March 4, 1980; 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 & R-2.
3. That the area of the lot is 3.666 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

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

R E S O L U T I O N

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

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

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

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

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

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

8. The number of parking spaces shall be 200.

9. Screening adjacent to the properties designated on the plat as Latham and Baldwin shall be provided to the satisfaction of the Director of Environmental Management to keep the glare of headlights from these properties.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

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REALITY GOSPEL CHURCH
V-316-79

With respect to the variance to the dustless surface requirement, Mr. DiGiulian stated that both Mr. Latham and Mr. Alexander had stated that dust blew across their property from the church. For that reason, Mr. DiGiulian stated that he would be opposed to granting the variance.

Mr. Hyland stated that these matters had come up prior to his appointment on the Board of Zoning Appeals. Chairman Smith inquired as to the reason for asking for the dustless surface. He stated that the Board had allowed gravel at the church as the ground would sustain it. He informed the Board that it had granted a variance to the dustless surface to Mrs. Shouse a year ago. The gravel would allow some runoff but the majority is absorbed in the ground. Chairman Smith stated that this was a cost factor. He indicated that the general trend was to do without asphalt if possible.

Mr. Hyland stated that he had raised the question as to the use and the use of the building at Wolftrap would be far greater than at the church. He stated that he had no problem with granting a variance for the church.

Reverend Cox informed the Board that the church did not care about the variance. They had applied for it because they were told that was what the County wanted. Mr. DiGiulian stated that the Ordinance required a dustless surface. Mr. Hyland inquired if the staff had suggested that the Board grant the variance and was informed by Mr. Covington that it had not. Chairman Smith stated that it had been a Site Plan request.

Page 257, April 15, 1980
REALITY GOSPEL CHURCH

R E S O L U T I O N

In Application No. V-316-79 by REALITY GOSPEL CHURCH under Section 18-401 of the Zoning Ordinance to allow other than dustless surface for additional parking for existing church (dustless surface required by Section 11-102) on property located at 5937 Franconia Road, tax map reference 81-4((3))1A & 1B, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 15, 1980 and deferred from December 11, 1979; February 5, 1980 and March 4, 1980; 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 & R-2.
3. The area of the lot is 3.666 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. A dustless surface shall be provided to 25 ft. into the property from the existing right-of-way line at the easternmost entrance to Franconia Road.

Mr. Barnes seconded the motion.

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

Page 258, April 15, 1980, Scheduled case of

11:30 NEIL & CATHERINE McDONALD, appl. under Sect. 3-303 of the Ord.
A.M. to amend S-156-79 for antique shop in older structure to permit deletion of lots 5 & 6 (8,078 sq. ft.) from the special permit, and to extend hours of operation to include Sunday afternoons, located 1500 Chain Bridge Road, West McLean Subd., 30-2((7))(2)1 - 6, Dranesvilles Dist., R-3, 22,762 sq. ft., S-80-D-018.

&

11:30 NEIL & CATHERINE McDONALD, appl. under Sect. 18-401 of the Ord.
A.M. to allow garage and carport to remain 0.4 ft. from new side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1500 Chain Bridge Road, West McLean Subd., 30-2((7))(2)1 - 4, Dranesville Dist., R-3, 14,684 sq. ft., V-80-D-052.

Mr. Neil R. McDonald of 1414 N. Jackson Street in Arlington, Va. informed the Board that the antique shop was a use just recently granted for property in McLean. He stated that he and his wife owned the property at 1500 Chain Bridge Road, lots 1 through 6. The variance and the reduction of the land in the special permit were tied together. Mr. McDonald stated that it concerned the moving of an existing house one block away to this location. He stated that he wished to move the older structure which would require a reduction in the side yard.

The other part of the special permit request was for an extension of the hours of operation for the antique shop. He stated that based on their experience of operation since last October, they were now requesting hours of operation for Sunday afternoons.

Mr. McDonald stated that with respect to the variance, it had been their intent to add onto the existing dwelling and live there. However, he had to drop that variance because the architectural plan involved hooking onto the garage which was only 9 ft. from the property line. In order to simplify matters, the variance was dropped and the McDonalds applied solely for the special permit.

Mr. McDonald informed the Board that the older structure he wanted to relocate to this property was built in 1923 on Ingleside Avenue and was part of the property owned by Meadowbrook who owned the whole block across Buena Vista Avenue. Mr. McDonald stated that he would like to save the old house and move it onto lots 5 & 6 of his property in order to live there. He stated that his wife runs the antique shop which had been her intent all along. He stated that she would like to live there and manage the shop and the three young children all at the same time. As it was now, the McDonalds lived in Arlington and the children are in school there. Mr. McDonald stated that this was a matter of convenience. He stated that they were encouraged by the reception from the people in McLean.

With regard to the extension of hours of the antique shop, Mr. McDonald stated that originally it had been their intent not to operate on Sundays as they needed a day off. However, on Sundays they have to be at the property in order to unload new antiques and to take out and store antiques. What has occurred is that people who have heard about the shop have driven by and asked if they were open. They start looking around and find something they want to buy. Mr. McDonald stated that it had been a mistake not to request Sunday hours originally. He stated that the extension of the hours would not result in any intensification of the use.

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Mr. McDonald stated that the primary reason for these applications was to move the older house which would now make life much easier. He stated that it would be an asset to the community. In response to questions from the Board, Mr. McDonald stated that they planned to live in the house. He stated that they did not plan to expand the antique shop into this other house. It would be used for living purposes only.

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

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-D-018 by NEIL R. & CATHERINE McDONALD under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-156-79 for an antique shop in older structure to permit deletion of lots 5 & 6 (8,078 sq. ft.) from the special permit and to extend hours of operation to include Sundays, on property located at 1500 Chain Bridge Road, tax map reference 30-2((7))(2)1 - 6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 15, 1980; and

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

1. That the owners of the subject property are the applicants.
2. That the present zoning is R-3.
3. That the area of the lot is 22,762 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall include Sundays from 12:00 P.M. to 9:00 P.M.

8. All other conditions of S-156-79 not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

R E S O L U T I O N

In Application No. V-80-D-052 by NEIL R. & CATHERINE McDONALD under Section 18-401 of the Zoning Ordinance to allow garage and carport to remain 0.4 ft. from new side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1500 Chain Bridge Road, tax map reference 30-2((7))(2)1 - 4, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 15, 1980; 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 14,684 sq. ft.
4. That the applicant's property has an unusual condition in that the approval of the deletion of lots 5 and 6 from the special permit would reduce the size of the original special permit.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 260, April 15, 1980, Scheduled case of

11:50 A.M. JAMES H. TICKLE, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport to 2.8 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 3309 Campbell Dr., Burgundy Village Subd., 82-2((13))143, Lee Dist., R-4, 7,275 sq. ft., V-80-L-041.

Mrs. Virginia Tickle of 3309 Campbell Drive informed the Board that her property had a very shallow lot. The house was small with only three bedrooms. Mrs. Tickle stated that she needed the space. She stated that there were other houses in the area with construction closer than what she was proposing. She stated that she and her husband had owned the property since November the year before. She stated that they only wanted to enclose the existing carport.

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

RESOLUTION

In Application No. V-80-L-041 by JAMES H. TICKLE under Section 18-401 of the Zoning Ordinance to allow enclosure to carport to 2.8 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at 3309 Campbell Drive, tax map reference 82-2((13))143, 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 15, 1980; 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 7,275 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property 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 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

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

Page 261, April 15, 1980, Scheduled case of

12:00 RICHARD J. DAVIS, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of garage addition to dwelling to 8.8 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6824 Jerome St., Lottsdales Estates Subd., 90-4((6))145, R-3, 11,045 sq. ft., V-80-L-042.

Mr. Richard Davis of 6824 Jerome Street in Springfield informed the Board that when he and his wife first moved into their house, they only had one child. Now they have 2½ children. The carport is 10½ ft. wide. Mr. Davis informed the Board that they started planning to build a garage at the time when it would have met the setbacks. Then the Board of Supervisors changed the requirements and the structure would no longer be legal. Mr. Davis stated that five of his neighbors were in support of this request and he had not heard from anyone in opposition.

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

RESOLUTION

In Application No. V-80-L-042 by RICHARD J. DAVIS under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.8 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 6824 Jerome Street, tax map reference 90-4((6))145, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

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R E S O L U T I O N

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 15, 1980; 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 262, April 15, 1980, Scheduled case of

12:10 P.M. RICHARD & LAURIE SEAL, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 15.5 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 3618 Woodburn Rd., New Hope Subd., 59-3((4))1A, Annandale Dist., R-1, 0.5150 acres, V-80-A-043.

Mr. Richard Seal of 3618 Woodburn Road informed the Board that his house only had a small attic. He stated that he needed additional living space and storage. The proposed addition would be on the west side of the house. The property has septic fields in the back. The side and the front would be the only area in which to build the addition. The most logical place was the side they had proposed to build as it required the least substantial variance.

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-80-A-043 by RICHARD & LAURIE SEAL under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.5 ft. from side lot line (20 ft. minimum side yard required by Section 3-107), on property located at 3618 Woodburn Road, tax map reference 59-3((4))1A, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 15, 1980; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 0.5150 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

R E S O L U T I O N

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 263, April 15, 1980, Scheduled case of

12:20 HENRY E. STRICKLAND, appl. under Sect. 18-401 of the Ord. to
A.M. allow enclosure of existing carport to 14.9 ft. from side lot line (20 ft.
minimum side yard required by Sect. 3-107), located 3035 Holmes Run Rd., Sleepy
Hollow Subd., 50-4((21))64, Mason Dist., R-1, 20,448 sq. ft., V-80-M-044.

Mr. Henry E. Strickland, Jr. informed the Board that he was the owner of the property on Holmes Run Road and resided there. He stated that he wished a 5.1 ft. variance to make a carport into a garage. He indicated that he needed to enhance the property and needed the additional storage. He presented the Board with letters from neighbors in support of his request. In response to questions from the Board, Mr. Strickland stated that he had owned his home for ten years.

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

Page 263, April 15, 1980
HENRY E. STRICKLAND

R E S O L U T I O N

In Application No. V-80-M-044 by HENRY E. STRICKLAND under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to 14.9 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107) on property located at 3035 Holmes Run Road, tax map reference 50-4((21))64, 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 15, 1980; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 20,448 sq. ft.
4. That the applicant's property has an unusual condition in that the property is substandard.

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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

Mr. Yarechuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 264, April 15, 1980, Scheduled case of

12:30 JOSEPH A. ROBERTS, appl. under Sect. 18-406 of the Ord. to allow
P.M. dwelling to remain 9.4 ft. from side lot line (12 ft. min. side yard req. by
Sect. 3-107), located 5129 Pheasant Ridge Road, 56-3((9))60, Springfield Dist.,
R-1(c), 23,422 sq. ft., V-80-S-045.

Mr. Joseph A. Roberts of 10403 Cleveland Street in Fairfax informed the Board that he was the owner of the property and represented the applicant, Cristland Corporation. He stated that he was asking for a variance due to the error in the building location. In response to questions from the Board, Mr. Roberts stated that the property was owned by the Cristland Corporation.

Mr. DiGiulian moved that the Board amend the application to read Cristland Corporation and Joseph A. Roberts. Mr. Yaremchuk seconded the motion and it passed unanimously.

Chairman Smith inquired if Mr. Roberts owned the corporation and was told he did not. Chairman Smith inquired if Mr. Roberts was the contract purchaser and was informed he was not. Chairman Smith asked Mr. Roberts to give the Board the background on the circumstances.

Mr. Roberts stated that the sub-contractor who was responsible for pouring the foundation had not done the stakeout correctly. This resulted in an error in the total setback for the side yard. The minimum total setback for the side yard was 40 ft.

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

Page 264, April 15, 1980
CRISTLAND CORPORATION
& JOSEPH A. ROBERTS

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. V-80-S-045 by JOSEPH A. ROBERTS & CRISTLAND CORPORATION (amended at hearing) under Section 18-406 of the Fairfax County Zoning Ordinance to allow dwelling to remain 9.4 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-107), on property located at 5129 Pheasant Ridge Road, tax map reference 56-3((9))60, 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 15, 1980; 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.

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

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

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

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 4 to 1 (Mr. Smith).

Page 264, April 15, 1980, Scheduled case of

12:45 MEADOW ASSOCIATES, T/A REGENCY RACQUET CLUB, appl. under Sect.
P.M. 3-3003 of the Ord. to permit continuation of existing commercial recreation
uses by removal of term, located 1800 Old Meadow Rd., 39-2((13))pt. C,
Dranesville Dist., R-30, 6.6617 acres, S-80-D-014.

Ms. Minerva Andrews, an attorney in Fairfax, represented the applicant. She stated that Mr. Staman and Mr. Gilbert were present to answer any questions the Board might have. Ms. Andrews stated that the Regency Racquet Club was located at 1800 Old Meadow Road in McLean. It was between McLean and the beltway. She stated that the club was bounded on one side by condominium units and on the other side by West Park. Ms. Andrews stated

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that the Board of Supervisors had granted a Special Exception for the use on March 27, 1978 for a period of two years. She stated that they were asking for a continuance of the existing facility to be continued under the existing conditions that had been approved with the Special Exception. Ms. Andrews stated that they were simply asking the Board of Zoning Appeals to remove the two year term that had been established by the Board of Supervisors.

Chairman Smith inquired as to when the Special Exception had been granted and Ms. Andrews responded March 27, 1978. Chairman Smith inquired if the applicant had asked for the extension prior to the expiration date and Ms. Andrews assured him that was correct. Chairman Smith inquired if the permit had been granted as a Special Exception by the Board of Supervisors, why was it now before the Board of Zoning Appeals. Ms. Andrews replied that it now came under the Special Permit section of the Zoning Ordinance. She stated that they were now asking for a Special Permit and they did not want any term on the permit. Chairman Smith inquired as to the reasoning for not putting a time limit on the permit. Ms. Andrews stated that at the time of the Special Exception, there had been some question as to whether the second building would be built. The staff felt that perhaps the residents would not need all of the facilities. She stated that the staff had not indicated why they placed a time limitation on the permit.

In response to further questions from the Chairman, Ms. Andrews stated that they had a membership of 902 and indicated that the facility was underused. Chairman Smith inquired if the membership was limited to the people living in the building. Ms. Andrews stated that 175 of the members were residents and 727 were non-residents. Of the 902 members, 642 had a tennis membership, 152 had an athletic membership and 105 had a social membership. Chairman Smith inquired if the Board of Supervisors had restricted the number of memberships to a maximum. Ms. Andrews stated they had not. Ms. Andrews stated that the club had done a survey and the low time was a total of 117 people using the facility with a high of 313 people on Easter Sunday. She stated that the average use was 213 people per day. The maximum would be 235 people at any one time. Ms. Andrews informed the Board that the club had indoor and outdoor courts. During the winter, the members used the indoor courts. She stated that the facilities were not going to produce a great many people at any one time. Chairman Smith inquired as to how many people the restaurant could seat. Ms. Andrews stated that the number was 75 people. Chairman Smith stated that the resolution of the Special Exception had a maximum of 235 people at any one time. He inquired if this number included the restaurant. Ms. Andrews stated that it had included the restaurant but informed the Board that it was not really a restaurant but merely a grill with a lounge or waiting room. Chairman Smith inquired if the maximum of 235 people had been an order of the Fire Marshal and Ms. Andrews stated she was not sure.

Mr. Yaremchuk stated that this was one of the best locations that he had ever seen for this type of facility. Ms. Andrews informed the Board that the staff report had the wrong non-residential use permit attached to it. She provided the Board with the correct one for the record.

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

Page 265, April 15, 1980 Board of Zoning Appeals
MEADOW ASSOCIATES T/A
REGENCY RACQUET CLUB

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-D-014 by MEADOW ASSOCIATES T/A REGENCY RACQUET CLUB under Section 3-003 of the Fairfax County Zoning Ordinance to permit continuation of existing commercial recreation uses by removal of term on property located at 1800 Old Meadow Road, tax map reference 39-2((13))C, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 15, 1980; 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-30.
3. That the area of the lot is 6.6617 acres.
4. That compliance with the Site Plan Ordinance is required.

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

RESOLUTION

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any 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 the Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. All other conditions set forth in the previous Special Exception shall remain. This special exception permitted 19 tennis courts, both indoor and outdoor; 5 squash and racquetball courts; 2 outside platform tennis courts; a steam room, exercise and physical fitness rooms, a whirlpool, a sauna; a prop shop; a film and video room; a nursery; a restaurant grill and a lounge. Maximum use of the facility will not exceed 235 at any one time with a maximum of 40 employees. The hours of operation will be 6:00 A.M. to 12:00 midnight, seven days a week. There are 120 parking spaces.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 266, April 15, 1980, Scheduled case of

1:00 ST. TIMOTHY'S CATHOLIC CHURCH, appl. under Sect. 3-103 of the
P.M. Ord. for addition of religious education & parish hall to existing church facilities, located 13807 Poplar Tree Rd., 44-4(1)8, Springfield Dist., R-1, 18.1680 acres, S-80-S-015.

Mr. William Donnelly, III, an attorney in Fairfax, represented the applicant. He stated that they proposed to construct a multi-purpose building which would be the third building situated on the 18.1680 acre site. He stated that the existing church and social hall had been built prior to the Zoning Ordinance requirement for a special permit. Mr. Donnelly informed the Board that the total facilities would be used seven days a week for normal church activities. He stated that the proposal met all of the listed standards and was compatible with the surrounding properties. The property was a large site and the new building would be set back at least 276 ft. from the nearest property line. In fact, there were several property lines that would be more than 300 ft. from the new structure. Mr. Donnelly stated that the proposed building would be compatible with the two existing buildings. Property on three sides of the 18 acre site were undeveloped. Mr. Donnelly asked that on behalf of the church and 1,000 families in the church, the Board approve the special permit.

In response to questions from the Board, Mr. Donnelly stated that the new building would be used for CCD classes, various parish programs, recreational activities and a gymnasium. Mr. Donnelly stated that the details were contained in the written statement submitted with the application. There would be 6 to 8 classrooms, a gymnasium, kitchen facility, an office or two and a storage area. It would be used by parish members and their guests. Mr. Donnelly did state, however, that the gymnasium and basketball court might be used by various other teams who were not members of the immediate parish.

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

RESOLUTION

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Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-S-015 by ST. TIMOTHY'S CATHOLIC CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit addition of religious education & parish hall to existing church facilities on property located at 13807 Poplar Tree Road, tax map reference 44-4(1)B, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 15, 1980; 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 18.1680 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal hours of church operation.
8. The number of parking spaces shall be 217.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

At 4:00 P.M., Mr. Hyland had to leave the meeting.

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Page 267, April 15, 1980, After Agenda Items

DAN & LAHONDA MORGAN, V-88-79: The Board was in receipt of a letter from Orlo C. Paciulli regarding a variance granted on June 19, 1979 to Dan & Lahonda Morgan to allow a subdivision into three lots, each of which would have a width of 6.05 ft. Mr. Paciulli's request was for the Board to approve a lot line change as it would be in the best interests of future homeowners. The total land area would increase from 3.81 acres to 4.13 acres but the conditions and justification of the original variance had not changed. The change in lot lines did not affect the lot width variance granted by the BZA. Mr. Paciulli asked the Board to approve the lot line change as a minor engineering change.

Chairman Smith was concerned about the change and felt that a public hearing would be necessary. However, he advised the Board it could defer the request until there was a full Board present.

Ms. Kelsey advised the Board that the engineer had asked the Zoning Office to approve the revised plat as a minor engineering change. She stated that they needed some guidelines from the Board as to what constituted a "minor" engineering change. Ms. Kelsey advised the engineer that the Zoning Office would have to review the minutes if the configuration of the lots had changed to determine if it had changed substantially or if the land area had changed. Ms. Kelsey stated that they had advised the engineer to go back to the BZA in a public hearing process. She stated that Mr. Paciulli disagreed with that decision and that was why he was before the BZA himself for a clarification.

Mr. Yaremchuk stated that this was a minor request. Since the engineer owned the adjoining property in which he was proposing to change lot lines, it was Mr. Yaremchuk's opinion that a public hearing would not be necessary. Mr. Yaremchuk stated that the engineer was not changing the variance but only the lot configuration.

Chairman Smith stated that the land area had changed and that would require a new hearing. Mr. Paciulli stated that the land area only changed by 2/10ths of an acre. Chairman Smith stated that the land area involved had changed which changed the resolution. He stated the Board could not amend the resolution without a public hearing.

Mr. Yaremchuk stated he was going to say something that had been bothering him and that was all the little rules cited by the Chairman. Mr. Yaremchuk stated that the Board spends a lot of time arguing over things that don't amount to a hill of beans. He stated that everything was not perfect. Chairman Smith indicated that now that Mr. Yaremchuk had his say, the Board could proceed. He stated that the Board could pursue it if it felt it had the authority to grant the request. Chairman Smith stated that any change in the lot area after a variance had been granted should not be allowed without a public hearing. He stated that he did not want to go into a lot of detail. Mr. Paciulli inquired if that was a policy of the Board and Chairman Smith informed him it was. He further stated that this was the only Board that could grant a variance. Chairman Smith stated that the variance had been pinned down to the original plat and the land area involved.

Mr. Paciulli asked the Board allow him to come back the following week when there was a full Board to try to resolve the matter.

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APPROVAL OF MINUTES: The Board was in receipt of Minutes of May 1, 1979 and May 8, 1979. Mr. Barnes moved that the Minutes be approved as amended. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 0 (Messrs. DiGiulian and Hyland being absent).

// There being no further business, the Board adjourned at 4:30 P.M.

By

Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: *February 2, 1982*
Date

Submitted to the Board on 1-26-82

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 22, 1980. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk and Gerald Hyland. (Mr. Barnes was absent).

Chairman Smith called the meeting to order at 10:15 A.M. and convened into an Executive Session with the County Attorney and Zoning Administrator. At 11:00 A.M., the Chairman reconvened the meeting to continue with the scheduled agenda.

SPRINGFIELD RENTAL CRANE CO., INC.: Mr. Hyland moved that the Board of Zoning Appeals reconsider its motion of April 15, 1980 in the appeal of Springfield Rental Crane Co., Inc. A-336-79, and that the argument be limited to a period of 30 minutes total. Mr. Hyland stated that arguments would be received both orally and in writing. Mr. DiGiulian seconded the motion. The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Yaremchuk). Chairman Smith scheduled the reconsideration for May 6, 1980 at 12:00 Noon.

// Page 269, April 22, 1980, Scheduled case of

10:00 A.M. EUGENE & MARY LUNDGREN, appl. under Sect. 18-401 of the Ord. to allow construction of 6 ft. high brick wall with 7 ft. high pillars within the req. front yard (4 ft. max. height for wall in front yard req. by Sect. 10-105) and within the corner triangle of the corner lot (obstructions to lateral vision above 3 1/2 ft. in hgt. & below 10 ft. in hgt. prohibited by Sect. 2-505), located 6368 Lynwood Hill Rd., Lynwood Subd., 31-1((17))46, Dranesville Dist., R-2, 16,122 sq. ft., V-340-79.

The Board was in receipt of a letter from Mr. Hal Simmons requesting the Board to defer the scheduled variance. Mr. DiGiulian moved that the Board allow the deferral and schedule it for July 1, 1980 at 10:00 A.M. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Mr. Barnes being absent).

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Page 269, April 22, 1980, Scheduled case of

10:10 A.M. L. RANDOLPH WILLIAMS, appl. under Sect. 18-401 of the Ord. to allow construction of 6 ft. high brick wall with 7 ft. high pillars with the req. front yard (4 ft. max. hgt. for wall in front yard req. by Sect. 10-105) and within the corner triangle of a corner lot (obstructions to lateral vision above 3 1/2 ft. in height & below 10 ft. in height prohibited by Sect. 2-505), located 6367 Lynwood Hill Rd., Lynwood Subd., 31-1((17))45, Dranesville Dist., R-2, 17,318 sq. ft., V-341-79.

The Board was in receipt of a request from Mr. Hal Simmons requesting the Board to defer the scheduled variance. Mr. DiGiulian moved that the Board allow the deferral and schedule it for July 1, 1980 at 10:10 A.M. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Mr. Barnes being absent).

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Page 269, April 22, 1980, Scheduled case of

10:20 A.M. D. B. JOHNSON, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 25.34 ft. from front lot line 8 ft. from side lot line & 21.33 ft. from rear lot line, (30 ft. min. front yard req. by Sect. 3-407), and to allow construction of a 9 ft. high retaining wall around the rear lot line (7 ft. max. height for a wall in rear yard req. by Sect. 10-105), located 6646 Hawthorne St., Bryn Mawr Subd., 30-4((11))2A, Dranesville Dist., R-4, 9,918 sq. ft., V-80-D-046.

Mr. D. B. Johnson of 920 Richard Drive in McLean informed the Board that the subject lot was a lot on which he wanted to build a new home. The lot has a rough terrain. It falls 19 ft. from the rear of the lot to the front. In addition, the land falls to the side lot lines. Mr. Johnson stated that the property was trapezoid and that it was awkward to place a rectangular house on such a lot. Mr. Johnson showed the Board a viewgraph to illustrate his points. Mr. Johnson stated that he did not believe there was any objection to his requested variance. He indicated that he had talked to all of his neighbors and they seemed to agree with the request. Mr. Johnson showed the Board a sketch of the square footage of the proposed home with the trapezoid shape of the lot. The result was that two corners hung over into the required setbacks. The other problem was that because of the contours of the property, the land fell very sharply off of two sides. Mr. Johnson stated that he wanted to move the house and have a sidewalk on the west side of the property.

Mr. Johnson informed the Board that the Planning Commission meeting the week before, they had passed an amendment to the Code which made the pipestem driveway subject to a 25 ft. setback. He stated that this would cut the proposed house in half. The previous setback

had only been 10 ft. He stated that he was not sure whether a variance being granted today would satisfy that requirement.

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Chairman Smith inquired as to why a 9 ft. retaining wall was necessary. Mr. Covington stated that it was not really 9 ft. Mr. Johnson stated that his property was 19 ft. below the street in the back. He indicated that if he did not do something, all of the water from the hill would run down into the house. In addition, in order to keep someone from falling over the edge, he would have to run the wall up 3 ft. along the edge. Mr. Johnson stated that he had included that in his variance request since he was not sure how the wall would be measured. Chairman Smith inquired if Mr. Johnson proposed to build the house and live there. Mr. Johnson stated that he planned to spend the next 20 years there.

There was no 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-80-D-046 by D. B. JOHNSON under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 25.34 ft. from front lot line; 8 ft. from side lot line and 21.33 ft. from rear lot line (30 ft. min. front yard required by Sect. 3-407; 10 ft. min. side yard and 25 ft. min. rear yard req. by Sect. 3-407) and to allow construction of a 9 ft. high retaining wall around the rear lot line (7 ft. maximum height for a wall in rear yard required by Sect. 10-105) on property located at 6646 Hawthorne Street, tax map reference 30-4((11))2A, 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 April 22, 1980; 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 9,918 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including trapezoid and has exceptional topographic problems.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Barnes being absent).

10:30 A.M. DONALD WALNES, appl. under Sect. 18-401 of the Ord. to allow subd. into two lots, one of which would have width of 32.95, (150 ft. min. lot width req. by Sect. 3-106), located 8130 Crestridge Rd., Fairwood Park Subd., 95-4((2))4, Springfield Dist., R-1, 5.3850 acres, V-80-S-041.

Ms. Nancy Walnes of 1818 Ivy Brook Road in Reston represented the applicant. She stated she was requesting a variance to the lot width requirement. She wanted to subdivide

Page 271, April 22, 1980
DONALD WALNES
(continued)

the property into two lots. The front lot would have 2 acres and the back lot on which they planned to build a house would have 3.385 acres. She submitted a diagram to the Board illustrating the plans. Ms. Walnes informed the Board that the property was very long. She stated that the front lot had been recorded but the back lot had not been. She stated that Crestridge Road would be up front. There would be a pipestem on the left of 290 ft. to the back lot. She informed the Board that there were neighbors on either side of the property. She further stated that it was her understanding that they could divide the property into five lots. However, they were only asking for two lots. She requested the Board to approve the variance.

In response to questions from the Board, Ms. Walnes stated that they had owned the property since May of 1979. She stated that it was their intent to live on the back 3 acres. She stated that they hoped to build in September.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 271, April 22, 1980
DONALD WALNES

Board of Zoning Appeals

RESOLUTION

In Application No. Y-80-S-041 by DONALD WALNES under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, one having width of 32.95 ft. (150 ft. minimum lot width required by Sect. 3-106), on property located at 8130 Crestridge Road, tax map reference 95-4(2)4, 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 22, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 5.3850 acres.
4. That the applicant's property is exceptionally irregular in shape, being long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yarenchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Barnes being absent).

10:40 A.M. ARTHUR & MARY MENKE, appl. under Sect. 18-401 of the Ord. to allow unenclosed porch to remain 0.5 ft. from side lot line (7 ft. min. side yard req. by Sect. 3-307 & 2-412), located 8306 West Blvd. Dr., Collingwood-On-The-Potomac Subd., 102-4(6)(6)19, Mt. Vernon Dist., R-3, 14,454 sq. ft., V-80-V-048.

Mr. Arthur Menke of 8306 West Boulevard Drive informed the Board that he had lived at that location for 11 years. He stated that the property had a very unusual characteristic. The property was a corner lot and was pie-shaped. The house was situated on the lot at an angle. Mr. Menke stated that according to Zoning, the lot did not have a back yard but had two side yards and two front yards. The side yard with the patio was very narrow and limited in its use being only 16 ft. Mr. Menke stated that the side yard faced the south and got the sun all day. He stated that this area was their only source of outdoor privacy. Mr. Menke stressed the fact that the patio had come with the house and was built under a prior Ordinance. The previous awning had also come with the house and Mr. Menke submitted a letter from their postman attesting to that fact.

Mr. Menke informed the Board that he had resurfaced the patio last year with real stone at the cost of \$1,000. The patio was situated 13 inches from the property line. However, the neighbors on that side had installed a wooden stockade fence which came to the edge of the awning. Mr. Menke stated that the previous awning had only covered part of the patio and had collapsed after a heavy rain storm. The awning had been repaired but it worried the applicants as it was a safety hazard. Mr. Menke stated that in 1978, he replaced the existing awning with a more stable one. He stated that his contractor had informed him that no permit was required to replace the awning. Mr. Menke apologized to the Board if he had done anything wrong. He explained that they had merely replaced the awning; however they had extended the length of the cover to the entire patio. Mr. Menke assured the Board that the awning had been put up in good faith. No objection had been raised by anyone. In fact, one neighbor had helped Mr. Menke remove a tree that was in the way of the awning cover.

Mr. Menke presented the Board with a petition signed by 35 residents who were in support of this application. In addition, there were 13 property owners to speak on his behalf. Several had taken off from work to help Mr. Menke with his request.

Mr. Menke stated that the awning was very safe and had a warranty. He stated that he had measured three inches of snow on it during the past season. It had also withstood the hurricane in the fall of 1979. Huge trees had gone down within ¼ mile but the awning remained in place. Mr. Menke stated that the awning was supported by six posts which were firmly set in the ground in front of the patio. There were six downspouts attached to the posts. Mr. Menke stated that it was a very attractive awning. It was a major improvement over the previous awning. Mr. Menke stated that after a period of two years, there was no sign of erosion whatsoever on the adjacent property. He presented pictures to the Board to substantiate his claim. Mr. Menke stated that the awning had saved him money as far as energy was concerned.

Mr. Menke stated that he worked very hard to maintain the property in a manner that the neighbors could be proud of. He emphasized that all he had done was replace an existing patio awning. He stated that the citizens association had given them the green thumb award for his effort in maintaining the property. Mr. Menke stated that he wanted to preserve this awning and asked the Board to approve the variance to allow it to remain 6 inches from the property line. Without the variance, it would hinder the use of this side yard.

In response to questions from the Board, Mr. Menke stated that the awning was very sound. He stated that he had not applied for a permit because he was misled by his contractor. So the awning had not been inspected by the County. He stated that he had received a violation for not obtaining a permit. Mr. Yaremchuk stated that if the Board approved the variance, the awning should be inspected by the building department to ensure its soundness.

Mrs. Menke informed the Board that they really use their patio a great in the summertime. She stated that they both worked and the weekend was the only time they had to relax outdoors with their friends. She stated that if they were not able to retain what they had worked so hard for, it would deprive them of the reasonable use of the land. Mr. Yaremchuk informed Mrs. Menke that from the pictures, the property was very lovely and indicated all of the work that had been done to it.

Chairman Smith inquired as to why the contractor had not gotten a building permit when he expanded the patio. Mr. Menke stated that he had been misled by the contractor's statement that since he was only replacing the awning a building permit was not necessary. Mr. Menke stated that he found out later that was wrong and stated that he was sorry he had not insisted the contractor take further steps. Chairman Smith inquired as to the size of the original awning and was informed it had been half the size of the new awning. Chairman Smith stated that the applicant might have had a right to replace the original awning that had been damaged in a storm but would not have been allowed to expand it. But he still would have been required to obtain a building permit.

Mr. Covington stated that he had tried to determine if the original awning had been in compliance with the Code but was not able to locate a building permit in the file. The last building permit had been for a garage a long time ago.

Mrs. Menke stated that they had not increased the width but only extended the patio in length. The original awning had been right on the property line previously. The present awning was narrower.

The following persons spoke in support of the application. Lt. Col. John Derek who lived across the street from the Menkes informed the Board that part of the problem the Menkes were having was a result of a dispute with the neighbors who live to the rear. Lt. Derek attested to the fact that the Menkes were fine neighbors. He stated that he had enjoyed their patio which was there when he moved into his house. He stated that the Menke's patio was the neighborhood gathering place and the Menkes often produce some outstanding parties there. He stated that the parties were always scheduled in such a way that they were not a nuisance to anyone in the neighborhood. However, a dispute occurred between the Menke children and the children of the neighbor at the rear. Chairman Smith interrupted Lt. Derek as the testimony was not relevant to the application. Lt. Derek stated that the awning was attractive and would enhance the neighborhood.

The next speaker in support was Mr. Don Childers who was an adjacent property owner at 8310 West Boulevard Drive. He stated that the awning was very attractive, well built and an asset to the house. In fact, Mr. Childers stated that in his opinion, the house would be much less attractive without it. To put a very small or shorter awning in that area would not be attractive and diminish the value of the property. In addition, Mr. Childers stated that there had not been any damage to the area. There was not any erosion as a result of the awning. He stated that the lawns of all the neighbors adjacent to the Menkes were very attractive.

An unidentified woman informed the Board that she had lived in the area for 17 years and the Menkes had been neighbors for 11 years. She stated that the awning was beautiful and it would be a shame to have to take it down. She stated that the Menkes were great neighbors.

The next speaker was Mr. Green who lived diagonally across the street from the Menkes. He stated that he had lived there for 13 years. He informed the Board that the house had been a rental property before the Menkes purchased it. The patio had existed with an awning which was quite deteriorated. The patio was deteriorated. Mr. Menke expanded the awning to replace the old one and expanded the patio to make it more beautiful. Mr. Green stated that the existing structure was very sound and enhanced the neighborhood.

Mr. Nicholas Ajay of 8312 Lilac Lane stated that he had lived near the Menkes since 1968 with four years off when he was overseas. He stated that people were beginning to add to their homes in this neighborhood. He stated that in the old days when you needed more room inside or outside the house, you just moved as it was cheap. Now, it was not possible to move anymore. He stated that they had to make additions to the property, both inside and outside. Mr. Ajay stated that all of the neighbors in the area valued their back yards. It was their private domain. He stated that the Menkes were handicapped by that since they did not have a back yard. He stated that they needed their own private domain. Mr. Ajay stated that as long as it was in good taste and not doing any real harm to anyone, the variance would be justified and should be granted.

The next speaker was Bill Cullen who lived five houses down from the Menkes. He stated that he had lived there since 1961. The house bought by the Menkes had been run down. There had been a death and other troubles within that house and it was a disgrace being located right on the corner. Mr. Cullen stated that Mr. Menke had taken the house when he bought it and made it a thing of beauty that all of the neighbors could be proud of.

Mr. James Mansfield of 8304 W. Boulevard Drive which was diagonally across from the Menkes stated that he had lived there since 1967. He stated that the Menke house had been run down previously. The Menkes had improved the overall condition immensely. Mr. Mansfield stated that he was pleased with the new awning and was pleased with the quality of the upkeep of the property.

There was no one else to speak in support. Mr. Paul R. Isbel, 8313 Ashwood Drive, spoke in opposition to the request. He stated that he objected to the awning. He stated that the purpose of the Zoning Laws and the setback distances were to provide privacy for people who owned houses adjoining each other. Mr. Isbel stated that he had a right to privacy in his yard. He felt that the awning and the congregations and so forth at the Menkes made it impossible for him to utilize his back yard. In addition, the drainage of the awning flowed down through his yard. He stated that he had problems with grass on that side of his yard and problems with shubbery on that side. Mr. Isbel stated that Mr. Menke had put in gutters and turnarounds at the bottom of the downspouts. However, all that did was slow the flow of water. He stated that it did not wash out his property but it still flowed through it. Mr. Isbel objected to the awning as it was illegal to construct it. He stated that Mr. Menke violated the Ordinance by not obtaining a permit. He stated that if Mr. Menke could do this, then he should be able to put up something beside his house. He stated that he would like a lean-to to park his boat but it was illegal. Mr. Isbel stated that if this was allowed, it would not prevent anyone from doing the same. Before long, there would be nothing but roof to roof houses all the way down the block. Mr. Isbel stated that this patio reduced the value of his property. Mr. Isbel stated that Mr. Menke did work hard in his yard. Mr. Isbel stated that he would like to be able to use his yard. He stated that Mr. Menke could put a patio in the side yard or meet the requirements of the Code and reduce the size of the patio which would put it back 7 ft. from the property line. This would allow Mr. Isbel some privacy. He urged the Board to deny the request for the variance.

During rebuttal, Mr. Menke stated that he had replaced the awning in good faith. He stated that his contractor had performed all of the work. The contractor had assured Mr. Menke that a building permit was not necessary. Mr. Menke stated that he would not have intentionally done anything against the Zoning Law. As far as water damage, Mr. Menke stated that the grass on Mr. Isbel's property was just as lush and green as his own. He stated that there was no water damage whatsoever. Mr. Menke stated that there were six downspouts on the awning so that the water was distributed very, very evenly. The pictures had been taken 1½ years after installation of the awning. Mr. Menke stated that the yards were beautiful.

R E S O L U T I O N

In Application No. V-80-V-048 by ARTHUR AND MARY MENKE under Section 18-401 of the Zoning Ordinance to allow an unenclosed porch to remain 0.5 ft. from side lot line (7 ft. minimum side yard required by Sect. 3-307 & 2-412), on property located at 8306 West Boulevard Drive, tax map reference 102-4((6))(6)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 April 22, 1980; 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 property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 14,454 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This variance is subject to applicant obtaining a building permit and an inspection being made by the County Building Inspectors to insure that the porch is sound.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Barnes being absent).

Page 275, April 22, 1980, Scheduled case of

10:50 MR. & MRS. ERIC B. WARD, appl. under Sect. 18-401 of the
A.M. Ord. to allow construction of addition to dwelling to 10.7 ft. from side lot
line (20 ft. min. side yard required by Sect. 3-107), located 1168 Chain Bridge
Road, Langley Farms Subd., 31-1((5))(2)10A, Dranesville Dist., R-1, 0.9380
acres, V-80-D-050.

Mr. Eric Ward of 6646 Dolley Madison Drive in McLean was the applicant in the variance request. For information regarding testimony presented, please refer to the verbatim transcript located on file in the Clerk's Office.

Page 275, April 22, 1980
MR. & MRS. ERIC B. WARD

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-D-050 by MR. & MRS. ERIC B. WARD under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.7 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107), on property located at 1168 Chain Bridge Road, tax map reference 31-1((5))(2)10A, 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 April 22, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 0.9380 acres.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that it is a substandard lot.

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 with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 276, April 22, 1980, Scheduled case of

11:00 A.M. RONALD D. & RENA O. REES, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 12 ft. from one side lot line & 16 ft. from the other (20 ft. minimum side yard required by Sect. 3-107), located 2921 Fairhill Road, Fairhill Subd., 49-3(6)23, Providence Dist., R-1, 24,013 sq. ft., V-80-P-051.

Mrs. Margaret Duvall of 1309 Margaret Place in Falls Church represented Mr. and Mrs. Rees. She stated that they were asking for a variance to build on lot 23 under the hardship section of the Ordinance. The property has more than 1/2 acre but it was quite long. The lot had been recorded before the side yard requirements came into being. The lot was only 60 ft. wide. Most of the lots in the area are only 60 ft. wide. Lot 22 next door was only 60 ft. wide and had a big house on it. The house on lot 24 was located within 14.4 ft. and 11.8 ft. of the side lot lines.

Chairman Smith stated that the applicants were requesting to build 12 ft. and 16 ft. from the side yards. Mrs. Duvall stated that the request was not as great as other reductions in the side yard that were existing. Mrs. Duvall stated that Mr. and Mrs. Rees had owned the property for 9 years. Chairman Smith inquired if the applicants had owned the adjacent property at any time. Mrs. Duvall responded that Mr. Rees had owned lot 24 next door. She stated that the Rees' planned to build a nice house that would be in keeping with others in the area. She stated that public water and sewer were available at the front of the property. The property was 437 ft. deep.

Mr. Ronald Rees spoke in support of the request. He informed the Board that he was living on Rt. 3 in Spotsylvania, Virginia. He stated that he had purchased the residence in 1971 with the side lot. He stated that he had three small children. He stated that he had a difficult time paying for the house with the side yard. He stated that he had tried to sell the property as a whole but was unsuccessful. They had to split the property. He stated that he had tried to sell the lot to the owner on the other side and to the people who purchased the home. He stated that he owns a lot in the middle now but lives in Spotsylvania. He indicated that he may move up here but he wasn't sure.

Mr. Paul Reefer of 2923 Fairhill Road, owner of lot 24, spoke in opposition. He stated that he had purchased the previous residence of Mr. Rees. Mr. Reefer stated that he was against the building of a house on the vacant lot. Mr. Reefer stated that he supported the continuance of the Ordinance that provided for a 20 ft. setback on either side of the house. Mr. Reefer presented the Board with a petition signed by neighbors who were in opposition to the request. He stated that they recognized the importance of the minimum side yard requirements. All of the neighbors contiguous to the subject lot were in opposition to the request.

Chairman Smith inquired as to what the neighbors would have Mr. Rees build on the lot. He stated that if Mr. Rees could not build a 32 ft. wide house, he would have to build a long and narrow one. Chairman Smith stated that the applicant was entitled to use the property as it was a legal lot. Chairman Smith stated that the applicant was entitled to use the lot for housing purposes and that was a reasonable use of the land. He further stated that a 32 ft. wide house was reasonable.

Mr. Reefer stated that the neighbors would rather see a long and narrow house built on the lot. He stated that if the house were constructed as requested, the neighbors would be looking from one bedroom into a living room next door. Chairman Smith stated that the house could be moved back so the neighbors would not be looking onto one another.

The next speaker in opposition was Chris Wilson of 2924 Fairhill Road. He stated that his property was across the street from Mr. Rees' lot. Mr. Rees stated that there was a house on lot 22 which was not shown on the plats. He stated that it was a lot closer to the lot lines as was the house on lot 24. Mr. Wilson stated his position was not to grant the variance. He stated that he realized this was a problem but was so was privacy. He stated that he was sure Mr. Rees would agree. Mr. Wilson stated that this property had been put up for sale. He stated that he had bought the house right across the street. The Rees' house had been put on the market in the 90's. He stated that he paid in the 70's for his home. The Rees property had sold in the low 70's minus the side yard. Mr. Wilson stated that it was a privacy problem because of the monetary deficiency. Mr. Wilson stated that the new house would not enhance the area. He stated that if he was in a new prison, could he appreciate the fact that it was "new". He stated that once this house was built, someone would live there as well. He stated that the neighbors were slowly being squeezed together.

Mr. Hyland inquired if it was Mr. Wilson's position that no house be built there. Mr. Wilson stated that would be the ideal thing. He stated that some negotiations should have been presented prior to the hearing.

The next speaker in opposition was Aphrodite Kavalieratos of 2919 Fairhill Road who stated that her property was next door to the subject property. She stated that Mr. Rees' property was very small and there would not be any privacy. She stated that when they had lived there, she had suffered from their children. Ms. Kavalieratos stated that she worked all night. She stated that she wanted her privacy.

During rebuttal, Mrs. Duvall stated that the proposed house was not very deep. She stated that if they turned it around to be long and narrow, the house would extend all the way back. Mrs. Duvall stated that no one had wanted to buy the property. She indicated that if the neighbors wanted to get together to buy the property for a park, it would not change the area. All of the houses in the area are large on small lots and none conform to the Zoning Ordinance.

R E S O L U T I O N

In Application No. V-80-P-051 by RONALD D. & RENA O. REES under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 12 ft. from one side lot line & 16 ft. from the other (20 ft. minimum side yard required by Sect. 3-107) on property located at 2921 Fairhill Road, tax map reference 49-3(6)23, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 22, 1980; and

WHEREAS, the Board has made the following findings of fact:

R E S O L U T I O N

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 24,013 sq. ft.
4. That the applicant's property is exceptionally irregular in shape being long and narrow and has an unusual condition in that it 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 structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yarenchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Barnes being absent).

 Page 278, April 22, 1980, Recess

At 12:30 P.M., the Board recessed for a short period. At 1:00 P.M., the Board reconvened to continue with the scheduled agenda.

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Page 278, April 22, 1980, Scheduled case of

11:15 NAUTILUS TOTAL CONDITIONING, INC., appl. under Sect. 4-803 of
 A.M. the Ord. to permit health club, located 91 H. F. Byrd Highway, 6-3((1))pt. 1,
 Towncenter Subd., Dranesville Dist., C-8, 62,706 sq. ft., S-80-D-016.

Mr. Richard Blacklock of 2115 Gulf Course Drive in Reston informed the Board that he was the owner and operator of a Nautilus health spa located in the Towncenter Shopping Center in Sterling, Virginia. Mr. Blacklock stated that he had been in operation for six months. He informed the Board that this was a local franchise and that there were two other Nautilus centers in Fairfax County. Mr. Blacklock stated that Nautilus conditioning was a new concept in physical fitness. He stated that it was a fast-growing franchise and was nationally known. Mr. Blacklock stated that Nautilus centers offer fitness only. There were not any massages. Mr. Blacklock stated that he had a total of 400 members. The average workout took about 30 to 45 minutes. The members are comprised of doctors, lawyers, police officers and housewives. Mr. Blacklock stated that his business was very successful and that he proposed to add more machines. He indicated that they had a steady flow going in and out of the center.

In response to questions from the Board, Mr. Blacklock stated that he had not been aware that he needed a special permit for this type of operation. He stated that it was a franchise operation and he thought this would be an expansion of the original facility. Mr. Blacklock stated that he had thirteen machines at the present time. Members work out on one machine and then move on to the next one. There was a shower and a hot tub provided. There were two offices and one training room which contained the video tape instructions for the Nautilus conditioning program. He stated that 40% of the membership were women. The hours of operation would be 9 A.M. to 9:00 P.M. Monday through Saturday.

There was no one else to speak in support of the application and no one to speak in opposition.

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-D-016 by NAUTILUS TOTAL CONDITIONING, INC. under Section 4-803 of the Fairfax County Zoning Ordinance to permit health club within the Towncenter Shopping Center on property located at 91 H. F. Byrd Highway, tax map reference 6-3(1)pt. 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 22, 1980; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 22, 1980; 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 62,708 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 9:00 A.M. to 9:00 P.M., everyday except Sunday.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 279, April 22, 1980, Scheduled case of

11:30 FRED & ROCHELLE BLUM T/A ROCHELLE'S LOVING CARE, appl. under Sect. 3-103 of
A.M. the Ord. to permit day care center, located 5102 Thackery Ct., Burke Subd.,
69-3(1)6A, Annandale Dist., R-1, 1.40863 acres, S-80-A-017.

Mr. Fred Blum of 4604 Guinea Road in Fairfax informed the Board that he and his wife were the applicants and desired to open a day care center. He stated that in the original application, he and his wife had both applied for the permit but now desired that the permit only be issued to Rochelle Blum. In response to questions from the Board, Mr. Blum stated that settlement of the property would be on May 25th. A portion of the property, the lower level, would be used for the day care center. He stated that he wanted the permit issued in his wife's name only as it would simply matters as far as the state licensing.

Mr. Blum informed the Board that the subject property had been used as a school in 1968. For that reason, he stated that they had decided to file an application on this property for a day care center. He stated that he had checked out that the nearest day care center was in Burke for 2 to 6 year old children. He indicated that the Burke Center could no longer accept any children even on a waiting list. Mr. Blum stated that there was a definite need for child care in this area.

Mr. Blum stated that he had discussed traffic flow with the previous owners of the property. He stated that he had talked to owners of property at 5103 and 5105 Thackery Court. The subject property had been used as a school for 160 children. However, Mr. Blum stated that he was only asking for 50 children because of the state requirements for licensing. With regard to traffic, Mr. Blum stated that the previous school had used buses. He stated that he might be able to use a shuttle service from the Twinbrook Shopping Center. He stated that he would make every effort to preserve privacy of the neighbors.

There would be a total number of seven employees once the facility had expanded to the total enrollment. In addition, Mr. Blum would have enough employees to provide the shuttle service if necessary. Mr. Blum stated that the property did have a private road and additional parking would be provided for the employees.

Mr. Blum informed the Board that he had talked to people living on Thackery Court and distributed his phone number to them for any further discussions. He stated only one person had called him and that was a call of encouragement. In addition, he had received one letter of support from a neighbor. Mr. Blum stated that he and his wife felt there was a definite need for a day care center in this area. He stated that they were applying for 50 children and would live in the house so they could maintain adequate control. He stated that this was not for investment purposes and that the day care center would be his wife's livelihood.

Mr. Blum stated that he had people to speak in support of the application. They were the people who presently use the facility at his current home on Guinea Road. He stated that he had made arrangements with the Montessori School to bus children when the normal school hours ended and the day care began. Mr. Blum stated that some of the children to be enrolled in his day care center were students from the Montessori School. However, there was no financial interest between the two. He stated that he had only worked out an arrangement with the Montessori School for transportation of these students. Mr. Blum stated that he hoped that the other people who used his service would use carpools or the shuttle service.

Mr. Hyland stated that in the staff report there was an indication that Thackery Court was proposed to be extended north. The report suggested Mr. Blum provide for the construction of a turn around area and Mr. Hyland asked for his reaction to that suggestion. Mr. Blum responded that this was a private driveway. There was a loop turn around already provided which accommodated five or six cars. There was also a separate driveway with a garage for two cars and space for an additional three cars. Mr. Blum stated that he had called to see if it was possible to link the two driveways but had not examined it to much detail. He stated that he had no objection to the extension of Thackery Court but the neighbors did not feel that it should be extended. Mr. Blum stated that this would be a solution for the traffic of the day care center. Mr. Blum stated that he respected the neighbors' need for privacy. Mr. Blum stated that he had no objections to the staff suggestions about the extension of Thackery Court.

Mr. DiGiulian inquired whether in Mr. Blum's opinion if the present driveway would be adequate to handle the traffic. Mr. Blum stated that it would be if he ran the shuttle service. He stated that there was a church on Twinbrook and that many people parked there and walked through the paths. Many people use the shopping center for carpool and busing purposes. He stated that there would be 15 children from the Montessori School coming to the day care center by bus. He stated that the private driveway was adequate for that purpose.

Rochelle Blum spoke in support of the application. She stated that it was very important to open a facility of this type since more and more women were being forced to go back to work. She stated that she loved children and wanted to be allowed to take care of them at this location. She informed the Board that she and her husband had tied up every cent they had in this facility. They presently had a very nice residence which they were selling in order to buy this facility. She stated that they were not able to buy the facility and use it as a day care center without living there also.

The following persons spoke in support of the application. Mrs. Sonia Libbeman of 4034 Hadley Lane informed the Board that she was the selling real estate agent for the property and that the property had been used continually for a school. Only three rooms had actually been used for living purposes. She stated that the property could not be used as a private residence without extensive modification. The home next door was vacant and had been vandalized and the same would have happened to this property if Mr. Blum had not purchased it. She stated that the only contracts on the property had been from people intending to use it for a school also. The property had been marketed as a professional home for a doctor or a dentist. Mrs. Libbeman stated that the traffic flow would have been much greater if used for this purpose. Mrs. Libbeman stated that Mrs. Blum bought the property with the intention of using it for a day care center. The Blums

sold their lovely home and moved to this location to use it for a day care center. She stated that they were going to restore the upper level of 10 rooms into a lovely residential home and use the bottom facility to provide a service for the community. Chairman Smith inquired if Mrs. Boyette had continued to own the property until just recently. Mrs. Libbeman stated that Mrs. Boyette became divorced and later became Mrs. Fortune. She and her present husband lived in three rooms on the first floor of the home and continued to operate the school until they went bankrupt with Commonwealth Christian School. She had two schools, one on Rt. 236 and one on Thackery Court, but they both went bankrupt.

The next speaker in support of the application was Mrs. Rhoda Sulak, a resident of Kings Park West, at 5248 Kaywood Court. She stated that she had moved into the area 3½ years ago. There are 2200 families in the community, three pools, a lake and no place for child care. She stated that Fairfax County was well-to-do but a lot of mothers had to work. Mrs. Sulak stated that there was a definite need for child care in this area. She stated that when she works full time, she wanted her child cared for in the area where she lived and where his friends resided. She stated that when she looked at her property back in 1972, she remembered that Commonwealth Christian did own a school at this location but there were only model homes in the area at that time. She stated that the school had been there ahead of the houses. Chairman Smith stated that the school had been there since 1968 or before.

The next speaker in support was Mrs. Elizabeth Maer of 5263 Pumphrey Drive. She informed the Board that she did volunteer work in her community and that Mrs. Blum cared for her children. Mrs. Maer stated that there was a real need for a child care center in the Kings Park West area.

Mrs. Barbara Daniel of 4500 Guinea Road, a neighbor of Mr. and Mrs. Blum, also spoke in support of the application. She stated that Mrs. Blum had been caring for her daughter for two years while she attended school. She stated that she wanted to continue sending her child to Mrs. Blum as her daughter was happy to stay with her during the day.

Mrs. Barnes spoke in support. She stated that she lived across the street from the Blums who had a very lovely, well-kept home. Mrs. Barnes stated that Rochelle provided loving care for her son. Mrs. Barnes stated that she planned to work next year and wanted to be able to send her son to Rochelle. She stated that she felt very secure knowing that he would receive love but also be in an atmosphere of safety. Mrs. Barnes stated that Rochelle was strict with the children and they loved her.

The following person spoke in opposition to the application. Mr. Bob Meadows of 5105 Thackery Court stated that he had lived at that location since February 1968. Mr. Meadows presented the Board with a copy of his opposition statement. He stated that he represented the property owners and residents on Thackery Court and other individuals who had signed the petition opposing the use. Mr. Meadows stated that Thackery Court provided the only means of ingress and egress to the proposed child care center which directly impacted the residents on Thackery Court. Mr. Meadows stated that the property had previously been used as a school for kindergarten through sixth grade from 9 A.M. to 3:30 P.m., five days a week for up to 100 students. In 1968, James and Shirley Boyette were granted a special permit to operate Commonwealth Christian School. Mr. Meadows stated that although the special permit allowed a year round operation, it was only operated nine months of the year. No operation took place during the summer vacation period. The permit had been for a school only and prohibited summer camp facilities. Mr. Meadows stated that the Commonwealth Christian School had an undesirable impact on the residents of Thackery Court and provided hazardous traffic conditions to motorists on Commonwealth Boulevard. Thackery Court was only a 30 ft. wide local street which deadended at the school property. Mr. Meadows stated that each vehicle to the school made four trips per day on Thackery Court at peak times during the morning and afternoon. Residents parked cars on both sides of the street which would only allow one vehicle to enter or leave at a time. Mr. Meadows stated that parents of the school children parked their cars in the street in front of residences or mailboxes which prevented mail delivery. They backed into residential driveways to turn around. Only about one-third of the enrollment were bused to the facility and the remaining two-thirds were brought by private automobiles.

Mr. Meadows stated that the conditions prevailed until they were brought to the attention of Mr. and Mrs. Boyette when they applied for an extension of the special permit in 1972. Mr. Meadows stated that the Boyettes did take steps to reduce the impact on Thackery Court. They included the cost of busing students in the tuition whether or not the children used the buses. A majority of the students started using the buses but some still did not. Mr. Meadows stated that Mr. and Mrs. Boyette made extraordinary efforts to reduce the parking on the residential streets but some parents did not observe the efforts. Mr. Meadows stated that five to seven busloads accomodated the transportation needs in the morning and again in the evening periods.

Mr. Meadows informed the Board that the residents were in opposition to granting a special permit for a day care center for 50 children. The reasons for the opposition were the traffic congestion caused by the vehicles transporting children which would be hazardous and burdensome. Mr. Meadows stated that a center for 50 children would mean 200 private automobile trips per day. Additional auto trips would be involved for the

children co-enrolled in the Montessori School. Also, additional traffic would be involved from the service vehicles such as hot food delivery, additional trash pickups, and additional staff members. Mr. Meadows stated that the Commonwealth Christian School had provided buses but the child care center has not proposed the use of buses. In addition, the young children ages 2 to 3 could not be bused because of their age. Mr. Meadows stated that it would be impossible for the center to bus all children. The pickup and dropoff times would be during peak traffic times since the center would cater to working parents. The buses for the Commonwealth Christian School picked up children at a later hour. Mr. Meadows stated that Thackery Court was only 30 ft. wide and was slightly curved and usually had cars parked on both sides during the day. Commuters parked their vehicles there and took buses to work. For this reason, visibility to oncoming traffic was poor which resulted in a hazardous traffic situation. Commonwealth Boulevard was heavily travelled as commuters took shortcuts. The traffic was heavy year round. Mr. Meadows stated that the proposed child care center would run year round even during the summer when the local children were out on the streets which would be a safety hazard.

Mr. Meadows stated that the location of the playground for the proposed child care center was intersected by the driveway. The playground was not fully enclosed. The residents and staff would require nine off-street parking spaces. Presently, there were only three to five parking spaces in existence. Mr. Meadows stated that Thackery Court was proposed to be extended through the subject property to abutt the land owned by the Fairfax County Board of Supervisors. Mr. Meadows stated that this proposal was not on the Master Plan. He requested that the Board not be influenced by the proposed extension since it was not probable.

Mr. Meadows stated that the residents did not desire to place unreasonable restrictions on the applicants but they did not want to realize undue or unreasonable impact on themselves because of the proposed special permit. Mr. Meadows stated that they would have no objections to the child care center based on the following: reinspection with respect to on-site parking and turnaround; reinspection with respect to location and enclosure of the playground area; and no additional impact on surrounding residents with respect to traffic over and above that experienced by the previous special permit after the improved measures initiated by Mr. and Mrs. Boyette. Mr. Meadows stated that they wished to avoid having no parking signs placed on Thackery Court.

Mr. Meadows requested that the Board consider their positions on the matter and a copy of the Board's decision and minutes of the hearing be forwarded to him.

Chairman Smith advised that a copy of the resolution could be forwarded immediately but that Mr. Meadows would have to wait about eight or nine months for the minutes. He stated that in lieu of that, Mr. Meadows might want to listen to the tapes at the Clerk's Office.

Mr. Hyland questioned the problems of parents parking their cars in front of residences on Thackery Court and the problem of commuters on Thackery Court. He asked whether it was really the commuters presenting the problem or both. Mr. Meadows stated that in 1968 when the special permit was granted, Kings Park West had residences and not model homes there. The model homes were on the other side of Commonwealth Boulevard. He stated that the hard surface road stopped at Thackery Court. Mr. Meadows stated that things had changed tremendously. Mr. Meadows stated that the residents' main concern was the safety of their children. Parents of the school children had parked on Thackery Court blocking driveways and walked children to the school. They blocked mail deliveries, trash pickups, etc. The commuters were there and parked in a legal space on the street for fear of having their cars towed away.

Mr. Yaremchuk stated that the parents parked in front of the driveways because the commuters took up all of the parking. Mr. Meadows responded that the school was supposed to provide parking for the parents. Mr. Meadows stated that out of the four houses on Thackery Court, there were only eleven vehicles for the residents. Mr. Yaremchuk stated that his point was that the commuters were taking all of the legal parking spaces which did not leave any space for anyone else. Mr. Meadows stated that the residents would like a place to park. Mr. Yaremchuk stated that the problem was caused by the commuters as well as the school. Mr. Yaremchuk stated that the residents did not have the problem now since the school had gone bankrupt. Mr. Meadows stated that the residents had experienced the problem for twelve years. Mr. Yaremchuk inquired if the residents had ever done anything about the problem. Mr. Meadows stated that Mr. and Mrs. Boyette had initiated measures to resolve the parking problem.

Mr. Meadows pointed out to the Board that a lady in support had stated that the Boyettes lived in three rooms of the residence. He stated that was not so. They lived in the old Packer house at 5100 Thackery Court. It was not until the last few months that they moved to 5101 Thackery Court. Mrs. Libbeman stated that her point had been that only three rooms of the property were set up to be used as a private residence. Chairman Smith informed Mrs. Libbeman she could not rebutt any statements with the present speaker.

Mr. Yaremchuk stated that whoever used the property would have to instruct the parents to use the driveways and not park in the driveways or the street. He stated that if the parents wouldn't cooperate, then he would not support the application. He stated that the parking problem disrupted the community too much and he wanted the applicant to understand that he would have to keep that from happening. Chairman Smith inquired of Mr. Covington if there had been any complaints or violation notices issued to the Boyettes. Mr. Covington stated that he could not find any in the folder. Chairman Smith stated that apparently no one had ever made a formal complaint of the situation.

Mr. Meadows stated that prior to the 1972 extension, the complaints had been directed to the owners who made extraordinary efforts to correct the situation. Mr. Meadows stated that every time someone parked in the driveway, they did not call the police but talked to the Boyettes. Chairman Smith stated that there should not be any parking off of the premises.

The next speaker in opposition was Mrs. Diane Erikson of 9645 Boyette Court whose property bordered the subject parcel. She stated that they bought their home one year ago and the subject property was a preschool at that time. It was a 9 to 3 operation with no summer operation. She stated this proposal was year round from 7 in the morning until 6 at night which would be an over abundance of noise. Mrs. Erikson stated that she had a day sleeper at home. In addition, this proposed use would be an invasion of her privacy as she would not be able to enjoy her property in the summertime.

Mrs. Carolyn Harris of 9641 Boyette Court opposed the use on the basis of excess noise. Mrs. Harris stated that one of the problems she had was people walking through her yard to get to Thackery Court. She stated that she opposed that also. There were townhouses nearby and they used her yard as a shortcut. Mrs. Harris stated that if the residents of the townhouses used the services of the school, they would possibly cut through her yard also.

Mr. John Roberts of 11402 Octagon Court in Fairfax stated that he was a property owner on 5104 Thackery Court which was contiguous to the Boyette property. He stated that he opposed this special permit because of his experience working with the Boyettes. Certain things could not be avoided that were associated with the school. Mr. Roberts stated that even though parents paid for buses, they still drove their children and parked on the streets. During inclement weather, people came to pick up their children. Changes in the schedule caused additional traffic. Mr. Roberts stated that was just the nature of the business and was not overly objectionable but was a matter of concern to be considered by the Board. Mr. Roberts stated that parents only parked on the street for fifteen minutes. If the police were called, it would have taken twenty minutes to respond. He stated that the residents tried to work out the problems with the Boyettes which worked fairly well. Mr. Roberts stated that the turnaround that had been provided and the widening of the road had worked fairly well in the past. However, with the six or seven buses and the parents coming in, there was not enough room to get everybody into the property and unloaded at one time. The Boyettes had a parking lot but the parents would not use it as it was too far away. Mr. Roberts stated that these were the conditions that the neighbors would be faced with even with the new school. Mr. Roberts stated that he did not oppose the school and suggested that the Board redefine the center as a family day care home. He stated that if the Blums lived there, they could have six to nine children which would help the traffic problem. Mr. Roberts stated that the residents would agree to that. It would reduce the noise and be a good compromise position. Traffic was significant as there was not a plan for busing by the Blums. Mr. Roberts stated that he could not see how the Blums could handle 50 children through a busing system. Mr. Roberts suggested that a reduced quantity of students would be a good compromise position.

Mr. Yaremchuk inquired of Mr. Covington if no parking signs could be placed on Thackery Court. Mr. Covington stated that the Police Department might be able to do that but the neighbors had stated that they did not want that since they would not be able to park either. Mr. Yaremchuk inquired if the Boyette residence had been specifically built for the school. Chairman Smith stated that it had been renovated and enlarged to accommodate the school. He stated that the Boyettes lived in the house adjoining the school and used the original building as a school only. The school had been built in 1968 and Chairman Smith stated that there might have only been one or two houses in the area at that time. The school had been at this location for twelve years. Mr. Yaremchuk stated that parking could be provided at a closer location on the site so the parents could turnaround on the interior of the property and stay off of the street.

During rebuttal, Mr. Blum stated that when he prepared his notification letter to the adjacent property owners he included his phone number for any questions. Only one property owner called to inquire about the use. Mr. Blum stated that in terms of parking, there was a garage with room for two existing parking spaces and room for an additional three parking spaces further in the driveway. Four additional parking spaces had been designated on the plat. Mr. Blum stated that he had discussed with all property owners a proposal to utilize a shuttle bus service from Twinbrook shopping center. He stated that he would have two additional employees to direct traffic. Mr. Blum stated that he did not foresee any problems. Mr. Blum stated that some portions of the fence on

the property were down since the property was ten years old. Mr. Blum stated that those portions of the fence would be repaired. With regard to privacy for residents of Boyette Court, Mr. Blum stated that there was an 8 ft. high fully enclosed privacy fence. Chairman Smith stated that it was probably a 6 or 7 ft. fence and could not be an 8 ft. fence as it would exceed the height limitations. Mr. Blum stated that the playground did have a 6 ft. wooden fence around three sides and the fourth side was replaced with a wire fence. He stated that if the wire was no longer standing, it would have to be restored.

With regard to the use of the property, Mr. Blum stated that he had noted that the original school was licensed in 1968 and that there had not been any record of complaint. Mr. Blum stated that he would only have a maximum of 50 children. He stated one bus could be stationed at Twinbrook shopping center which would go back and forth with the children. The proposed hours of operation would be from 7 A.M. to 6 P.M. Mr. Blum stated that he could not anticipate any problem if the parents dropped off the children at the shopping center and with the utilization of the shuttle system.

Mr. Yaremchuk stated that before he could vote in support of the application, he wanted some assurance from Mr. Blum that he was going to solve the parking problem and work out the problems with the neighbors. Mr. Blum stated that he was prepared to add whatever additional parking spaces were necessary even if he had to require the staff to park at the shopping center or some other site to leave enough room for nine vehicles. Mr. Yaremchuk stated that he wanted Mr. Blum to use the street for ingress and egress but not for parking.

Mr. Blum stated that by running a child care center rather than a school, there would be some variation in the traffic patterns. He stated that by dealing with the parents at his present location, they had been able to tell parents that they could not park in the middle of the road and that they must use the driveway. He stated that they did not block anyone's driveway. Mr. Blum stated that he could not provide absolute assurance that the parents would follow all the necessary rules. However with only 50 children in a facility that would be in demand, there would be sufficient staff to observe where the people parked and they would be able to control the situation a lot better. Mr. Blum stated that he and his wife felt they could manage 50 children. They were aware of the traffic problem involved with the previous school of 160 children. Mr. Blum stated that he could provide assurances to both the Board and the neighbors of Thackery Court that all matters would be manageable and kept under control.

Mr. Yaremchuk inquired that if the previous school had 160 children and went bankrupt, how was Mr. Blum going to survive with 50 children. Mr. Blum stated that he and his wife would be living in the building and were not just buying it for an investment. In order to pay for the building, they had to sell their own residence and move into the property and renovate it. By staying open from 7 A.M. to 6 P.M., Mr. Blum stated that he felt they could manage the facility as a day care center with only 50 children. Mr. Yaremchuk inquired about the breaking point financially. Mr. Blum stated that in his opinion, it might be possible to cover staff and expenses with only 40 children. However, if the expenses were to increase, they would end up the same way as the Boyettes.

Chairman Smith stated that the Boyettes had a very successful venture in the school. However, they had expanded into a larger location and then tried to expand another location. In addition, there had been a divorce. Chairman Smith stated that the school of 160 children had been quite successful. Chairman Smith informed Mr. Blum he could not see how he could suffice with less than 50 students if he was going to provide the supervision and do it in a proper manner.

Mr. Hyland inquired if Mr. Blum was agreeable to replacing the fence that had been knocked down. Mr. Blum stated that the fence would be repaired as it was mandatory according to the state licensing. Mr. Hyland inquired if Mr. Blum would be prepared to terminate services for any parent who refused or failed to come onto the property to drop off their children. Mr. Blum stated that he would put that in writing in the contract with the parents. As the contract is worded now, it states that parents are not able to send food with their children as it has to be catered food according to the state and county health standards. They are not able to send any medicine with the children unless it was a prescribed medicine. They are not permitted to send children when they are sick. Mr. Blum stated that he had no objections to contracting with the 50 parents with the stipulation that they must observe the traffic rules. He stated that in area where there was such a demand and a need for services, that most of the people would be happy to observe the rules and park in front of the house to discharge the children without fear of them being endangered by traffic on a public street.

Mr. Yaremchuk inquired as to how many times the parents would be allowed to break the rules before the contract was terminated. Mr. Blum stated that he would ask the Board for advice on that point or ask his neighbors to help enforce the traffic. Mr. Yaremchuk stated that if Mr. Blum broke too many contracts, he would be in trouble financially. Mr. Blum stated that the day care center in operation in Burke was no longer keeping a waiting list of children. In fact, they were constructing another building. Mr. Blum stated that he did not see any problem financially at the moment. Chairman Smith stated that if it was a part of the contract, Mr. Blum would not have any trouble enforcing it. In addition, it was part of the Ordinance that all parking be on site. Chairman Smith stated that Mr. Blum could terminate his contract with the parent based on the Ordinance itself.

RESOLUTION

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Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-A-017 by ROCHELLE BLUM T/A ROCHELLE'S LOVING CARE (amended at hearing) under Section 3-103 of the Fairfax County Zoning Ordinance to permit a day care center on property located at 5102 Thackery Court, tax map reference 69-3((1))6A, 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 22, 1980; 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 1.40863 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. The special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children to be cared for at this facility at any one time shall not exceed 50.
8. The hours of operation shall be 7:00 A.M. to 6:00 P.M., Monday through Friday.
9. Applicant shall provide replacement fencing for playground area in accordance with Health Department requirements.
10. Parents transporting children to center shall be required to park on the site. Parking off-site is prohibited.
11. Upon obtaining occupancy permit and facility begins operation, that the Zoning Enforcement Division inspect the site to insure compliance with parking requirements.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 285, April 22, 1980, Scheduled case of

11:45 GREAT FALLS ROMAN CATHOLIC CHURCH, appl. under Sect. 3-103
A.M. of the Ord. to allow church and related facilities, located 1020 Springvale Rd., 12-1((1))32, Dranesville Dist., R-1, 14.0344 acres, S-80-D-021.

Mr. Charles Runyon, an engineer, 7649 Leesburg Pike in Falls Church represented the church. He stated that a special permit had been granted to Great Falls Roman Catholic Church on December 12, 1978. The site plan process had not been completed as there was a need for additional water lines and fire plans. During the process, the special permit expired without the church or the agent being aware of it. Mr. Runyon stated that they were now reapplying for a special permit for the same construction as previously granted.

Mr. Runyon stated that the staff report mentioned screening and barrier requirements. He asked that the Board not make that a part of the resolution other than the church would do whatever the Director of Environmental Management required. Mr. Runyon stated that the church wanted to request a waiver of the screening as there was sufficient screening provided near the residences. Mr. Runyon stated that they were not asking for any changes in the special permit. Adequate parking would be provided. The proposed hours would be the same as the ones previously granted for normal church activities.

Mr. Runyon spoke in support of the application in his capacity of President of the Great Falls Civic Association. He stated that they had no problem with the granting of the special permit.

There was no one to speak in opposition to the application.

Mr. Runyon informed the Board that the name of the church had been changed to read: St. Catherine of Sienna & Thomas J. Welch, Bishop of Arlington.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-D-021 by GREAT FALLS ROMAN CATHOLIC CHURCH (amended at hearing to be: ST. CATHERINE OF SIENNA AND REVEREND THOMAS J. WELCH, BISHOP OF THE CATHOLIC DIOCESE OF ARLINGTON AND HIS SUCCESSORS IN OFFICE), under Section 3-103 of the Fairfax County Zoning Ordinance to permit church and related facilities, on property located at 1020 Springvale Road, tax map reference 12-1((1))32, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing by the Board of Zoning Appeals held on April 22, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the Reverend Thomas J. Welch; Bishop of the Catholic Diocese of Arlington; and his successors in office.
2. That the present zoning is R-1.
3. That the area of the lot is 14.0344 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening 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 shall be 464.
8. The hours of operation shall be hours of a normal church activity.
9. The number of parking spaces shall be 139.
10. Adequate sight distance shall be provided for the entrance of the church at time of site plan approval.

Adequate sight distance shall be provided for the entrance of the church at time

R E S O L U T I O N

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Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 287, April 22, 1980, After Agenda Items

Dan & Lahonda Morgan, V-88-79: The Board was in receipt of a request from Mr. Paciulli for a clarification regarding a variance granted on June 19, 1979 to Dan & Lahonda Morgan to allow a subdivision into three lots, each of which would have a width of 6.05 ft. Mr. Paciulli was proposing to change the lot lines involved in the approved subdivision. The change would result in a decrease of the total land area involved from 4.16 acres to 4.1296 acres which was why the staff asked that the matter be referred to the BZA for a determination as to whether a public hearing was necessary.

Chairman Smith noted that the original application had indicated the total land area to be 3.81 acres and Mr. Paciulli stated that the original plat had been in error. Mr. Paciulli stated that the original application had been to allow a subdivision into three lots and that was still being requested. Chairman Smith stated that the Zoning Administrator's staff felt there would be a problem if the Board approved the revised plats as a minor engineering change since the original plats had been in error. Mr. DiGiulian stated that the Board only needed to have a copy of the approved record plat. He stated that the plats the Board had at the original hearing covered substantially the same land area.

Chairman Smith stated that the advertisement for the public hearing was for 3.81 acres and that he supported the Zoning Administrator's staff position that a new public hearing would be necessary.

Mr. DiGiulian moved that since the plat the Board had at the original hearing showed a total of three parcels of land and the revised plat indicated the same total of three parcels with only a change in the lot lines that they approve the request as a minor engineering change subject to the receipt of the final record plat being submitted to the Board. Mr. Yaremchuk seconded the motion. During discussion of the motion, Mr. Hyland inquired if there had been any opposition to the variance request originally. It was noted that Mr. James Reas, of the Glen Moore Homeowners Association and others had spoken in opposition to the variance.

Mr. Yaremchuk stated that he was supporting the request as a minor engineering change. He stated that if a new public hearing were conducted, the same people would come to speak in opposition. Mr. Yaremchuk stated that the only difference was the change in lot lines. Mr. DiGiulian stated that the Board had acted on the other plat with the same layout and this was only a minor variation of it. Mr. Hyland inquired of Mr. Paciulli as to what problems would be posed if there was another public hearing. Mr. Paciulli stated that they had been pursuing this subdivision for a year. The property had been sold and they needed to proceed with the site plan process. The matter had been deferred from the previous week as there was a shortage of Board members. Mr. Paciulli stated that essentially there was no change to the request other than the movement of lot lines. Chairman Smith stated that if the ownership had changed, there should be a new public hearing. Mr. DiGiulian stated that the Board had routinely approved requests of this nature previously.

Chairman Smith stated that since Mr. Hyland was not on the Board at the time of the original hearing and since Mr. Barnes was absent, that the Board again defer the matter until April 29th to allow Mr. Barnes an opportunity to participate in the matter.

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Page 287, April 22, 1980, After Agenda Items

Sydenstricker United Methodist Church: The Board was in receipt of a request for an extension of the special permit S-264-78 for the construction of a church. It was the consensus of the Board to allow a one year extension for the construction to begin.

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Page 287, April 22, 1980, After Agenda Items

Mozafar-Mahin Amighi, V-305-78: The Board was in receipt of a request from Mr. Mazafar-Mahin Amighi seeking an extension of the variance granted April 10, 1979. Mr. DiGiulian moved that the Board grant Mr. Amighi a six month extension. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith) (Mr. Barnes being absent).

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Page 288, April 22, 1980, After Agenda Items

CALVARY CHURCH OF THE NAZARENE: S-63-79: The Board was in receipt of a letter from James Bearden of the Calvary Church of the Nazarene requesting the Board to grant a one year extension of the special permit granted on April 24, 1979.

Mr. Yaremchuk moved that the Board grant the request for a one year extension. Chairman Smith stated that one year was too much and suggested that it be reduced to a six month extension. Mr. Yaremchuk stated that he felt the one year was fine since this was a church. Chairman Smith stated that he supported churches but felt the Board should be equitable and treat this applicant the same as any other and only grant a six month extension. Mr. Yaremchuk stated that not everyone had the same circumstances and might need a longer extension. He suggested that perhaps a six month extension was all wrong and should be changed to nine months. Chairman Smith stated that the Board would have to change the resolutions granting it for a longer period of time and then allow a six month extension.

Mr. DiGiulian noted that if the church was able to get through the site plan process in six months, they would not be able to start construction in October. Therefore, he stated that the extension should be granted for one year. Mr. Yaremchuk stated that since the applicant had asked for a one year extension, he must have known that six months would not be adequate.

Chairman Smith stated that the Board had asked staff to consider changing the resolution forms to allow the granting for an eighteen month period with one six month extension. He stated that the Board should be equitable to all persons.

Mr. DiGiulian stated that he did not have a problem with the six month extension. Mr. Yaremchuk withdrew his motion.

Mr. DiGiulian moved that the Board grant the Calvary Church of the Nazarene a six month extension. Mr. Hyland seconded the motion. The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Yaremchuk)(Mr. Barnes being absent).

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Page 288, April 22, 1980, After Agenda Items

Board Policy: It was the consensus of the Board that the resolutions be amended to reflect a granting of 18 months for both special permits and variances.

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Page 288, April 22, 1980, After Agenda Items

Accessory Structures: Mr. DiGiulian inquired of the Clerk to find out the status of the Board's memorandum on accessory structures in side yards.

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Page 288, April 22, 1980, After Agenda Items

Board Policy: The Board suggested that in the future, all staff reports coming to the Board indicate the reason why the applicant was requesting a variance. The Board stated it would be helpful if it had all the facts and a copy of the justification before making a decision. Chairman Smith asked that the applicant's written statement be included in the staff report rather than the staff providing the justification.

// There being no further business, the Board adjourned at 3:30 P.M.

Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on 2/23/82

APPROVED: March 9, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, April 29, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Gerald Hyland.

Chairman Smith called the meeting to order at 8:20 P.M. Mr. Barnes opened the meeting with a prayer.

Chairman Smith called the scheduled 8 o'clock case of:

8:00 KATIE H. BARR, appl. under Sect. 3-103 of the Ord. to permit
P.M. continuation of a new term of a boarding kennel for cats and dogs, located 7121 Bull Run Post Office Road, 64-1((1))36, Springfield Dist., R-1, 28.403 acres, S-80-S-019.

As the required notices were not in order, the Board deferred the scheduled application until Tuesday, June 3, 1980 at 12:15 P.M.

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Page 289, April 29, 1980, Scheduled case of

8:15 MT. VERNON PLAZA PUTT-PUTT GOLF COURSE, INC., appl. under
P.M. Sect. 4-603 of the Ord. to amend S-28-76 to change permittee & to change hours of operation to 9 A.M. to 2 A.M., located 7698 Richmond Highway, 101-2((1))12A, Lee Dist., C-6, 37,500 sq. ft., S-80-L-022.

As the required notices were not in order, the Board deferred the scheduled application until Tuesday, May 20, 1980 at 9:45 P.M.

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Page 289, April 29, 1980, After Agenda Item

Chairman Smith stated that the Board had taken an action at the previous meeting with regard to an extension of the time limitations for special permit and variance applications. He asked that the Board reconsider that action as the by-laws had to be changed before the Board could make the change in the resolutions.

Mr. Yaremchuk moved that the Board reconsider its action of the previous week. Mr. DiGiulian seconded the motion. The motion passed unanimously by a vote of 5 to 0.

It was suggested that the Board discuss the matter in further detail at a day meeting and the meeting of May 6, 1980 was suggested.

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Page 289, April 29, 1980, After Agenda Item

LADAN-KIAN POUR: The Board was in receipt of a request for an out-of-turn hearing for a special permit application to allow a ballet school.

It was the consensus of the Board to grant the request and the special permit application was scheduled for June 3, 1980 at 12:30 P.M.

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Page 289, April 29, 1980, After Agenda Item

DR. THOMAS S. ROEHR: The Board was in receipt of a request from Dr. Thomas S. Roehr regarding a one year extension of his special permit granted on June 5, 1979.

Mr. Barnes moved that the special permit be extended for a one year period because of the unusual circumstances outlined in the letter. Mr. DiGiulian seconded the motion. The motion passed by a vote of 4 to 1 (Chairman Smith).

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Page 289, April 29, 1980, After Agenda Item

LOYOLA FEDERAL SAVINGS & LOAN: The Board was in receipt of a letter regarding the Harbor View Subdivision owned by Loyola Federal Savings & Loan Association wherein it was requesting an extension of the setback variances.

Chairman Smith informed the Board that it had already granted a one year extension previously and this was the second request. After reviewing the letter, Mr. Barnes moved that the extension be granted on each of the variances for a period of six months. Mr. DiGiulian seconded the motion. The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 290, April 29, 1980, Scheduled case of

8:30 KEENE MILL VILLAGE JOINT VENTURE & HOMEOWNERS ASSOCIATION,
P.M. appl. under Sect. 3-503 of the Ord. to allow construction and operation of
community tennis courts, located at 8920 Old Keene Mill Rd., Keene Mill Village
Subd., 88-2(1)pt. 10, Springfield Dist., R-5, 3.1173 acres, S-80-S-020.

Mr. Russell Rosenberger, attorney-at-law, 9401 Lee Highway, Circle Towers, represented the applicant. Mr. Rosenberger stated that the development plans had been the subject of many public hearings before the Board of Supervisors and several plan amendments. Mr. Rosenberger stated that the special permit was one of the first steps of the various requirements of those hearings. It had been proffered that the developer provide recreation for the 370 homes which were planned for Keene Mill Village. Mr. Rosenberger stated that it was the intent of the developer to provide 2 tennis courts, 2 multi-purpose courts and to provide a sum of money for the future construction of a pool. Mr. Rosenberger stated that land had been set aside for the future construction of the pool. The tennis courts would be on a little over three acres of land. There were no lights proposed and the hours of operation would be during the daytime only.

Mr. Rosenberger informed the Board that this recreation plan was a culmination of a lot of effort on the part of the developer to provide a separate area for recreational uses.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 290, April 29, 1980 Board of Zoning Appeals
KEENE MILL VILLAGE JOINT VENTURE
& HOME OWNERS ASSOCIATION

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-S-020 by KEENE MILL VILLAGE JOINT VENTURE & HOME OWNERS ASSOCIATION under Section 3-503 of the Fairfax County Zoning Ordinance to allow construction and operation of community tennis courts on property located at 8920 Old Keene Mill Road, tax map reference 99-2(1)pt. 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 April 29, 1980; 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-5.
3. That the area of the lot is 3.1173 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

RESOLUTION

- 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 daylight hours.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 291, Scheduled case of

8:45 P.M. W. S. SPOTSWOOD & SONS, INC., appl. under Sect. 3-203 of the Ord. to allow home professional (manufacturers representative) office, located 4417 Dolphin Lane, Yacht Haven Estates, 110-3((4))(J)5, Mt. Vernon Dist., R-2, 23,156 sq. ft., S-80-V-023.

Mr. Robert K. Richardson, an attorney located at 10505 Jones Street in Fairfax, represented the applicant. Mr. Richardson informed the Board that the special permit application was for a business as a manufacturer's representative. He stated that Mr. Spotswood dealt with many government agencies and would not have any clients coming to his home. All the work was done by telephone or by visitation to the job site. Mr. Richardson stated that there would not be any inventory or stock kept on the premises. Mr. Spotswood had two sons who lived off the premises working with him in the business. Mr. Richardson stated that this manufacturers business fit the definition of home professional office as it was only a mail and telephone business. No exterior alterations were anticipated. There was room for all vehicles to park in the driveway. There would not be any impact to the neighbors.

In response to questions from the Board, Mr. Richardson stated that the hours of operation would be 9 A.M. to 5 P.M., Monday through Friday. There were not any employees other than Mr. Spotswood's sons at the present time. However, Mr. Richardson stated that it might be necessary to hire one additional person at a later time.

There was no one else to speak in favor of the application and no one to speak in opposition.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application NO. S-80-V-023 by W. S. SPOTSWOOD & SONS, INC., under Section 3-203 of the Fairfax County Zoning Ordinance to allow home professional (manufacturers representative) office on property located at 4417 Dolphin Lane, tax map reference 110-3((4))(J)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 Apoeals held on April 29, 1980; 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 23,156 sq. ft.
- 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

RESOLUTION

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 persons working on the premises shall be four.

8. The hours of operation shall be 9:00 A.M. to 5 P.M., Monday through Friday.

9. There shall be no exterior alterations.

10. This permit is granted for a period of three (3) years.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 292, April 29, 1980, Executive Session

At 8:50 P.M., Mr. Hyland moved that the Board convene into an Executive Session to discuss legal matters. At 9:10 P.M., the Board reconvened into public session to continue with the scheduled agenda items.

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Page 292, April 29, 1980, Scheduled case of

9:00 P.M. JAMES C. KING, appl. under Sect. 18-301 of the Ord. for decision of Zoning Administrator that appellant's business operation is not a permitted use in the R-1 District, located at 3661 West Ox Road, Piney Ridge Subd., 46-1((1))3, R-1, Centreville Dist., 12.00009 acres, A-80-C-002. (Deferred from March 25, 1980 for Notices.)

Ms. Kelsey presented the Zoning Administrator's position regarding the appeal. She stated that the appellant's property was located on West Ox Road. The business was owned and operated by the applicant and was located on property zoned R-1. The appeal was with regard to the Zoning Administrator's decision that an Amway distributorship was not a permitted home occupational use. A violation notice had been issued to the applicant by Zoning Inspector Matlee Becker. Ms. Kelsey stated that it was the Zoning Administrator's position that this business was a direct distributorship and was not a permitted use on residentially zoned land. She stated that this business was not a similar use as defined for home occupancy uses and a home professional office states that such an office should not involve the storage of stock in trade on the premises. Ms. Kelsey stated that two of the limitations of a home occupancy addressed storage and customers and clients. In summary, Ms. Kelsey stated that it was the Zoning Administrator's interpretation that the appellant's business was not a permitted home occupancy as determined by the Zoning Ordinance.

Dr. James C. King of 3611 West Ox Road in Fairfax informed the Board that he was a physician working for the federal government. He stated that he had previously resided in Maryland and planned to retire in two years. He stated that he had purchased the property on West Ox Road in order to enjoy his retirement. Dr. King stated that he had moved to the property in November of 1978.

With regard to the appeal, Dr. King stated that he had received telephone calls from his neighbors expressing concern that he was rezoning his property. He stated that he was not rezoning the property. The property is zoned residential and he wanted to see it remain that way.

Dr. King stated that his appeal was based on the logic that what was not specifically prohibited by law or regulations was, therefore, allowed. He stated that when he chose to move to this location, he knew that there were many Amway Distributorships functioning in Fairfax County. He stated that he had found nothing in the Code to prohibit the Amway Dealership. Dr. King stated that he found it hard to understand why he could not do what he proposed on the property. Dr. King stated that no attempt had been made to determine what the nature of his business was. The Zoning Administrator had based his interpretation without an inspection of the property.

Dr. King stated that prior to January of 1979, there was no mention of storage or stock in trade as being prohibited by the Code. At that time, Dr. King stated that the business he was conducting was reasonable.

Chairman Smith inquired if Dr. King had obtained a home occupancy permit. Dr. King replied that he had not. However, he stated that if he had applied for one, there was no reason to doubt that he would have been denied a permit. He stated that he had occupied the property since November of 1978. He stated that he had begun operation of the distributorship when he moved there in 1978. Dr. King stated that he stored his products on the property. Clients came to the property to pick up the products. Dr. King stated that the maximum number in any one day had been ten clients coming to the premises. They arrived on the premises in their personal vehicles.

Dr. King stated that he considered that he had a home occupancy that was not prohibited by the Ordinance prior to the introduction of the January 1979 amendment. Chairman Smith stated that the Zoning Ordinance always carried a clause regarding storage on the premises even before the January 1979 amendment.

Mr. Yaremchuk asked the Zoning Administrator to define home occupancy uses and home professional office uses under the Ordinance. Ms. Kelsey read the section 10-304 of the Ordinance regarding use limitations. In addition, she referred the Board members to Section 6-302 of the Ordinance which stated that no stock in trade shall be stored, displayed or sold on the premises. Paragraph 8 of that section stated that no customers or clients were allowed. Ms. Kelsey next read the section on home professional offices which restricted the use from any storage or display or pickup of products. She next read the definition of an office as defined in Article 20 of the Ordinance.

Dr. King responded that he had no customers or clients coming to his property. He stated that he had no display or any exterior indication that there was any business on the property. He stated that the only thing was that he had products delivered at his property rather than at the client's home.

Mr. Yaremchuk questioned Dr. King's statement that he did not have any clients coming to the property and asked who were the six or seven people mentioned by Dr. King. Dr. King stated that as he received no profit on the products picked up by the six or seven people coming to the premises, they were not clients or customers but merely business associates. Chairman Smith stated that Dr. King did purchase the products and did benefit from the transaction. Dr. King stated that he did but he received his money from the dealer and not his business associates.

The following persons spoke in support of Dr. King's appeal. Mr. Doug Campbell of 3317 Hickory Hill Drive stated that Dr. King was a good neighbor. He stated that he had not been harmed by Dr. King having people come and go. In fact, Mr. Campbell stated that he was not aware that Dr. King had a dealership until the appeal was advertised. Mr. Campbell stated that he felt very lucky to have Dr. King as a neighbor. Mr. Campbell stated that the subject of the appeal was distributorship of Amway Products in Fairfax County. He stated that if Dr. King was in violation, then there were hundreds more other people in the County who were also in violation.

The next speaker in support of the appeal was Mr. Tom Drump who stated that he lived in the area near Dr. King. Mr. Drump stated that he had questions rather than testimony to present. He stated that the last speaker had indicated that there were hundreds of people involved with Amway Dealerships in Fairfax County. Mr. Drump stated that the number was more in the thousands. He inquired if the Board was going to spend his tax dollars going after these individuals. Chairman Smith advised Mr. Drump that the Board of Zoning Appeals was not part of the Enforcement Division. Mr. Drump stated that often times lawyers prepare legal briefs at their home which was not an allowed home occupation. For the record, Mr. Hyland stated that he was an attorney. He stated that he was permitted by the County to prepare legal briefs in his home. He stated that he had the authority to do so but first he had to ask permission from the County. Chairman Smith asked that the speakers stick to the issue.

The next speaker in support of the appeal was Mr. Jud Williams. He stated that after listening to the definitions, it appeared that it referred to products stored on the premises for retail purposes. He stated that these products were pre-sold and merely in transit and not really in storage. Mr. Williams stated that if Dr. King removed the products from a vehicle of conveyance and put the products in a building, it would not be storage. He stated that it would not be annoying to anyone and he could not see the harm in it. Chairman Smith advised Mr. Williams that the harm was to the Zoning Ordinance itself as it prohibited the use. Chairman Smith stated that the Board members were sworn to uphold the Zoning Ordinance. Mr. Williams stated that the only alternative seemed to be to change the zone. Chairman Smith advised that Dr. King would have to consult the Board of Supervisors for a rezoning application.

The next speaker was Mr. John King, son of Dr. King. Mr. King stated that his father was not in violation of the Ordinance as he had been operating as a non-conforming use prior to 1979. Chairman Smith stated that it was not a non-conforming use if he did not have the permit. Chairman Smith stated that even if Dr. King had the permit, he would not have been allowed to store or distribute merchandise in a residential area. Mr. King stated that he had not seen it in writing that this was not an allowed use. He stated that any right not specifically taken away was reserved for the people. Mr. King stated that was his point.

The next speaker in support of the appeal was Mr. Tedero who stated he lived behind Dr. King. Mr. Tedero stated that the purpose of the laws were for the protection of the people. Mr. Tedero stated that Dr. King's business was not a public nuisance. He suggested that the Board give Dr. King a special exception. Chairman Smith stated that this was an appeal application not a special exception and that Mr. Tedero had the wrong Board.

There was no one else to speak in support of the appeal. The following persons spoke in opposition to the appeal. Mr. Tom Baker of 3507 Tilton Valley Drive stated that he resided to the side of Dr. King's property. Mr. Baker stated that he supported the Zoning Administrator's position as he had read the definition of home occupancy. He inquired if the Board had read the petition in opposition signed by 129 people who were neighbors of Dr. King. Chairman Smith reviewed the petition and inquired if Dr. King was aware of the petition. Dr. King stated that he had not seen the petition nor the 129 signatures.

The next speaker in opposition to the appeal was Mr. Bill Berry of Tilton Valley Drive. He stated that he opposed the operation of a business in the neighborhood where he lived. He stated that he had nothing against Dr. King; however, if one individual was allowed to operate this type of business then it would set a precedent which would allow others to do the same. Mr. Berry stated that Amway was based on building a larger and larger business of clientele. He stated that Dr. King might have only five or six business associates at the present time but in a year there might be more than that.

The next speaker in opposition was Andrea Barno of Brecknock Street who informed the Board that she was a neighbor of Dr. King and could see his home from her property. She stated that she was opposed to the running of a business in a residential community.

During rebuttal, Dr. King stated that with regard to the petition he would like to say that he doubted the the people fully understood the implications of what they were signing. He stated that it was unreliable in the way in which the signatures were obtained. He asked the Board not to accept the petition as part of the record.

Chairman Smith denied Dr. King's request and stated that the petition would be made a part of the record.

During rebuttal, Ms. Kelsey informed the Board that Dr. King's business was not a non-conforming use as it did not lawfully exist at the time of the adoption of the Zoning Ordinance. Since Dr. King had never obtained the permit from the Zoning Administrator, the use was not lawful.

Chairman Smith closed the public hearing. Mr. Yarenchuk moved that the Board uphold the decision of the Zoning Administrator as he felt that the Zoning Administrator was correct. Mr. Yarenchuk stated he agreed with the first paragraph in the staff report that the business was a direct distributorship and the use involved an office in the appellant's home, storage of stock in trade in the garage and pickup and delivery of stock by other distributors. Mr. DiGiulian seconded the motion. The motion to uphold the decision of the Zoning Administrator passed unanimously by a vote of 5 to 0.

 Page 294, April 29, 1980, Scheduled case of

9:00 P.M. JAMES C. KING, appl. under Sect. 18-401 of the Ord. to allow operation of a business as a home occupation in R-1, with storage of stock in trade on premises (storage, display, or sale of stock in trade on premises prohibited by Sect. 10-304), located 3661 West Ox Rd., Piney Ridge Subd., 46-1(1)5, Centreville Dist., R-1, 12.00009 acres, V-80-C-029. (Deferred from March 25, 1980 for Notices.)

Dr. King of 3661 West Ox Road in Fairfax stated that he was requesting a variance to the Zoning Ordinance based on the fact that his situation was quite unique. He stated that his property consisted of 12 acres. There was only one other contiguous property that exceeded 12 acres. Dr. King stated that his property was totally isolated by a barrier of trees around the property. Dr. King stated that his situation was unique in that the access to his property was through County owned land. The land owned by the County had several large water tanks on it. Dr. King stated that his access would continue to pass these water tanks.

Dr. King stated that his garage was used to store stock and was the equivalent of a three car garage. Only one small corner of the garage was used for the storage of products. Dr. King stated this his home was located almost contiguous to the property owned by the Water Authority. Dr. King stated that the uniqueness of his situation should permit him to continue to use his property for an Amway business as it would not have any adverse impact to other properties.

Chairman Smith advised Dr. King that he had applied for a variance under Section 18-401 of the Ordinance and was sure that he had studied that section of the Code. Chairman Smith stated that Dr. King had not touched on any points yet that would give the Board justification for consideration of the variance. Chairman Smith stated the home occupancy letter prohibited the storage of goods on one's property. Chairman Smith stated that what Dr. King was asking for was prohibited by the Ordinance.

Dr. King stated that he filed his application under Section 18-404 which related to unusual circumstances. Chairman Smith stated that the unusual circumstances referred to topographic conditions of the property itself and not to uses that were not permitted in the Ordinance.

There was no one else to speak in support of the application. Ms. Andrea Barno of 12330 Brecknock Street spoke in opposition to the variance. She stated that she lived in the immediate area and that Dr. King's home was visible to her property. Ms. Barno stated that she objected to the variance as the property was residential and she wanted it to remain so. She stated that the variance would be incompatible with the area and would have a negative impact on the community. Ms. Barno stated that the traffic on West Ox Road was terrible. She stated that Dr. King's activities were an unnecessary intrusion in the community. She stated that during the past five years she had witnessed commercial encroachment along Rt. 50. She asked the Board to keep the commercial activities on Rt. 50. Ms. Barno stated that she did not wish Dr. King to stop his Amway Distributorship but asked that he relocate the storage of it. Ms. Barno stated that she believed Dr. King could find some area to store the merchandise that would be within a five mile radius.

During rebuttal, Dr. King stated that he believed there had not been any indication that his business had increased the traffic on West Ox Road. Dr. King informed the Board that he did have a warehouse in Manassas where he stored the Amway products. He stated that the products he kept on his property were an insignificant amount. Dr. King stated that he was trying to retain the residential character of the community. He stated that he did not believe that the business he was conducting would become a commercial operation.

R E S O L U T I O N

In Application No. V-80-C-029 by JAMES C. KING under Section 18-401 of the Zoning Ordinance to allow the operation of a business as a home occupation in an R-1 district with storage of stock in trade on premises (storage, display, or sale of stock in trade on premises prohibited by Section 10-304) on property located at 3661 West Ox Road, 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 April 29, 1980; 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 12.00009 acres.
4. That the applicant's property is not exceptionally irregular in shape; does not have exceptional topographic problems; nor does it have 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 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. Nor does the Board of Zoning Appeals have the authority to grant a variance from the definitional requirements of Section 10-304 of the Ordinance.

Page 296, April 29, 1980
 JAMES C. KING
 (continued)

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

 Page 296, April 29, 1980, Scheduled case of

9:30 STEPHEN C. OSTEN, D.V.M., appl. under Sect. 4-603 of the Ord.
 P.M. to permit veterinary clinic within existing shopping center, located Bauer
 Drive, Cardinal Forest Shopping Center, 79-3(4)42-44, C-6, Springfield Dist.,
 6.9447 acres, S-80-S-029.

Dr. Stephen Osten of 6214 Rolling Road informed the Board that he had applied for a special permit to allow the operation of a clinic to be used for cats and dogs. He stated that only serious injuries would require any animals to be kept overnight. Dr. Osten stated that his proposed hours of operation were 9:00 A.M. to 6:00 P.M., Monday through Friday. Dr. Osten stated that he would see animals by appointment only and that he would schedule his appointments fifteen minutes apart. Dr. Osten stated that he would have two fulltime employees besides the veterinarian on duty. Dr. Osten stated that there would not be any more than two to three cars parked at the clinic at any one time. The building would remain as it was except for a small sign that would match the signs of adjacent rental spaces in the building. Dr. Osten stated that his clinic would be compatible with the other businesses in the area.

In response to questions from the Board, Dr. Osten stated that he presently operated a clinic in Maryland. With regard to the parking tabulation requested in the staff report, Dr. Osten stated that his landlord would give him a letter with respect to parking. Mr. Barnes stated that with a clinic for small animals, there should not be that many cars involved in the use. Dr. Osten stated that there would only be one veterinarian and two examining rooms. He stated that the parking appeared to be adequate as there were a lot of empty spaces at this location.

There was no one else to speak in support of the application. Mr. Mower of 18843 Bauer Drive spoke in opposition to the request. He stated that he lived directly across the street from the front wall of the building which was 63 yards from his house. He stated that he also represented his daughter, Mrs. Bruce Rock, who lived next door at 18440 Bauer Drive. Mr. Mower stated that their concerns were the barking of dogs. He stated that he realized that the clinic was not a boarding kennel but the clinic would allow two or three dogs to be kept overnight. Chairman Smith advised Mr. Mower that he would not be able to hear the animals outside of the building. Chairman Smith stated that it was a requirement of the Ordinance that the clinic be odor-free and soundproof or noise resistant. Mr. Mower thanked the Board for allowing him to express his views. He asked the Board to deny the special permit application based on noise.

During rebuttal, Dr. Osten stated that he had architectural drawings of the plans and he had added additional insulation over what was required by the Ordinance. Mr. Yaremchuk advised Mr. Mower that Dr. Osten would have to submit the plans through the Health Department and the Building Department. There were certain standards that had to be met before he could operate the clinic.

 Page 296, April 29, 1980
 STEPHEN C. OSTEN, D.V.M.

Board of Zoning Appeals

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-S-029 by STEPHEN C. OSTEN, D.V.M. under Section 4-603 of the Fairfax County Zoning Ordinance to permit veterinary clinic within existing shopping center on property located at Bauer Drive, tax map reference 79-3(4)42-44, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 29, 1980; 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 in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 8:00 A.M. to 6:30 P.M., Monday through Friday and 9:00 A.M. to 4:00 P.M. on Saturdays.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 297, April 29, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for May 15, 1979 and May 22, 1979. It was the consensus of the Board that the approval of Minutes be deferred until the next meeting.

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Page 297, April 29, 1980, After Agenda Items

DAN & LAHONDA MORGAN: The Board was in receipt of a memorandum from George Symanski of the County Attorney's Office regarding the variance of Dan & Lahonda Morgan. It was Mr. Symanski's opinion that the Board did not have the authority to alter the original variance without the conduction of a public hearing.

Chairman Smith read the memorandum to the Board members and stated that it had been the Board's policy not to change a variance without the benefit of a new public hearing. Mr. Barnes stated that the change was to the best and not necessarily to Mr. Paciulli's advantage. The change was to help with the drainage problems and Mr. Barnes stated that he could not understand why the Board should have to go through the public hearing process all over again. He stated that he had reviewed the revised plats and had known Mr. Paciulli for 25 years and felt that he could trust him.

Mr. DiGiulian stated that he had made the original motion to grant the variance based on the shape of the ground and the existence of floodplain which narrowed the frontage of the lots. Mr. DiGiulian stated that he did not see how anything had changed. The variance was granted for 4.16 acres based on the plats. The present request was for 4.12 acres. Mr. DiGiulian stated that the Board had granted this type of minor engineering request many, many times in the past.

Mr. DiGiulian moved that the Board approve the revised plats as a minor engineering change. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 3 to 2 (Messrs. Smith & Hyland).

// There being no further business, the Board adjourned at 10:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals
Submitted to the Board on 2/23/80

DANIEL SMITH, CHAIRMAN

APPROVED: March 9, 1980
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 6, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Varemchuk and Gerald Hyland.

Chairman Smith called the meeting to order at 10:20 A.M. led with a prayer by Mr. Barnes.

Chairman Smith called the scheduled 10 o'clock case of:

10:00 ALBERT S. JARRATT, appl. under Sect. 18-401 of the Ord. to allow 82.5 ft.
A.M. high antenna to remain 56.6 ft. from one lot line & 65.5 ft. from another
(82.5 ft. min. setback from lot lines req. by Sect. 10-105), located 3061
Valley Lane, Steepy Hollow Manor Subd., 51-3((11))201, Mason Dist., R-3,
20,016 sq. ft., V-80-M-053.

Mr. Gary Davis, an attorney at 1315 Vincent Place in McLean, represented Mr. Jaratt. Mr. Davis stated that the property was on a cul-de-sac located behind Lord & Taylor's at Seven Corners and was surrounded by Lord & Taylor's parking lot. Mr. Davis stated that Mr. Jaratt was asking for a variance to the height of the radio tower. The variance requested was only 5 ft. The tower was approximately 85 ft. tall. The Ordinance was designed as to the general health, welfare and safety to protect the tower from falling down and striking people or other property. Mr. Davis stated that Mr. Jaratt's tower could not fall down and strike anybody. The tower was located at the rear of Mr. Jaratt's property at the right corner of the house. Directly on the right side was a tall Oak tree in addition to another Oak tree of a smaller size nearby. However both Oak trees were tall. Mr. Davis stated that one of the reasons Mr. Jaratt had such a high radio tower was because it needed clearance of the two Oak trees. Mr. Jaratt operated an amateur ham radio and was not a C-Ber according to Mr. Davis. If the antenna were to fall to the right, it would have to come through both of the Oak trees. If it fell to the extreme right, it would fall onto the Lord & Taylor parking lot. Mr. Davis stated that there was a buffer zone between the parking lot and Mr. Jaratt's property of about 15 to 20 ft. If the tower were to fall behind the house to the rear, it would fall within Mr. Jaratt's property lines.

Mr. Davis stated that the Ordinance requirements were designed to keep the radio towers from falling and damaging other people's property. Mr. Davis stated that this particular radio tower or antenna folded in the middle in order to service the boom. If the tower were to break, it would probably release in the middle rather than at the base of the antenna.

Mr. Davis stated that Mr. Jaratt had lived at this property for five years and had neighbors to speak in support of this application. In addition, there were a number of people who had signed a petition in support of the application.

Chairman Smith inquired if Mr. Davis had a hold harmless agreement from the adjoining property owners. He stated that it was very important that the Board have such an agreement before it could grant a variance. Mr. Hyland inquired as to why such an agreement would be necessary since Mr. Davis had stated that there was no way for the tower to reach any adjoining property to do any damage. Chairman Smith stated that 99% of the time nothing would ever happen but he was concerned that the County might be held liable if it granted a variance. Chairman Smith stated that the Board had required such agreements in the past. Mr. Barnes stated that he did not think it was necessary and indicated that it was an added expense to the applicant. Mr. Davis stated that he did not see the necessity for such an agreement since the property owner on the right, Mr. Begay, was in support of the application. Chairman Smith inquired as to Lord & Taylor property. Mr. Davis stated that in order for the tower to strike another house in the area, it would first have to fall over Mr. Jaratt's house. Chairman Smith inquired as to why Mr. Jaratt needed an 80 ft. tower to begin with. Mr. Davis explained that the height of the tower was necessary because of the particular location of the Oak trees. He stated that they could cut the trees down but they were 79 ft. in height and 24" in diameter. They were rather large trees and provided a nice wooded area. Mr. Davis stated that he did not believe the tower would fall onto the neighbor's property and destroy any property. Chairman Smith inquired as to why Mr. Jaratt needed the tower and asked what it was used for. Mr. Davis responded that the tower was used in the operation of the ham radio that Mr. Jaratt enjoyed. The tower would not clear the height of the trees if it were erected to the maximum height allowed by the Ordinance. Mr. Jaratt was a member of the Federal Communications Commission and the ham radio was a hobby that he, his wife and son enjoyed together. The tower was put up to clear the top of the Oak trees. Chairman Smith stated that he was familiar with the ham radio operations. He indicated that there were many ham radio operators in the County and many who were associated with the FCC and some individuals who were just interested in the radio. Chairman Smith stated that the Board needed justification before it could grant the variance.

Mr. Davis informed the Board that if the radio tower was kept at the 65 ft. maximum allowable height, Mr. Jarratt would have to cut down at least two Oak trees which would not be fair to the neighbors. In response to the length of time Mr. Jarratt had been operating this unit, Mr. Davis stated that it had been since the fall of last year. Chairman Smith inquired as to why Mr. Jarratt was now complying with the Ordinance. Mr. Davis stated that the Zoning Inspector had informed Mr. Jarratt that the tower was in violation of the Ordinance; however no violation notice had been issued. The inspector had advised Mr. Jarratt of the variance procedures and he had elected to file for the variance.

Mr. George Begay, owner of lot 202 adjacent to Mr. Jarratt's property, informed the Board that he was a retired radio engineer. He stated that the Code was designed for two reasons: one was aesthetics and the other safety. Mr. Begay stated that he could not see Mr. Jarratt's tower from his property. The tower was located behind two large trees. Mr. Begay stated that he had examined the tower when it was erected and had noticed that Mr. Jarratt knew his job. The structure was very sound. Mr. Begay stated that he was familiar with such matters having designed radio towers himself. He informed the Board that Mr. Jarratt had erected guides at two levels which would direct the fall and absorb wind stress. Mr. Begay stated that the tower could only fall in one of four directions and Mr. Jarratt had taken care of three of the directions. Mr. Begay informed the Board that he had never seen a tower like this one damaged before. There were safety features built into the design of the tower and it was hard to damage it. Mr. Begay stated that this tower would never fall as it would actually break at certain points and then collapse.

In response to questions from the Board, Mr. Begay stated that he was not worried about the tower falling onto his property. Mr. Begay stated that as far as the other adjoining properties, the tower might come close to the property lines if it collapsed but it would not damage any property.

Mr. Hyland inquired of Mr. Begay if he felt it necessary to have a hold harmless agreement with Mr. Jarratt. Chairman Smith stated that he was only concerned about Fairfax County and his suggestion that the Board ask for a hold harmless agreement was only for Fairfax County. Chairman Smith stated there was an attorney on the Board who was much smarter than he was in these matters.

Mr. Barnes stated that in his opinion if Mr. Jarratt thought the tower could do any great harm to anyone and there was a possibility of being sued, he would take it upon himself to protect himself from a lawsuit. Chairman Smith stated that no insurance was necessary for the erection of the tower. He informed Mr. Barnes that as a member of the Board he was liable for a possible lawsuit and so was Fairfax County should the Board grant the variance. Chairman Smith stated that the Board would be liable if someone else moved into the structure later on and something happened with respect to the tower.

Mr. Yaremchuk stated that Chairman Smith might be right. He asked that the Board get an opinion from the County Attorney as to whether the hold harmless agreement was necessary. Mr. Yaremchuk suggested that Mr. Covington contact the County Attorney for an opinion.

It was the consensus of the Board to recess the hearing on the Jarratt application to allow for an Executive Session with the County Attorney on the points discussed earlier.

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Page 299, May 6, 1980, Scheduled case of

10:10 FRANCIS E. GREEN, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction to dwelling 20 ft. from rear lot line & 30 ft. from front lot line
(25 ft. min. rear yard & 35 ft. min. front yard req. by Sect. 3-207), located
6481 Seventh St., Southern Villa Subd., 72-3((13))948, Mason Dist., R-2, 21,422
sq. ft., V-80-M-054.

Mrs. Francis Green informed the Board that two-thirds of her property was floodplain which left very little area to build a standard sized house. Mrs. Green requested that the Board allow her to move the building 5 ft. closer to the rear of the lot and 5 ft. closer to the front of the lot.

In response to questions from the Board, Mrs. Green stated that she had owned the property for about one year. At the time she purchased the property there was already an existing variance. She stated that she was not aware of the regulations that construction must commence within one year. The original variance had been granted in July of 1978 and had expired in July of 1979.

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FRANCIS E. GREEN
(continued)

Chairman Smith inquired as to the justification for the granting of the variance. Mrs. Green stated that she had a very small area in which to build. The property was long and narrow and became more narrow at the center of the property. She stated that she would almost have to build a triangular house if she complied with the setbacks.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 300, May 6, 1980
FRANCIS E. GREEN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-M-054 by FRANCIS E. GREEN under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 20 ft. from rear lot line and 30 ft. from front lot line (25 ft. minimum rear yard and 35 ft. minimum front yard required by Sect. 3-207) on property located at 6481 Seventh Street, tax map reference 72-3((13))948, County of Fairfax, Virginia, Mr. Yarenchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the requirements of all applicable State and County Codes and with the by-laws of 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 6, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 21,422 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, specifically being long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 300, May 6, 1980, Scheduled case of

10:20 JANE & THOMAS L. AHLER, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of addition to dwelling to 8.6 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 7225 Timber Lane, Walnut Hill Subd., 50-1((7))18, Providence Dist., R-4, 10,010 sq. ft., V-80-P-055.

Mr. Thomas Ahler of 7225 Timber Lane informed the Board that he had started the project of looking into the construction of an addition about two years ago. He had determined that the side yard requirement was 8 ft. according to the information he had been given. He started that he needed to learn how to build additions and had taken several courses through Fairfax County. When he was ready to begin and came to the County to apply for a building permit, he was informed that the side yard had changed from 8 ft. to 10 ft. Mr. Ahler stated that the addition would be used as a studio. He informed the Board that he was replacing a screened porch with this addition so that the visual impact would not be that much different from the way it was now.

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 JANE & THOMAS L. HAHLER
 (continued)

Mr. Hahler stated that the lot was 65 ft. and was an interior lot. He stated that the lot was rather narrow according to the Zoning Ordinance. The variance was only for 1.4 ft. to allow room for the studio. Mr. Hahler stated that there would not be enough room for his equipment without the variance.

There was no one else to speak in support of the variance and no one to speak in opposition.

Page 301, May 6, 1980
 JANE & THOMAS L. HAHLER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-P-055 by JANE & THOMAS L. HAHLER under Section 18-401 of the Zoning Ordinance to allow construction of addition to 8.6 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at 7225 Timber Lane, tax map reference 50-1((7))18, 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 6, 1980; 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 10,010 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing buildings on the subject property and that the applicant's property is a substandard lot.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 301, May 6, 1980, Scheduled case of

10:30 A.M. CROMAC BUILDERS, INC., appl. under Sect. 18-406 of the Ord. to allow building to remain .05 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 1672 Trap Rd., 28-1((1))26, Centreville Dist., R-1, V-80-C-056.

Mr. Henry Mackall, an attorney at 4031 Chain Bridge Road in Fairfax, represented Cromac Builders, Inc. He stated that he was also one of the principals involved in the application. Mr. Mackall informed the Board the dwelling had been built in the 1900's. He stated that he was not aware when the addition had been added on but he believed it had been when the person had also owned the adjoining lot. The adjoining lot had been sold in 1975 and at that time, the dwelling became in violation of the side yard requirements.

Chairman Smith inquired of Mr. Covington as to how the County allowed the other lot to be sold. Mr. Covington stated that the original dwelling had been constructed back in the early 1900's. He stated that he was unable to find any building permits except for a shed which was constructed in 1964.

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CROMAC BUILDERS, INC.
(continued)

Chairman Smith stated that the building probably would be non-conforming except for the building permit which brought it into violation. He questioned what had brought the matter to the attention of the Zoning Office since the other lot had been sold some time ago. Mr. Mackall stated that Cromac Builders had purchased the property and discovered that it was very close to the property line. He stated that they did not have any contingency on their contract. In order to get a building permit, Cromac had to apply for a variance to make it a legal building. Mr. Mackall stated that they had purchased the property last fall and gone to settlement in November. Chairman Smith inquired if Cromac had purchased the other adjoining lot and was informed they had not. The other lot had been sold in 1975 and a builder had constructed a house on it.

Mr. Mackall stated that if the variance was not granted, Cromac would have to tear down the wing addition which was the most substantial part of the house. He stated that he could not get a building permit to improve the house until he got a variance. He stated that if he had to tear down the wing, he would also have to tear down the building and they would lose what they considered to be the reasonable use of the property.

Mr. Covington informed the Board that Mr. Mackall was trying to clear the cloud that existed on the title to the property. He stated that the Zoning Office would not be able to deny him a remodeling permit. Mr. Mackall stated that he wanted the building to be legal. Mr. Barnes stated that he was glad Mr. Mackall was trying to restore and fix up the property.

There was no one else to speak in favor of the application and no one to speak in opposition.

Page 302, May 6, 1980
CROMAC BUILDERS, INC.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-C-056 by CROMAC BUILDERS under Section 18-401 of the Zoning Ordinance to allow building to remain .05 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 1672 Trap Road, tax map reference 28-1((1))26, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 6, 1980; 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 2.61432 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user or the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 303, May 6, 1980, Scheduled case of

10:40 RICHARD ALLEN BENEDICT, appl. under Sect. 18-401 of the Ord.
A.M. to allow expansion and enclosure of carport to a two car garage to 22.5 ft. from a street line on a corner lot (30 ft. minimum front yard required by Sect. 3-307), located 14526 Lock Dr., Country Club Manor, 44-3((2))(31)17, Springfield Dist., R-3, 12,731 sq. ft., V-80-S-057.

Mr. Richard Benedict of 14526 Lock Drive informed the Board that he had purchased the property in October and put in insulation in the attic which had been used for storage space previously. Mr. Benedict stated that the house did not have a basement and there was not any storage space on the property. Mr. Benedict explained to the Board that if he used the attic for storage, it would ruin the insulation. Mr. Benedict stated that he needed a garage for storage and for housing of his two vehicles. Mr. Benedict stated that his neighbors were in support of the application.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 303, May 6, 1980
RICHARD ALLEN BENEDICT

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-S-057 by RICHARD ALLEN BENEDICT under Section 18-401 of the Ordinance to allow expansion and enclosure of carport to a two car garage to 22.5 ft. from a street line on a corner lot (30 ft. minimum front yard required by Section 3-307), on property located at 14526 Lock Drive, tax map reference 44-3((2))(31)17, 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 6, 1980; 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 12,731 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote 4 to 1 (Mr. Smith).

Page 303, May 6, 1980, Scheduled case of

10:50 DONALD & ANNA MARIA HALEBLIAN, appl. under Sect. 18-401 of
A.M. the Ord. to convert existing carport into a garage to 6.5 ft. from side lot line (8 ft. min. side yard req. by Sect. 3-307), located 8713 Whitson Ct., 89-3((6))187, Rolling Valley Subd., R-3(C), Springfield Dist., 12,275 sq. ft., V-80-S-058.

Page 304, May 6, 1980
RICHARD ALLEN BENEDICT
(continued)

Mr. Donald Haleblan of 8713 Whitson Court in Springfield stated that the unusual shape of his property was such that there were converging lot lines and a 20 ft. easement on one side. He stated that he wished to convert his present carport into a garage because it was the only place on his property for a garage. The carport was located 6.5 ft. from the side lot line but the Zoning Ordinance required a minimum of 8 ft. Mr. Haleblan stated that he needed a variance in order to enclose the carport into a garage. In response to questions from the Board, Mr. Haleblan stated that he had owned the property for 3½ years.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 304, May 6, 1980
DONALD & ANNA HALEBLIAN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-S-058 by DONALD & ANNA MARIA HALEBLIAN under Section 18-401 of the Zoning Ordinance to convert existing carport into a garage to 6.5 ft. from side lot line (8 ft. minimum side yard required by Sect. 3-307) on property located at 8713 Whitson Court, tax map reference 89-3((6))187, 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 6, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 12,275 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging lot lines and has an unusual condition in the existence of a 20 ft. storm sewer easement.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in the practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED.

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 304, May 6, 1980, Scheduled case of

11:00 A.M. CONRAD CLAUDE HAWKINS, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport to 6.2 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), located 6809 Smithway Dr., Hazeltine Heights, 93-1((14))504, Mt. Vernon Dist., R-3, 10,429 sq. ft., V-80-V-059.

Mr. Conrad Hawkins of 6809 Smithway Drive in Alexandria informed the Board tht he was requesting a variance for enclosure of his carport because he needed more living space in his home. He stated that he was not planning to use it for a garage. mr. Hawkins informed the Board that he had owned the property for 3 years.

There was no one else to speak in support of the application. Mr. Reginald Stocks of 6807 Smithway Drive spoke in opposition to the request. In addition, he presented the Board with a petition signed by the neighbors who were also in opposition to the variance request. Mr. Stocks informed the Board that he was an adjoining property owner to Mr. Hawkins' property. Mr. Stocks stated that other residents in the area had requested permission to enclose their carports and had been denied. Mr. Stocks stated that there was adequate space on the back of the house to construct additional living space. There was 75 ft. from the back of the house to the back property line.

Chairman Smith advised Mr. Stocks that the Board did not have any record of anyone else owning the property having applied for a variance previously. Mr. Stocks stated that the previous owner had applied to enclose the carport into living space for his family but was denied so he had moved away. Chairman Smith stated that there was no record of any previous variance. He stated that perhaps the previous owner had applied for a building permit to the Zoning Office and been refused because of setbacks. Chairman Smith accepted the petition presented by Mr. Stocks.

Mr. Barnes inquired as to why Mr. Stocks objected to the variance. Mr. Stocks stated that the 12 ft. minimum setback was sufficient since there was adequate space in the back of the home to add on if Mr. Hawkins desired. Mr. Barnes stated that there had been a change in recent years and a man could not afford to go out and buy a new house when he outgrew the old one. Mr. Barnes stated that Mr. Hawkins was just trying to do the best he could by enclosing the carport for living space.

Chairman Smith stated that the Board bases its decision on the reasonable use of the land. He informed Mr. Stocks that Mr. Hawkins' property was very narrow. Mr. Covington stated that under the previous Ordinance, Mr. Hawkins would have been allowed to build within 8 ft. of the side lot line. Chairman Smith stated that the Ordinance had recently changed. He further stated that this was a substandard lot and it would have had a 15% reduction allowed under the previous Ordinance.

During rebuttal, Mr. Hawkins stated that he was only enclosing the existing carport and would not be encroaching any closer to the property line. Mr. Hawkins informed the Board that he could not afford to expand the present carport or afford to build on the back of his home. Mr. Hawkins stated that his home was 18 years old. Mr. Hawkins informed the Board that he had a signed statement from his neighbor indicating that his fence was erected 3 ft. inside of Mr. Hawkins' property. Mr. Hawkins stated that the fence would be moved to the property line which would give him an additional 3 ft.

Chairman Smith stated that the fence did not have any bearing to the variance request. He stated that it was a matter that Mr. Hawkins would have to work out with the neighbor.

R E S O L U T I O N

In Application No. V-80-V-059 by CONRAD CLAUDE HAWKINS under Section 18-401 of the Zoning Ordinance to allow enclosure of carport to 6.2 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 6809 Smithway Drive, tax map reference 93-1((14))504, 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 6, 1980; 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 10,429 sq. ft.
4. That the applicant's property has an unusual condition in that it is a substandard lot.

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use 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 plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaramchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 306, May 6, 1980, Scheduled case of

11:10 RAYMOND F. PELLETIER, appl. under Sect. 18-401 of the Ord.
A.M. to allow resubd. into (3) lots, such that proposed lot 56C would have width of 15 ft. and proposed lot 56B a width of 85 ft. (100 ft. min. lot width req. by Sect. 3-206), located 7016 Woodland Dr., Leewood Estates, 71-3(7)56, Annandale Dist., R-2, 80,000 sq. ft., V-80-A-060.

Mr. Ray Pelletier of Triad Way in Springfield informed the Board that as of May 1st he became the property owner of lot 56 which was an interior lot 200'x400'. The 200 ft. frontage was on Woodland Drive. The property was zoned R-2 and was very long and narrow. Mr. Pelletier stated that he was asking for a variance to allow a pipestem of 15 ft.

Chairman Smith stated that if Mr. Pelletier had indicated on the variance application that he was the owner of the property there was a question as to the validity of the application. Chairman Smith stated that he wanted an opportunity to discuss the matter with the County Attorney before proceeding with the variance.

Mr. Pelletier stated the previous property owner was aware of what Mr. Pelletier was doing. Chairman Smith stated that all of the advertising had been done under Mr. Pelletier's name rather than the name of the property owner. He stated that the State Code was very explicit that only an aggrieved property owner could apply for a variance. Chairman Smith stated that he wanted to recess the hearing until he could speak with the County Attorney. Mr. Pelletier stated that he lived at 7116 Triad Way and knew all of the neighbors. They were all aware of what was being planned.

The hearing was recessed to allow the Board an opportunity to discuss the matter with the County Attorney.

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Page 306, May 6, 1980, Scheduled case of

11:20 F. W. III & MARTHA A. McGRAIL, appl. under Sect. 18-401 of the
A.M. Ord. to allow construction of garage addition to dwelling to 1.7 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 5103 Ox Rd., Country Club View Subd., 68-3((4))(15)12A, Springfield Dist., R-2, 15,214 sq. ft., V-80-S-061.

Mr. F. W. McGrail, III informed the Board that he was requesting a variance because of the position of his house on the property. He stated that he had owned the property since the early 1970s.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 306, May 6, 1980
F. W. III & MARTHA A. McGRAIL

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-S-061 by F. W. III & MARTHA McGRAIL under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 1.7 ft. from side lot line (15 ft. min. side yard req. by Section 3-207), on property located at 5103 Ox Road, tax map reference 68-3((4))(15)12A, 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 6, 1980; 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 15,214 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, in that the lot is narrow and shallow, and has an unusual condition in the existence of a 15 ft. storm sewer easement.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED.

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 307, May 6, 1980, Scheduled case of

11:30 A.M. MT. VERNON YACHT CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-71-69 for swimming pool & marina to permit reconstruction of wading pool, located 4817 Tarpon Lane, Yacht Haven Subd., 110-3((4))H1 & pt. A, Mt. Vernon Dist., R-2, 3.6 acres, S-80-V-028.

Mrs. Margaret Skally of 9321 Coral Lane in Alexandria represented the yacht club. She stated that they were requesting permission to relocate the wading pool as the existing pool had been inoperable for the past two seasons. She stated that the club had come to the conclusion that they would have to relocate the pool to a more stable site. She stated that it was only a matter of moving the pool closer to the clubhouse off of the bulkhead which was fill dirt.

In response to questions from the Board, Mrs. Skally informed the Board that the wading pool had been constructed in 1958 when the club was first established. Mrs. Skally stated that the pool would not hold water where it was presently located. She stated that the pipes might be cracked and that there was a soil problem.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 307, May 6, 1980
MT. VERNON YACHT CLUB, INC.

Board of Zoning Appeals

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-V-028 by MT. VERNON YACHT CLUB, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-71-69 for swimming pool and marina to permit reconstruction of wading pool on property located at 4817 Tarpon Lane, tax map reference 110-3((4))41 & pt. A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 6, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-2.
3. That the area of the lot is 3.6 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The hours of operation of the pool shall be yearly from Memorial Day through Labor Day, seven days a week from 8 A.M. to 9 P.M.

8. All other conditions of S-71-69 shall remain in effect.

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. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

 Page 308, May 6, 1980, Executive Session

At 11:45 A.M., Mr. Hyland moved that the Board convene into an Executive Session to discuss legal matters with the County Attorney. At 12:50 P.M., the Board reconvened into public session to continue with the scheduled agenda.

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Page 308, May 6, 1980, Scheduled case of

11:45 A.M. ROBERT CLARK, appl. under Sect. 18-401 of the Ord. to allow horse barn to remain 13.3 ft. from side lot line (40 ft. min. side yard required for such structure required by Sect. 10-105), located 11825 Shady Mill Lane, Hidden Valley Subd., 36-1((8))1, Centreville Dist., R-E, 5.0 acres, V-296-79. (Deferred from December 4, 1979 for Notices; from February 5, 1980 at request of applicant; and from April 15, 1980 at request of applicant.)

Mr. Robert Clark of 11825 Shady Mill Lane in Fairfax informed the Board that he had contracted to have a barn constructed on his property. Later he found out that the contractor was incompetent and unreliable. Mr. Clark stated that he had paid to have the building permit taken care of by the contractor and had presumed that he had obtained one. When Mr. Clark became aware of problems involving the contractor, he stated that he went to the County and exposed the contractor. Mr. Clark stated that he cooperated with the County in getting the arrest of the contractor. The contractor had bargained with the County and had agreed to finish the stable for Mr. Clark at no additional cost. Mr. Clark stated that all he was doing by relaying this information to the Board was trying to show that he was an innocent victim and not aware of the County Code requirements.

Mr. Clark stated that there were only five lots in his subdivision. He stated that he was one of the last two lots in the subdivision which ended with a cul-de-sac in his front yard. Mr. Clark stated that his property contained five acres. The Donohues' property contained 3.6 acres and the County acquired 1.4 acres for a public park. Mr. Clark stated that his property touched on the park.

Mr. Clark stated that the stable had been constructed with respect to a survey line which indicated a 28 ft. distance from the property line. The stable had been staked out and appeared to be 28 ft. to the line. After Mr. Donohue informed Mr. Clark that the stable had to be 40 ft. from the line, the contractor stated that the requirement was only 20 ft. and that the next door neighbor was in error.

Mr. Clark stated that his property was 3½ years old and that he had four or five surveys of the property. Mr. Clark stated that he was still confused as to the location of the property lines. Mr. Clark stated that he had erected a fence and the stable. When Mr. Donohue's survey indicated a different location for the property line, Mr. Clark ripped out his fence and moved it in order not to have any problem with it. Mr. Clark stated that his own survey was apparently in error as the stable was not 28 ft. from the property line. Mr. Clark stated that he had placed the stable at this location on his property because of floodplain and a creek and he was trying to keep the stable away from Mr. Donohue's sight. Mr. Clark stated that he could have built the stable in another location which was all woodland but it would have placed the stable in Mr. Donohue's front yard. Mr. Clark stated that he had tried to be considerate of his neighbors and Mr. Donohue.

Mr. Clark had presumed that the stable was not an infringement on Mr. Donohue. There was not a structure on Mr. Donohue's property at the present time. Mr. Clark stated that the house was not even laid out yet. Mr. Donohue's property was floodplain also and Mr. Clark stated he was not certain where a dwelling could be located.

Mr. Clark stated that the site for the stable was always made apparent to Mr. Donohue. Mr. Donohue had been present during the construction process on several occasions. It was not until the stable was completed that Mr. Donohue advised Mr. Clark that the stable was too close to the property line and would have to be torn down. Mr. Clark stated that Mr. Donohue had suggested that he would allow the stable to remain if Mr. Clark would give him the top one acre free and clear. Mr. Clark stated that he had agreed to an exchange of the high ground for one acre of Mr. Donohue's low ground which was not buildable. Mr. Clark stated that nothing ever came about on the exchange of land.

Mr. Clark stated that it had been one year since the initial complaint about the stable. Mr. Clark informed the Board that the stable was built in error because of the contractor who was less than ethical. The contractor had gone to court and been severely reprimanded. Mr. Clark stated that the stable was not an infringement on Mr. Donohue as no structure existed on the property. Mr. Clark stated that he did not believe that Mr. Donohue intended to build on the property as he had offered to sell the property to Mr. Clark.

Mr. Yaremchuk inquired if Mr. Clark had been aware of the property lines when he had contacted the builder. Mr. Clark stated that the property had been staked out and that he knew where the stakes were. Northern Virginia Surveys had done the initial survey 2½ years ago. The survey was recertified after Mr. Clark had some land cleared for the stable. One acre of Mr. Donohue's land had been cleared in error and the property had to be resurveyed to determine the location of the property lines.

Mr. Clark stated that he thought the contractor had complied with all County Ordinances and requirements. He believed the contractor was correct when he was informed that the stable could go as close as 20 ft. Mr. Clark stated that his stable was located 28 ft. from the property line at the closest point. Mr. Clark stated that the line had changed. Mr. Donohue had his property resurveyed and the property line was a matter of dispute between them. Mr. Clark stated that the matter was now in litigation.

Mr. Yaremchuk stated that it appeared that Mr. Clark did not begin the construction blindly. He had the property staked out and had a pretty good idea as to the location of the lot lines. Mr. Barnes stated that Northern Virginia Surveys might have prepared the survey from the air due to the dense woodland. Mr. Clark stated that Northern Virginia Surveys were being brought into the litigation matter because of the one acre clearing problem. The excavator had encroached on Mr. Donohue's property by about one acre. Mr. Clark informed the Board that he had given the excavator a copy of the survey to use when clearing the land. He had asked that two acres be cleared. The land was very densely covered with thick brambles.

Mr. DiGiulian inquired as to the 20 ft. easement which ran along the property line of lot 3. Mr. Clark stated that was a road he had built in order to get to the stable. The road was on his property.

Mr. Mellnick, an attorney, represented Mr. Donohue. He stated that the barn was supposed to be 40 ft. from the property line as Mr. Clark had indicated that on his building permit. Mr. Mellnick explained to the Board that after the stable was 3/4 completed, Mr. Clark had applied for a building permit and indicated that it would be 40 ft. from the property line. Mr. Mellnick stated that the structure was a six horse barn and would be located 70 ft. from Mr. Donohue's house. He stated that the wind would blow across the stable onto Mr. Donohue's house. Mr. Mellnick stated that they had asked for a continuance previously in order to work out a trade. Mr. Mellnick stated that Mr. Clark had totally destroyed Mr. Donohue's property. Mr. Donohue's property would be totally useless if the stable were allowed to remain. The rest of the property was all floodplain.

Mr. Hyland inquired as to why the fence had been moved. Mr. Donohue stated that Charles Runyon had done his survey. There was a fence built on his property and he had it moved. Mr. Donohue stated that there was no dispute over the surveys.

Mr. Mellnick stated that Mr. Clark would have to prove a hardship before a variance could be granted. He stated that Mr. Clark had five acres of land on which to locate the barn. At present, the barn was located in Mr. Donohue's front yard. Mr. Mellnick stated that Mr. Donohue had been damaged enough.

Mr. Hyland inquired as to whether Mr. Clark would have had any knowledge as to the proposed location of Mr. Donohue's house. Mr. Donohue stated that he had discussed it with Mr. Clark when he first discovered the problem. He stated that Mr. Clark had never called him. After the land had been cleared, the survey completed and the new barn started, Mr. Donohue stated that he had gone out to his property with his architect to plan his house. He had discovered what was happening then. Mr. Donohue stated that Mr. Clark did not even know where his property line was so how would he know where the proposed house would be. Mr. Mellnick stated that Mr. Clark had constructed the stable at the farthest point from his own house.

There was no one else to speak in opposition to the application.

During rebuttal, Mr. Clark stated that he wanted to make it very plain that the excavation of the two acres and the building of the stable were two different problems. Mr. Clark stated that when he asked the excavator to clear the two acres, he had also asked him to level off the land for a stable. Mr. Clark stated that when he had looked at the plats he had determined that the excavator had violated the property lines. Mr. Clark stated that he had contacted the surveyor and it was determined that half of the cleared land was Mr. Clark's and half was Mr. Donohue's. Mr. Clark stated that he had the adjoining property cleared off and seeded. He stated that he had not deliberately set out to build a stable on someone else's property. Mr. Clark stated that the stable had been built in error.

Mr. Clark stated that the fence was put up according to where his property line was located. He stated that he had the fence put back up according to Mr. Donohue's determination of where the line was. Mr. Clark stated that he was not trying to take advantage of Mr. Donohue. Mr. Clark stated that he had not intentionally had his stable constructed where it was presently located.

Mr. Clark informed the Board that these were two separate matters and asked that they not be confused. He stated that they kept merging the two together. Mr. Clark stated that the stable was not infringing on anyone's home.

Chairman Smith advised Mr. Clark that he had to justify the request under the hardship section of the Ordinance. Mr. Clark replied that the stable had been completely constructed before the variance was filed. Mr. Clark stated that he had spent over \$15,000 on the barn and \$2,000 on the road. He stated that he lived in a \$200,000 house and he could not see how this was not a hardship. Chairman Smith advised Mr. Clark that economics were not considered in these matters. Mr. Clark stated that the barn had been placed in this location because of the topographic conditions, the location of the creek,

Page 311, May 6, 1980
ROBERT CLARK
(continued)

the floodplain and because of the neighbors. He stated that he did not want the stable to infringe on Mr. Donohue. Mr. Clark informed the Board that he had owned a house previously but not any amount of land. He stated that this was his first experience and was not an act of deceit.

Page 311, May 6, 1980
ROBERT CLARK

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-296-79 by ROBERT CLARK under Section 18-401 of the Zoning Ordinance to allow horse barn to remain 13.3 ft. from side lot line (40 ft. minimum side yard required for such structures by Sect. 10-105) on property located at 11825 Shady Mill Lane, tax map reference 36-1((8))1, 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 Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 6, 1980; and deferred from December 4, 1979; February 5, 1980 and April 15, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 5.00 acres.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Hyland).

Page 311, May 6, 1980, Scheduled case of

12:00 SPRINGFIELD RENTAL CRANE CO., INC., appl. under Sect. 18-301 of the Ord. to
NOON appeal Zoning Administrator's decision that storage of construction equipment on subject property is not a non-conforming use, located 10000 Van Thompson Rd., 105-2((1))8, Springfield Dist., R-1, 5.1859 acres, A-336-79. (This appeal was granted on April 15, 1980. BZA was asked to reconsider its motion based on the timeliness of the application.)

For information regarding the testimony presented at the reconsideration hearing, please refer to the verbatim transcript on file in the Clerk's Office.

Page 311, May 6, 1980

Board of Zoning Appeals

SPRINGFIELD RENTAL CRANE CO., INC.

R E S O L U T I O N

Mr. Hyland moved that the appeal of the Zoning Administrator's decision which was previously granted on April 15, 1980 and heard again upon reconsideration be granted and further, that the question of timeliness of the appeal raised by the County Attorney's Office is not a reason for denial of the appeal. This motion was seconded by Mr. DiGiulian and passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Mr. Yaremchuk).

Page 311, May 6, 1980, Recessed case of

ALBERT JARRATT: Chairman Smith stated that the Board had recessed the hearing of Albert Jarratt in order to discuss the possibility of a hold harmless agreement with the County Attorney. Mr. Davis agreed to furnish the hold harmless agreement and it was the consensus of the Board to defer the hearing for a sufficient period of time to allow the attorney an opportunity to furnish the agreement.

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Page 312, May 6, 1980, Recessed case of

RAYMOND F. PELLETIER: Chairman Smith stated that the Board had discussed whether this was a properly filed application during the Executive Session. It was the consensus of the Board to proceed with the hearing.

Mr. Raymond Pelletier of 7116 Triad Way informed the Board that he was the owner of lot 56, being 200'x400'. There was 200 ft. frontage on Woodland Drive. He stated that he wanted to divide the property into three lots consisting of 24,000 sq. ft.; 20,400 sq. ft. and 35,600 sq. ft. Mr. Pelletier stated that because of the 200 ft. minimum frontage needed for the subdivision, he was requesting a variance to allow a 85 ft. width and a 15 ft. width

Chairman Smith inquired of Mr. Covington if a house could meet the setback requirements from the access road. Mr. Covington stated that it appeared that it would. Chairman Smith inquired as to the setback required. Mr. Covington stated that when the applicant came in for a building permit, the Zoning Office would check all of the setbacks. Mr. Pelletier stated that the Ordinance required a 25 ft. setback from the access road and a 12 ft. side yard. Mr. Pelletier stated that the house was more than 25 ft. from the access road. Mr. DiGiulian stated that if the house was 49 ft. wide, then the applicant had 36 ft. which was more than enough to meet the setback. Mr. Covington informed the Board that there was not any footage shown on the plat. He stated that the applicant was not asking to allow construction of the dwelling. Mr. Covington informed the Board that the applicant would have to meet all of the setbacks at the time he applied for a building permit. Chairman Smith informed Mr. Pelletier that the Board was not approving the location of the proposed future housing.

Mr. DiGiulian inquired if Mr. Pelletier was aware of the Design Review comments on the staff report. Mr. Pelletier stated that the reason for the location of the driveway was because of the trees. He stated that he had agreed with lot 55 to switch easements. He stated that 30 ft. of the road would be somewhere in the easement.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 312, May 6, 1980
RAYMOND F. PELLETIER

Board of Zoning Appeals

RESOLUTION

In Application No. V-80-A-060 by RAYMOND F. PELLETIER under Section 18-401 of the Zoning Ordinance to allow resubdivision into three lots such that proposed lot 56C would have width of 15 ft. and proposed lot 56B would have a width of 85 ft. (100 ft. minimum lot width required by Sect. 3-206) on property located at 7016 Woodland Drive, tax map reference 71-3((7))56, 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 6, 1980; 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 80,000 sq. ft.
4. That the applicant's property is irregular in shape, specifically being long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 313, May 6, 1980, After Agenda Items

ROAD AGGREGATES: The Board was in receipt of a request from Road Aggregates for an extension of V-70-79. Mr. Barnes moved that the Board grant them a six month extension. Mr. Hyland seconded the motion and it was unanimously passed by a vote of 5 to 0.

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Page 313, May 6, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for May 15, 1979 and May 22, 1979. Mr. Barnes moved that the Minutes of May 15th and May 22nd be approved as amended. Mr. Hyland seconded the motion and it was unanimously passed by a vote of 5 to 0.

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Page 313, May 6, 1980, After Agenda Items

MR. GALENSKI: The Board was in receipt of a request from Dr. Galenski for an out-of-turn hearing for his variance application. It was the consensus of the Board to deny the request.

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Page 313, May 6, 1980, After Agenda Items

Reconsideration of V-80-C-029: JAMES C. KING: Mr. Hyland moved that the Board reconsider its action in the variance resolution of V-80-C-029 concerning James C. King to make clear its intention of the motion in denying the application. Mr. DiGiulian seconded the motion and it passed unanimously by a vote of 5 to 0.

Mr. Hyland stated that the reason for his denial of the application had not been contained in the motion and he moved that the resolution be amended as follows:

Page 313, May 6, 1980 Board of Zoning Appeals
JAMES C. KING

A M E N D E D R E S O L U T I O N

In Application No. V-80-C-029 by JAMES C. KING under Section 18-401 of the Zoning Ordinance to allow the operation of a business as a home occupation in an R-1 District with storage of stock in trade on premises (storage, display, or sale of stock in trade on premises prohibited by Section 10-304) on property located at 3661 West Ox Road, tax map reference 46-1((1))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 April 29, 1980 with amendment to motion on May 6, 1980; 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 12.00009 acres.
4. That the applicant's property does not meet any of the standards for the granting of a variance either under the provisions of the County Ordinance or the provisions of the Code of Virginia.

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. Nor does the Board of Zoning Appeals have the authority to grant a variance from the definitional requirements of Section 10-304 of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 314, May 6, 1980

There being no further business, the Board adjourned at 2:30 P.M.

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By *Sandra L. Hicks*
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

DANIEL SMITH, CHAIRMAN

Submitted to the Board on 3/9/82

APPROVED: March 16, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 13, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Gerald Hyland.

The Chairman opened the meeting at 10:35 A.M. and Mr. Barnes led the prayer.

Page 315, May 13, 1980, After Agenda Items

CROMAC BUILDERS, INC.: The Board was in receipt of a letter from Mr. Doug Mackall asking for clarification of the Board's motion in the variance granted May 6, 1980. The resolution was respect to the standard variances and Mr. Mackall inquired if the variance resolution should have been under the mistake section of the Ordinance. It was the consensus of the Board that the resolution was correct since no building permit had ever been applied for; therefore, it did come under the mistake section.

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Page 315, May 13, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for June 5, 1979 and June 12, 1979. It was the consensus of the Board to defer the approval of the Minutes until another meeting.

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Page 315, May 13, 1980, Scheduled case of

10:00 A.M. SHOUSE VILLAGE COMMUNITY ASSOCIATION, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision in approving home day care facility on subject property located 1506 Ducimer Ct., Shouse Village Subd., 28-1((7))275, Dranesville Dist., R-2, 15,097 sq. ft., A-80-D-005.

Chairman Smith stated that the staff had received a request from the applicant to withdraw the appeal application and it had been administratively withdrawn before the application process was completed.

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Page 315, May 13, 1980, Scheduled case of

10:30 A.M. ANTHONY M. LARGAY, appl. under Sect. 18-401 of the Ord. to allow construction of addition to townhouse end unit to 8.5 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-507), located 2542 Herrell Ct., Dominion Heights Subd., Providence Dist., R-5, 2,991 sq. ft., V-80-P-062. 49-2((24))9.

Mr. Anthony Largay of 2542 Herrell Court in Falls Church informed the Board that he needed the addition to the townhouse. He stated that he would have to come out 12 ft. He stated that the side yard in this particular area faced an open area of common ground which could not be used for anything else. Mr. Largay stated that there were not any other townhouses on the property line. Mr. Largay stated that he was only seeking a 1.5 ft. variance.

In response to questions from the Board, Mr. Largay stated that the addition was only one story. The materials would be brick veneer to match the front and side of the townhouse. There would also be a concrete slab and a low pitch roof added. Mr. Largay stated that he had received approval from the homeowners association to extend the addition out that far provided he received the BZA approval for the variance.

Mr. Hyland inquired if there had been opposition expressed at the homeowners association and Mr. Largay stated there had not. Mr. Largay stated that the homeowners association owned the common ground which was next to the addition and the common area extended for 60 ft. He showed the Board a photograph of the situation. Mr. Hyland inquired if there had been a certain amount of open space required for the community. Mr. Largay stated that there was a very large Vepco easement running through the property which had caused the townhouses to be built in a very crowded area. He stated that there had been a requirement for open space.

Mr. Hyland inquired if the Board had ever entertained a variance for a townhouse development before. Mr. Hyland stated that this was not a condition that was unique to only one lot and asked what was the difference for this particular lot and any other lot in the townhouse subdivision. He asked the Board for guidance.

Page 316, May 13, 1980
 ANTHONY M. LARGAY
 (continued)

Chairman Smith stated that Mr. Hyland was correct with respect to the uniqueness of a variance application. He stated that this was a general condition that could be found in all of the townhouse developments. He stated that they would have open space requirements which would have to be met. Chairman Smith stated that he was not aware of any recent request for additions of this type.

Mr. Covington stated that Mr. Largay's property was different from all of the other lots in his development. Mr. Covington stated that he could build a 10 ft. addition. In addition, 90% of the end units are built to the minimum side yard requirement. Chairman Smith stated that he had no problem with Mr. Largay building a 10 ft. addition as he could build it by right. He stated that Mr. Largay did not have any justification for the granting of a variance. Mr. Covington stated that this lot was different in that it had tapering lot lines. Chairman Smith stated that it was not a small lot.

Mr. Largay informed the Board that the builder had originally designed a different style townhouse for this particular lot. The developer had gone into bankruptcy twice on the project. Mr. Largay stated that his end unit was different from all other end units in the project. They are Cape Cod style and Mr. Largay stated that he had plans to match them. Mr. Largay stated that his present home was only 20 ft. wide and all the other homes were 30 ft. Mr. Largay stated that if he built the 10 ft. addition he was allowed, the width of the addition inside would be too small.

Mr. DiGiulian inquired if there was a requirement for maximum coverage for buildings on this lot. Mr. Covington stated that there was a requirement of .35 for uses other than residential.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 316, May 13, 1980
 ANTHONY M. LARGAY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-P-062 by ANTHONY M. LARGAY under Section 18-401 of the Zoning Ordinance to allow construction of addition to townhouse end unit to 8.5 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-507) on property located at 2542 Herrell Court, tax map reference 49-2((24))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 May 13, 1980; 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 2,991 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 structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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RESOLUTION

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2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. Hyland & Mr. Smith).

Page 317, Scheduled case of

10:40 THOMAS M. & ELIZABETH H. HOWZE, appl. under Sect. 18-401 of
A.M. the Ord. to allow resubd. into two lots, such that one will have a width of 12 ft. (70 ft. min. lot width req. by Sect. 3-406), located 2833 Rosemary Lane, Devonshire Gardens Subd., 50-1((10))55, Providence Dist., R-4, 31,341 sq. ft., V-80-P-063.

Mr. Thomas Howze of 2833 Rosemary Lane stated that he and his wife wished to subdivide the property located in Devonshire Gardens subdivision into two lots. The property was long and narrow. Therefore, he stated that they needed a second road access to Rosemary Lane by means of a pipestem drive. Mr. Howze stated that the garage located on the property was very old and would have to be removed to permit the driveway to be constructed. The width of lot 55 would have the 70 ft. minimum frontage required.

In response to questions from the Board, Mr. Howze stated that he and his wife had owned the property since November of 1973. Mr. Howze stated that lot 55, if subdivided as proposed, would be in compliance with the Master Plan. Lot 55A would contain 13,000 sq. ft. and lot 55B would have 17,000 sq. ft. Each of the lots would more than meet the minimum lot size requirements. Mr. Howze stated that this arrangement would assure the maximum of two single family dwellings on a quarter acre lot. Mr. Howze stated that the area around him was already developed with nice homes in the same pattern as he was proposing.

Mr. Yaremchuk inquired if that was where Mr. Howze had gotten his idea. He replied that a precedent had been established on either side of his property for pipestem lots but most of his neighbors had an easement rather than a pipestem. Mr. Howze stated that he preferred that the owner of the lot also own the pipestem.

Chairman Smith stated that the driveways were too close together and inquired if Mr. Howze proposed two separate driveways. Mr. Howze stated he did not and there was an existing driveway already. Mr. DiGiulian stated that there was a requirement of 25 ft. distance between driveways. However, he stated that the State would not deny access in this case.

Chairman Smith stated that the Board should require one driveway only. He stated that the Board has done this in the past. Chairman Smith stated that it was a matter of great concern to him. Chairman Smith inquired if the two adjoining lots had one driveway. Mr. Howze stated that they had a circular driveway with a pipestem access to the back.

Mr. Howze stated that the existing driveway was located on the plat. The new driveway was right next to it. He stated that he did not think that the old driveway would even be used. Mr. Howze stated that it was his intent that the individuals owning 55A and 55B would share the new driveway. He stated that it might be possible to use the old driveway as a parking area but not as a driveway itself. Mr. Howze stated that he could remove the culvert and other access means to make it inoperable so it could not be used as a driveway.

There was no one else to speak in support of the application. Mr. John Newlove of 2839 Rosemary Lane, lot 56-B, stated that he was adjacent to the new lot proposed by Mr. Howze. Mr. Newlove stated that he was not speaking against the subdivision but merely asking that certain conditions be placed on the subdivision, namely the driveway. Mr. Newlove stated that he was confused as to what was being proposed. He stated that he was mainly concerned that this subdivision did not remove the place for the front property owner to park off of the street. Mr. Newlove stated that this was an open street with open gutters and no sidewalks. He stated that it was not possible to park on the street without obstructing someone's driveway. Mr. Newlove stated that the subdivision should be allowed with the condition that there be off street parking. If two cars were to park in the street, no one would be able to get through.

Mr. Barnes stated that Mr. Howze had a driveway off of Rosemary Lane. Mr. Newlove stated that it was unclear whether it would infringe since he proposed to give property rights to the rear lot with a driveway rather than an easement. Mr. Newlove stated that he had an easement to his property and the man on the other side had easement rights. He stated that there was a place for the front lot owner to drive off so he could get to his property in the rear. Mr. Newlove stated that he did not want people parking in the street. If a condition could not be made to that respect, then Mr. Newlove suggested that the subdivision be denied.

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 THOMAS M. & ELIZABETH H. HOWZE
 (continued)

In addition, Mr. Newlove stated that he was wondering since Mr. Howze planned to sell the property for someone else to build on, as to what kind of home could be constructed there. Mr. Barnes stated that the dwelling would have to meet all of the setback requirements for the zone. Chairman Smith advised Mr. Newlove that cost factors were not governed by the Ordinance. Mr. Newlove inquired if he could oppose the future home at a later date. Chairman Smith stated that if the home conformed to the setbacks and the building code, there was not anything Mr. Newlove could do. Mr. Newlove stated that they had an unusual situation where an architect had constructed a box house in a very prestigious area. He stated that the neighbors got the County to condemn it and the architect had to tear it down. Mr. Newlove was concerned about it happening again. Chairman Smith stated that the home was removed because it did not meet the building code, not because of its look or design.

Mr. Hyland stated that the gentleman was talking about something that may or may not happen. He stated that he could not imagine someone buying the property and then constructing a cheap structure. Mr. Newlove stated that he lived next door and was concerned about there not being parking for the front lot. It had been stated by Mr. Howze that both lots would share the same driveway. Mr. Newlove stated that it was risky to grant rights that were not in the deed.

There was no one else to speak in opposition. During rebuttal, Mr. Howze stated that he had discussed this matter with Mr. Newlove previously. He stated that his points were well taken and that he proposed to have one driveway with 12 ft. parking afforded in the old driveway with no access to the street and no parking in the street.

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THOMAS M. & ELIZABETH H. HOWZE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-90-P-063 by THOMAS M. & ELIZABETH H. HOWZE under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots such that one will have a width of 12 ft. (70 ft. minimum lot width required by Sect. 3-406) on property located at 2833 Rosemary Lane, tax map reference 50-1((10))55, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 31,341 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, specifically being long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. The applicant shall provide one common driveway to serve both lots.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

10:50 WILLIAM C. MONEY, appl. under Sect. 18-406 of the Ord. to allow 12 ft. high shed to remain 5.6 ft. from rear lot line (12 ft. min. setback from rear lot line req. by Sect. 10-105), located 8606 Norfolk Ave., Wakefield Forest Subd., 59-3((10))115, Annandale Dist., R-1, 21,860 sq. ft., V-80-A-065.

Mr. Bill Money of 8606 Norfolk Avenue in Annandale stated that when he built the shed, he was not aware that he needed to be the distance of the height from the rear lot line. He stated that he had discussed the structure with his neighbor at the rear who did not object to the building. Mr. Money stated that if he were building the shed again, he would set it back 12 ft. from the line. However, the building was constructed of poles 8" in diameter and set 3 ft. in the ground in concrete. He stated that he would have a rough time trying to move it.

In response to questions from the Board, Mr. Money indicated that the shed was not completed as it needed siding on half the structure. He stated that the shed would be used for tools and garden equipment and that he wanted shelves in it for other things. Chairman Smith inquired as to when Mr. Money had obtained a building permit. He replied that he was not aware that a building permit was necessary for a pole structure. He had believed that he could build 2 ft. from the line by right. Mr. Hyland inquired as to how he got that impression. Mr. Money stated that a friend had informed him that a building permit was not necessary for a pole structure. Mr. Money stated that he was still not sure of the requirement as it was a very confusing Ordinance.

Mr. Covington stated that a building permit was not necessary for a shed of 80 sq. ft. or less but you always had to locate it in accordance with the Zoning requirements. If the structure was less than 7 ft. in height, it could be located anywhere in the side or rear yard. If it was over 7 ft. in height, it had to be set back the distance of the height of the structure from the rear lot line and it had to meet the side yard restriction of the zone.

Chairman Smith stated that Mr. Money might have a problem meeting the County Building Code when he applied for a building permit. Mr. Money responded that he had submitted his plans to Mr. Mills and that's when he was told that he was too close to the property line. Mr. Money showed the Board a rough drawing of his shed. He stated that he would get a building permit but he needed a variance first.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 319, May 13, 1980
WILLIAM C. MONEY

Board of Zoning Appeals

R E S O L U T I O N

WHEREAS, Application No. V-80-P-065 by WILLIAM C. MONEY under Section 18-406 of the Fairfax County Zoning Ordinance to allow 12 ft. high shed to remain 5.6 ft. from rear lot line (12 ft. minimum setback from rear lot line required by Sect. 10-105) on property located at 8606 Norfolk Avenue, tax map reference 59-3((10))115, 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 13, 1980; and

WHEREAS, the Board has made the following findings of fact:

THAT the Board has found 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.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 320, May 13, 1980, Scheduled case of

11:00 HARRY E. & EVA M. McDANIEL AND JOHN A. & JEAN B. MASSIE, appl.
A.M. under Sect. 18-401 of the Ord. to allow resub. into two lots, one of which
would have a width of 20 ft. (150 ft. min. lot width req. by Sect. 3-106),
located 3901 Glenbrook Rd., Sunny Hill Subd., 58-4((9))21, Providence Dist.,
R-1, 2.0202 acres, V-80-P-066.

Mr. John Massie of 4914 Ridgewood Road in Alexandria stated that he represented himself and his wife as well as Mr. and Mrs. Harry McDaniel by power of attorney, a copy of which was in the application folder. Mr. Massie stated that the basic reason for the variance request was that the shape of the lot was long and narrow. The property consisted of two acres being 200 ft. x 440 ft. deep. It was such that there was no ingress or egress to the back half of the property.

Mr. Massie stated that the current zoning was R-1 which allowed for two houses on the property which would not violate the rules of the 36,000 sq. ft. minimum. Mr. Massie stated that it was his intent to build a house on the back of the lot to be used for his personal use. Mr. and Mrs. McDaniel intended to continue to live on the front part of the property. Mr. Massie stated that he proposed to construct a 20 ft. drive along the south side of lot 21-A for egress to lot 21B. Lot 21B would have 52,000 sq. ft. and lot 21A would have 36,000 sq. ft. after the property was subdivided. Lot 21B was heavily wooded and was situated on a knoll behind lot 21-A. Mr. Massie stated that he planned to build a rambler style house having 2,500 sq. ft. of living space. He stated that he would only cut the trees necessary for the construction of the dwelling.

Chairman Smith stated that the McDaniels were the only aggrieved parties and had the only right to the variance as it was their property.

There was no one else to speak in support of the application and no one to speak in opposition.

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Board of Zoning Appeals

HARRY E. & EVA M. McDANIEL
AND JOHN A. & JEAN B. MASSIE

R E S O L U T I O N

In Application No. V-80-P-066 by HARRY E. & EVA M. McDANIEL AND JOHN A. JEAN B. MASSIE under Section 18-401 of the Ordinance to allow resubdivision into two lots, one of which would have a width of 20 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at 3901 Glenbrook Rd., tax map reference 58-4((9))21, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 13, 1980; 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 2.0202 acres.
4. That the applicant's property is exceptionally irregular in shape, being long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

11:10 A.M. W & N. COMPANY, appl. under Sect. 18-401 of the Ord. to allow a subdivision into two lots, the corner lot of which has a width of 156.07 ft. (175 ft. min. lot width req. by Sect. 3-106), located 11607 Popes Head Rd., 67-2((1))32, Springfield Dist., R-1, 2.9831 acres, V-80-S-067.

Mr. Joseph McCloud of William Gordon Associates in Reston stated that they were reapplying for a variance that had been granted January 1979. His client had been unaware that the variance would expire. Mr. McCloud informed the Board that they were reapplying for the exact same variance which had been previously approved.

Chairman Smith asked Mr. McCloud to present the justification for the request. Mr. McCloud stated that the irregular shape of the lot would not permit them to subdivide it into two pieces in conformance with the Ordinance. The corner lot had 156 ft. of frontage. It was considered a corner lot because of the outlet road going down the side of the property.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mrs. Jean Greenwall stated that she was an adjoining property owner residing at 5401 Colchester Meadow Lane. She stated that she owned the easement and was wondering if the developer planned on using it for his homes. She inquired as to where the driveways would be located for the homes. Chairman Smith showed Mrs. Greenwall a plat. She stated that the developer did not know where the driveways would be located. She stated that she owned lot 1 and the easement and did not want an exit beyond that lot. She stated that there was a spring on the road which flooded her lot. She stated that she did not use the access but used another access. Mrs. Greenwall stated that the placement of the homes would probably drain onto her land even more. Chairman Smith stated that the drainage would be addressed at the time of site plan review. She inquired if the developer could subdivide this any smaller and was informed he could not without additional action from several County agencies.

Mr. Yaremchuk stated that the developer would have to submit a site plan and indicate where the water would go, etc. In addition, he would have to put up a bond before he could get a building permit. Mr. Yaremchuk stated that the Board was only concerned about the narrowness of the lot. He suggested that Mrs. Greenwall check with Design Review when the developer filed a site plan.

Chairman Smith advised Mrs. Greenwall that this was a unique situation in that the lot in question was considered a corner lot because of the outlet road and because the road served more than five lots.

Mr. Ibrahim S. Adeeb os 5405 Colchester Meadow Road, owner of lot 2, spoke in opposition to the variance. He stated that he adjoined lot 1. Mr. Adeeb informed the Board that this was a private road and that he owned the other half of it. Mr. Adeeb stated that this was not a corner lot. Chairman Smith stated that it may not be as far as Mr. Adeeb was concerned but it had been determined by the County officials that it was. Chairman Smith stated that the reason the applicant was before the Board was because the outlet road served more than five lots and was, therefore, considered a primary road. Mr. Adeeb argued that it was only a private road.

During rebuttal, Mr. McCloud stated that with respect to ingress and egress, they had not done a title search on the easement. He stated that he was not sure who owned the road. Mr. McCloud stated that they would not plan to use the road without permission.

Mr. Adeeb inquired as to the rest of the zoning. He stated that his lot was five acres and only allowed one house. Chairman Smith informed Mr. Adeeb that the variance only concerned the lot width and that the applicant could subdivide it in accordance with the Ordinance. Mr. Adeeb inquired if he could also subdivide his land and was informed he could if he met the zoning district requirements.

R E S O L U T I O N

In Application No. V-80-S-067 by W & N COMPANY under Section 18-401 of the Zoning Ordinance to permit subdivision into two lots, the corner lot of which has a width of 156.07 ft. (175 ft. minimum lot width required by Sect. 3-106) on property located at 11607 Popes Head Rd., tax map reference 67-2((1))32, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 13, 1980; and

WHEREAS, the Board has made the following findings of fact:

R E S O L U T I O N

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 2.9831 acres.
4. That the applicant's property is irregular in shape.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. The applicant shall not use the existing outlet road as a means of ingress and egress to the subject property.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

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11:20 WAYNE S. RAYFIELD, appl. under Sect. 18-401 of the Ord. to
 A.M. allow subd. into 2 lots, each having width of 5 ft. (200 ft. min. lot width
 req. by Sect. 3-E06), located 1022 Towston Rd., 19-2(1)11, Dranesville Dist.,
 R-E, 5.7968 acres, V-80-D-068.

Mr. Charles Runyon, an engineer in Falls Church, represented the applicants. He stated that they wished to divide the parcel into two lots. One lot has a house on it which was occupied by the Rayfields. The other lot would have three acres. Originally the Rayfield parcel had been cut off of another parcel with a pipestem. There was a plan at that time to divide it into three lots but they had not pursued it at the time the initial variance was granted. Mr. Runyon stated that conditions now exist with 10 ft. of frontage on Towston Road. The Rayfields planned to have two pipestem lots each having frontage of 5 ft. along Towston Road.

The property was presently accessed on an existing 16 ft. outlet road known as Stuart's Road which served parcels to the rear off of Towston Road. Mr. Runyon stated that those parcels did not have any road frontage but they had been developed under the waiver provision of no public street frontage being required.

Mr. Runyon stated that Mr. Rayfield's property had the unusual condition of having limited frontage on Towston Road. The two proposed parcels would be in keeping with the density of the area. Most of the lots were developed for two and five acres. Mr. Runyon stated that there were several non-conforming smaller lots but most of the lots were above the two acre category. Mr. Runyon presented the Board with a letter of support from Mr. Henry C. Mackall, an adjacent property owner to the south.

There was no one else to speak in support of the application. The following persons spoke in opposition to the request. Mr. Edmund L. Walton, Jr., an attorney of 1301 Vincent Place, McLean, represented Mr. and Mrs. Frank Lewis. He stated that their pipestem was parallel to the pipestem involved in the variance application for the full length of their property. Mr. Walton stated that the area was zoned R-E and master planned for 2 to 5 acres per unit. Mr. Walton stated that the present access to the Rayfield property was by license across the outlet road known as Stuart's Road which was the Lewis' outlet road. Mr. Walton stated that the pipestems were not being used at the present time for access. There was a 16 ft. road there presently. He stated that was subject to being terminated at Mr. Lewis' pleasure. Mr. Walton stated that the existing pipestem for the Rayfields contained 24 mature cedars, the center of which was a burn or a dropoff.

Mr. Walton stated that if the Rayfield property was developed as planned, it would create 50% more traffic down the pipestem. The total amount of pipestem available was 20 ft., 10 ft. belonging to Wilcox and a cross easement to the Rayfield of 10 ft. He stated this proposal would divide the Rayfield's pipestem into two 5 ft. easements. Mr. Walton stated that this variance would impact the potential use on the pipestem by 50%.

Mr. Walton directed the Board's attention to the Staff Report notation that stated that the variance should be granted in accordance with the County standards for pipestem lot driveways. Mr. Walton stated that there was no way that the proposed pipestem driveway could meet the standards because it was too narrow. The total of 20 ft. ingress and egress was below the County standards for pipestems to serve three properties, the Wilcox lot and the two Rayfield lots. In addition, there would be insufficient width to allow any paving, curbing and gutter. He stated that a minimum 24 ft. in width would be necessary to accommodate that requirement. Mr. Walton stated that because of the grade separation from the existing outlet road known as the Stuart outlet road, there would have to be some kind of a berm built to control the slope which would dig into 20 ft. of pipestem making less property available. The County guidelines indicated that a pipestem for a lot this size would have a maximum length of 750 ft. The distance proposed in the variance was 909.53 ft. which was 150 ft. beyond the basic standards for pipestem lots.

Mr. Walton informed the Board that three driveways entered into Towston Road within a 30 ft. area. Towston Road in this area was very hilly and had a number of high spots which created a traffic hazard right at the point of entrance. By increasing the traffic from the access roads, it would create an additional traffic hazard. Mr. Walton stated that in addition to the Lewis entrance and the Wilcox entrance which would have to be widened if the variance were granted, to the north of the pipestem was a driveway within 5 ft. of the pipestem entrances.

Mr. Walton submitted some photographs to the Board showing the general area. He directed the Board's attention to the existence of a stand of mature cedars. He stated that they were a factor for the Board to consider because of the impact on the surrounding properties. The cedars served as a windbreak and a snowbreak and were a great protective factor for the area.

Mr. Walton asked the Board to deny this application and stated that Mr. Lewis would work out an arrangement with Mr. Rayfield to save the cedar trees and give him access to his one lot. Mr. Walton stated that the Board should not break down the frontage requirement from 200 ft. to 5 ft. when the road would not comply with standards established by the County and Highway Department. Mr. Walton submitted a written statement prepared by Mr. Lewis and an additional statement from Mark P. Friedlander, Jr., President of the Rocky Run Citizens Association. Mr. Walton stated that Mr. Henry C. Mackall had a 50 ft. outlet road that was 10 to 15 ft. from the Rayfield property line and he stated that perhaps access could be accommodated with him.

The next speaker in opposition was Mrs. Evelyn Wilcox. She presented the Board with a letter from Mr. and Mrs. Wolf. She stated that she resided at 1020 Towston Road and shared a common 20 ft. easement and property lines to the north and east with the Rayfields. Mrs. Wilcox stated that she had purchased three acres and a dwelling known as parcel A from the Daleys in 1971 at the time the Daley property of 8.79 acres was divided into two lots. Mrs. Wilcox stated that Mr. Runyon had alluded to three lots but it was her understanding that when the Daleys divided the property, the third lot was not actually a lot but only one acre which would have rounded off her property. She stated that she was offered that small cut but it was not a buildable lot and she had not purchased it. Mrs. Wilcox stated that the Rayfields purchased parcel B and built a house on the site. Mrs. Wilcox stated that she was opposed to the variance that would allow the subdivision of parcel B.

Mrs. Wilcox stated that according to the County standards, an access road would have to be built with 18 ft. of paving and appropriate curbs and gutters across the common easement which was less than the 30 ft. standard set by the County for three or more lots. She stated that construction of the road would result in the clearing of a 10 ft. heavily wooded strip of land for 600 ft. running the length of her property in front of her driveway and her house and then an additional 300 ft. back into the woods. Clearing of the trees and the paving of the road would aggravate existing storm drainage problems which she was experiencing at the present time due to the differences in elevation between the two driveways. Mrs. Wilcox stated that it would be quite an engineering feat to build the paved road which would certainly devalue her property.

Mrs. Wilcox stated that in addition to increased property damage from storm water runoff, the removal of the wooded strip between the two existing driveways which served three properties would increase the risk of traffic accidents, particularly at night, and destroy the privacy from traffic on the driveway. Mrs. Wilcox stated that the most important factor for the Board to consider was that she owned 10 ft. of the common easement which was a gravel driveway and she wanted to keep it a gravel driveway to absorb the runoff from the higher elevation. She stated that she would fight any move to have this driveway paved. In addition, she stated she would fight any alteration of the road. Mrs. Wilcox stated that this variance would create a burden on the 20 ft. easement and asked that it be denied.

The next speaker in opposition was Mr. Garrett of 1024 Towston Road who informed the Board he had written a letter containing some photographs of the area which would be

useful to the Board. He inquired if the Board had received his letter and a search of the files proved negative. Mr. Garrett stated that he was concerned back in 1958 when Vepco wanted to run a power line back to the Wilcox house. He stated that they had two options of either topping the cedars or putting a pole off of the side near the Wilcox's road. Mr. Garrett stated that he had agreed rather than having the cedars topped to have the eyesore and had signed an overhang agreement whereby they trimmed any locust or any trees that might interfere with the line. Mr. Earl Sarp of 1008 Towston Road, a neighbor of Mr. Garret, read the letter from Mr. Garret to the Board. The letter asked that the cedars not be destroyed as they were a scenic beauty, a natural windbreak and helped the environment by impeding dust from blowing into the air. Mr. Garret stated that he had purchased his land in 1947 and moved there in August 1950. Since that time, he had considered the row of cedars to be a permanent part of the landscape.

Mr. Earl Sarp spoke in opposition on his own behalf. He presented a letter for the record and stated that he concurred with the points that had been made. He added that his property was adjacent to the access road and the treeline. He stated that he also considered the cedars to be an asset to his property and served as a buffer to dust. Mr. Sarp stated that when he moved to his property, he was assured that there would not be any changes in the roads that bordered his property. He stated that he was retired and wanted the property to remain the way it was.

During rebuttal, Mr. Runyon stated that Mr. Walton had spoken on behalf of the Lewis' who had a 15 ft. right-of-way which did not give them any public street frontage. He stated that they accessed by way of an easement which was a gravel driveway. Mr. Runyon stated that he could not understand the opposition based on the requirements of the Ordinance when the opposition were living on their property with the same conditions.

Mr. Runyon stated that the proposed size of the subdivision lots were well above the density requirement. As far as the length of the pipestem, Mr. Runyon stated that he had helped develop the standards and they applied to large development subdivisions and lots where you have pipestem conditions for new subdivisions which tried to discourage as much as possible, stacking and double stacking of pipestem driveways in a new subdivision. Mr. Runyon stated that many of the people in the area accessed their property by means of an access road which was permitted and they did not have any public street frontage because the County did not require it.

Mr. Runyon stated that the Rayfields were not going to build a 18 ft. driveway on the property. They were going to use the same driveway as was existing at the present time which the Wilcoxes used. Mr. Runyon stated that he had worked on the previous subdivision for Mrs. Daley and knew what had been intended. Mr. Runyon informed the Board that the requirements for pipestem driveways were guidelines and not really requirements. He stated that there were what the Director of DEM would use for new subdivisions for pipestem driveways and were not hard and fast requirements. He stated that they were waivable by DEM and did not require any public hearing or notice.

Mr. Runyon stated that what he was proposing was to extend the Wilcox driveway back to the two proposed lots in a similar type of construction of gravel. He stated that he did not want to tear down the row of cedars as it would actually harm the salability of the property. He stated that this request was only a variance request and not a new subdivision so the guidelines did not apply.

With respect to the comment that the Lewis' would help the Rayfields work out a road for one lot, Mr. Runyon stated that it would just as easy to work it out for two lots. With regard to traffic safety, Mr. Runyon stated that the width of Towston Road was not even 18 ft. With regard to Mr. Mackall's 50 ft. access, Mr. Runyon stated that it was a right-of-way and did not have public street frontage.

Mr. Runyon stated that the Rayfields wanted to leave everything the way it was except at the end of the Wilcox driveway where some trees would have to be removed. Mr. Runyon directed the Board's attention to the plat which showed the present driveway which straddled the property line between the Rayfields' 10 ft. and the Wilcoxes' 10 ft. In addition, there was a 20 ft. common ingress and egress easement for both the Rayfields and the Wilcoxes which was not used. Mr. Runyon stated that the Rayfields did not use that because they didn't want to have to build a driveway as they were limited in their budget when they first bought the house and had received permission from Mr. Lewis to use his driveway. Mr. Runyon stated that now Mr. Lewis would not allow the Rayfields to use that driveway any more so they would have to tear some trees down anyway. However, Mr. Runyon stated that the trees to be torn down were not the cedars that Mr. Garrett had referred to and Mr. Runyon assured the Board that the cedars would stay.

Mrs. Wilcox questioned the Board as to whether this proposed subdivision was subject to the Subdivision Control Ordinance and was informed by the Board that it was. She inquired as to whether that meant that the standards for access roads would have to be 18 ft. and have the curbs and gutters and pavement. Chairman Smith advised Mrs. Wilcox to discuss that matter with Subdivision Control. Mrs. Wilcox stated that she could not

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WAYNE S. RAYFIELD
(continued)

understand how the Board could agree to the variance when the Rayfields would need a variance to build the access road in conformance with the requirements. Chairman Smith stated that it was waiver a condition that would have to be granted by DEM. He further informed Mrs. Wilcox that she was making a statement rather than asking a question. He directed Mrs. Wilcox to talk with the proper County agencies.

At 12:25 P.M., Mr. Hyland moved that the Board convene into an Executive Session to discuss legal matters. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 1 (Mr. Yaremchuk). Chairman Smith stated that the Board would also take a break and then return to continue the case.

The Board reconvened the hearing at 1 o'clock and closed the public hearing on the Rayfield matter.

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WAYNE S. RAYFIELD

Board of Zoning Appeals

RESOLUTION

In Application No. V-80-D-068 by WAYNE S. RAYFIELD under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, each having width of 5 ft. (200 ft. minimum lot width required by Sect. 3-E06) on property located at 1022 Towston Road, tax map reference 19-2((1))11, 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 13, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 5.7968 acres.
4. That the applicant's property is exceptionally irregular in shape being long and narrow and has limited road 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 one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. This variance is subject to the applicant getting approval from the Director of Environmental Management to use the existing outlet road for ingress and egress to the subject property.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

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11:30 A.M. ROBERT E. SHOUN, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 9.8 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 11335 Vale Rd., Vale Chapel Estates, 36-4((1))37B, Centreville Dist., R-1, 2.0 acres, V-80-C-074.

Mr. Francis McDermott of Hazel, Beckhorn and Hanes in Fairfax, represented Mr. Shoun. Mr. McDermott stated that Mr. Shoun had an irregularly shaped lot being very narrow but 175 ft. deep. In addition, Mr. Shoun's property had an unusual condition due to the placement of the residence on the property. Mr. McDermott stated that the photographs submitted would show the topographic conditions to the east side and the plat would show

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ROBERT E. SHOUN
(continued)

the location of the septic fields. Mr. McDermott stated that the proposed addition would not have any visual impact to Vale Road. Mr. McDermott submitted a letter of support from the adjacent property owner. Mr. Barnes stated that the file also contained three letters of support. Mr. McDermott stated that the proposed addition would be 24 ft. wide and would be used as a study and sleeping quarters.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 326, May 13, 1980
ROBERT E. SHOUN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-C-074 by ROBERT E. SHOUN under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9.8 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107) on property located at 11335 Vale Road, 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 13, 1980; 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 2.0 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Mr. Yaremchuk).

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11:40 NATIONAL MEMORIAL PARK, INC., appl. under Sect. 18-401 of the
A.M. Ord. to allow construction of mausoleum to 20 ft. from front lot line (40 ft. min. front yard req. by Sect. 3-107), located Lee Highway, 50-1((1))30, Providence Dist., R-1, 92.9859 acres, V-80-P-064.

The Board requested that the hearing be deferred to allow the applicant an opportunity to provide the Board with a plat showing all of the mausoleums and their distance from Hollywood Road. The variance was deferred until Tuesday, June 3, 1980 at 12:45 P.M.

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Page 327, May 13, 1980, Scheduled case of

11:40 A.M. NATIONAL MEMORIAL PARK, INC., appl. under Sect. 3-303 of the Ord. to allow addition of mausoleum to existing cemetery, located Lee Highway, 50-1((1))30, Providence Dist., R-1, 92.9859 acres, S-80-P-027.

The Board deferred the special permit hearing in order for the applicant to provide a plat showing the location of all the mausoleums and distances to Hollywood Road. The hearing was deferred until Tuesday, June 3, 1980 at 12:45 P.M.

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At 1:20 P.M., Mr. Hyland left the meeting and did not return as he had to be in court.

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12:00 NOON CAMELOT COMMUNITY CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-309-66 for community swimming pool to permit addition of a sun deck, located 3604 Balin Ct., Camelot Subd., Providence Dist., 59-4((1))pt. 5, R-2, 7.1 acres, S-80-P-024.

Mr. Frank Quinn, President of the club, informed the Board that they wished to construct a sun deck 13 1/2' x 38' with the addition of two concrete stairways having 4 to 5 steps each to the deck. Mr. Quinn stated that the location of the deck was shown on the plat. It would be a new wooden deck situated between a large shed and the shuffleboard courts. Mr. Quinn wished to build the deck to have additional space away from the pool area.

There was no one else to speak in support of the application and no one to speak in opposition.

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Board of Zoning Appeals

CAMELOT COMMUNITY CLUB, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-P-024 by CAMELOT COMMUNITY CLUB, INC., under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-309-66 for community swimming pool to permit addition of a sun deck on property located at 3604 Balin Court, tax map reference 59-4((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 May 13, 1980; 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 7.1 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 one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. All other requirements of S-309-66 shall remain in effect.

8. 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. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

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12:15 LAKEVIEW SWIM CLUB, INC., appl. under Sect. 3-203 of the
 P.M. Ord. to amend S-170-71 for community swimming pool to permit change in operation hours to 8 A.M. to 9 P.M. and increase maximum number of family memberships from 350 to 375 with no change in number of parking spaces, located 5352 Gainsborough Dr., King Park West Subd., 69-3((5))M, Annandale Dist., R-2, 2.41213 acres, S-80-A-025.

There was a question on the notices and after explanation of the problem, Mr. DiGiulian moved that the notices be accepted as adequate. Mr. Barnes seconded the motion and the Board proceeded with the hearing. Mr. Burt Kidwell of 7235 Richardson Drive informed the Board that the club had full pool attendance but it had diminished recently. The club was now asking to increase their membership by 25 families. Chairman Smith inquired if the club had experienced any parking problems and was informed by Mr. Kidwell that the existing 118 parking spaces were sufficient. He stated that the parking spaces were never full even during the social events at the club.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 328, May 13, 1980
 LAKEVIEW SWIM CLUB, INC.

Board of Zoning Appeals

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-A-025 by LAKEVIEW SWIM CLUB, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-170-71 for community swimming pool to permit change in operation hours to 8 A.M. to 9 P.M. and increase maximum number of family memberships from 350 to 375 with no change in number of parking spaces on property located at 5352 Gainsborough Dr., tax map reference 69-3((5))M, 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 13, 1980; 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 2.41213 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

RESOLUTION

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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of memberships shall be 375.
8. The hours of operation shall be 8 A.M. to 9 P.M., seven days a week.
9. All other requirements of S-170-71 not changed by this resolution shall remain in effect.
10. Unless otherwise qualified herein, extended-hours for parties or other activities of outdoor community swim clubs or recreation associations shall be governed by the following:
 - (A) Limited to six (6) per season.
 - (B) Limited to Friday, Saturday and pre-holiday evenings.
 - (C) Shall not extend beyond 12:00 midnight.
 - (D) Shall request at least 10 days in advance and receive prior written permission from the Zoning Administrator for each individual party.
 - (E) Requests shall be approved for only one (1) such party at a time, and such requests will be approved only after the successful conclusion of a previous extended-hour party or for the first one at the beginning of a swim season.
 - (F) Requests shall be approved only if there are no pending violations of the conditions of the Special Permit.
 - (G) Any substantiated complaints shall be cause for denying any future requests for extended-hour parties for that season; or, should such complaints occur during the end of the swim season, then this penalty shall extend to the next calendar year.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

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12:30 P.M. VIVLOW & CO. AND/OR MILDRED FRAZER, appl. under Sect. 3-203 of the Ord. to allow continuation of school of general education without time limitation, located 4955 Sunset Lane, Springfield Subd., 71-4((1))12 & 23, Annandale Dist., R-5, 2.83 acres, S-80-A-026.

At the request of the applicant, the public hearing was deferred until June 10, 1980 at 12:00 noon.

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Page 329, May 13, 1980, After Agenda Items

KINGS RIDGE SWIM CLUB, INC.: The Board was in receipt of a letter from Mr. Winston L. Sides of Dewberry, Nealon & Davis, regarding an expansion of the deck area around the swimming pool and relocation of the fence. The club was seeking approval of these items as a minor engineering change.

Mr. DiGiulian moved that the Board allow the changes as a minor engineering change as it was not considered to be an expansion of the facilities but rather an improvement to the facilities. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

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Page 330, May 13, 1980, After Agenda Items

R. M. CARRERA V-299-77, V-300-77 & V-301-77: The Board had been asked at a previous meeting to clarify its intent in the granting of the variances to allow subdivision of parcel 37 with proposed lots 37A, 37B and 37C having less lot width than required by the Zoning Ordinance. One of the conditions of the granting was:

"3. No more than two (2) driveways can be used for this development."

The engineer, Mr. Paciulli, has stated to the Board at the hearing that he could locate the driveways for lot 38 and 37B together to eliminate one driveway.

Mr. DiGiulian clarified his motion by stating that only one common driveway could be provided to serve both lots. He stated that he did not intend there to be any physical separation of the driveway. Mr. DiGiulian stated that he did not care how wide they made it, but he did not want any fence or any other means of physical separation of the driveway.

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Page 330, May 13, 1980, After Agenda Items

THOMAS A. & SUSAN E. NEAL: Mr. Thomas Neal of Hector Road in McLean personally appeared before the Board to seek a clarification of a variance granted for his property on Georgetown Pike. In 1978, he had been granted a variance for a subdivision with a pipestem lot allowing 15 ft. width to Georgetown Pike. Mr. Neal stated that Mr. Singh owned the front lot and he owned the back lot. Mr. Neal questioned the common entrance which was made a condition of the granting. Mr. Singh and Mr. Neal had an agreement to have the driveway extend back to Mr. Neal's property leaving many of the large trees on the property. Mr. Singh and Mr. Neal did not wish to share a common driveway. Mr. Neal showed the Board a proposed plat to see if it would meet with the original condition. Mr. Neal had proposed a single access/driveway which would continue 50 ft. from the state road before splitting into individual drives to the respective home sites.

After further discussion and examination of the plat, Mr. DiGiulian moved that one common driveway be provided to 25 ft. of the proposed dedication line. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent). Mr. DiGiulian stated that it would appear that Mr. Neal's proposal complied with the Board's clarification.

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Page 330, May 13, 1980, Board Discussion

Chairman Smith informed the staff that unless an applicant specifically requested a signed copy of the plat in order to obtain a building permit, that the staff not encourage the applicants to ask for it.

// There being no further business, the Board adjourned at 2:30 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on 3/9/82.

APPROVED: March 16, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Mass. Building on Tuesday Night, May 20, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Gerald Hyland.

The Chairman opened the meeting at 8:25 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8 o'clock case of:

8:00 RONALD A. WEBER, appl. under Sect. 18-301 of the Ord. to appeal
P.M. Zoning Administrator's decision in approving building permit for dwelling on subject property, located 2006 Halyard Lane, Reston Subd., 26-2((13))(4)24, Centreville Dist., PRC, 14,300 sq. ft., A-80-C-006.

For information regarding the testimony presented, please refer to the verbatim transcript on file in the Clerk's Office.

Page 331, May 20, 1980
RONALD A. WEBER

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian moved that the Board of Zoning Appeals uphold the decision of the Zoning Administrator. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 1 (Mr. Hyland).

Page 331, May 20, 1980, Scheduled case of:

8:30 SIKH FOUNDATION OF VIRGINIA, appl. under Sect. 3-103 of the
P.M. Ord. to permit operation of a church, located 7301 Ox Rd., 87-4((1))7, Springfield Dist., R-1, 5.0 acres, S-80-S-030.

Mr. Bultwand Multani, an engineer, and Mr. Joe Singt of 1110 Fairfax Station Road, an engineer, represented the applicant. Mr. Singt stated that this was a unique application and introduced the members of the congregation who had been living here for 10 to 15 years. Mr. Singt stated that they were first generation immigrants from India. He stated that they believed in God. The first group of immigrants came to California in 1945. Mr. Singt stated that they had a temple in Washington D.C. and a temple in Silver Spring, Maryland.

Chairman Smith inquired if the church was registered in the State of Virginia. Mr. Singt replied that they were in the process of applying for State registration. He stated that their church was registered in Maryland and Washington, D.C. as a non-profit organization. Mr. Singt stated that they had increased their numbers in Fairfax County and the churches were too far away. Mr. Singt stated that they wanted to organize a church in Fairfax County.

Mr. Singt stated that they had found land which was very suitable to their needs. He stated that they were applying for a special permit and state registration of the IRS. He stated that the church had not yet applied to the State Corporation Commission but indicated it only took 10 to 12 days. Mr. Singt stated that the church had a contract to purchase the property on Ox Road.

Chairman Smith informed Mr. Singt that his application indicated that the church was already incorporated. He suggested that Mr. Singt take the time to finalize the corporation and allow the Board to take the matter under advisement.

Mr. Lajpal Oberoi of 7905 Viola Street in Springfield informed the Board that the reason the church had not yet applied for the corporation papers was because they wanted to have the approval for the church first. Chairman Smith stated that they had the cart before the horse and stated that the application indicated that the church was incorporated. Chairman Smith advised the church that the matter of incorporation should be formalized before the Board took action on the special permit.

The following persons spoke in support of the application. Mr. Arthur Morrison of 10504 Clipper Drive, owner of lot 120 bordering the subject parcel, stated that he had no objection to the church. However, he stated that he some restrictions such as the easement that ran through the property being vacated to keep any traffic from going through the property. Chairman Smith advised Mr. Morrison that the only authority with power to vacate was the Board of Supervisors or by an agreement with the property owner. Mr. Morrison stated that the easement was no longer necessary. He stated that he had met with the owners about three weeks ago and expressed his concern but had not heard anything from them. Mr. Morrison stated that he was also concerned about screening. He stated that he did not wish to have a stockade fence. Instead, he preferred 4 to 6 rows of pine trees.

Mr. Covington informed the Board that the Code only required 25 ft. screening with three types to choose from. However, it was up to the Director of DEM to designate the type of screening required. Chairman Smith advised Mr. Morrison that the Board would try to come up with some type of screening when the matter came back to the Board.

Mr. Morrison inquired if a permanent residence was acceptable under the special permit. Chairman Smith stated that it could be used as a parsonage or for a caretaker with one family only residing on the property.

Mr. DiGiulian stated that with respect to screening, the staff report required a minimum of 25 ft. but the plat only indicated 12 to 15 ft. from the parking lot to the property line. He suggested that the plat be revised to show that the church could comply with the screening requirement.

Mr. Albert Budd of Burke Meadows Road spoke in opposition. He stated that he was the property owner with the easement. He stated that he was not against the church as long as the concerns were taken care of. Mr. Budd stated that the easement was a gravel road that extended for the full length of his property. He stated that it served one other lot besides his house.

The Board recessed the hearing to allow the church to obtain the necessary corporation papers. The matter was deferred until July 1, 1980 at 10:20 A.M. for the corporation papers and for revised plats indicating that the screening requirement could be met.

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Page 332, May 20, 1980, Scheduled case of

8:45 WINDING BROOK POOL ASSOCIATION, appl. under Sect. 3-2003 of the Ord. to allow community swimming pool, located 4014 Spring Run Ct., Winding Brook Subd., 44-2((1))pt. 9, Springfield Dist., R-20, 1.25717 acres, S-80-S-031.

Mr. Russell Rosenberg, an attorney in Fairfax, represented the applicant. He stated that this was a total condominium project for 492 units. The property was currently owned by Winding Brook Joint Venture as the condo regime had not yet been recorded. Mr. Rosenberg stated that the property would be owned by the Council of Co-owners in the future; however, the land would be leased to the Winding Brook Pool Association which was a separate recreation facility. Mr. Rosenberg stated membership in the pool association was not automatic with the ownership of a unit. At the time there are 200 families willing to make a contribution of \$350 per family, at that time Winding Brook Joint Venture was obligated to provide the necessary remaining money on a loan basis for the construction of the pool which was to be paid back with the additional membership of \$350 per unit.

Mr. Rosenberg stated that operation of the pool would be by membership only. He stated that the special permit was requesting 328 family memberships. The hours of operation would be 9 A.M. to 9 P.M. even though the note on the plat indicated 11 A.M. to 9 P.M. Mr. Rosenberg stated that they were requesting early hours for the swim team. He also asked that the club be allowed to operate 7 days a week. Mr. Rosenberg stated that the property was being developed at 20 units per acre. He stated that the parking provided was more than adequate. Almost of the units would be well within walking distance of the pool. Mr. Rosenberg stated that the construction of the pool and bathhouse would be similar to the construction of the condo units.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 332, May 20, 1980

Board of Zoning Appeals

WINDING BROOK POOL ASSOCIATION

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-S-031 by WINDING BROOK JOINT VENTURE/WINDING BROOK POOL ASSOCIATION under Section 3-2003 of the Fairfax County Zoning Ordinance to allow the construction of a community swimming pool on property located at 4014 Spring Run Court, tax map reference 44-2((1))pt. 9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 20, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is Winding Brook Joint Venture.
2. That the present zoning is R-20.
3. That the area of the lot is 1.25717 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

R E S O L U T I O N

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the building and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL 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 328 families.
8. The hours of operation shall be 9:00 A.M. to 9:00 P.M., seven days a week from Memorial Day through Labor Day.
9. The number of parking spaces shall be 25.
10. Unless otherwise qualified herein, extended hours for parties or other activities or 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 Sunday.
 - (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. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 333, May 20, 1980; Scheduled case of

9:00 NAUTILUS FITNESS CENTER, appl. under Sect. 4-603 of the Ord.
P.M. to permit health club within shopping center, located 2915-B Arlington Dr., Hybla Valley Farms Subd., 93-3((2))(1)12 & 13, Mt. Vernon Dist., C-6, 2.1264 acres, S-80-V-032.

Mr. Joseph Goyea of 4016 Thornton Street in Annandale informed the Board that he was seeking permission for the Mt. Vernon Nautilus Fitness Center to be located in the shopping center at 2915-B Arlington Drive. Mr. Goyea stated that after checking with the Zoning Office, he was advised that no special permit application was necessary. In fact, no mention had been made of the need for a special permit at all. Mr. Goyea stated that because of the information provided from the Zoning Office, he proceeded to execute a lease with Wills & Van Metre. He stated that he ordered the expensive equipment and scheduled an opening date. Wills & Van Metre had employed the services of an architect for the renovation of the space. Mr. Goyea stated that the end result had been a delay in the scheduled opening date with the possibility that the special permit could be denied. Mr. Goyea stated that since they had placed their good faith in the Zoning Office for correct information, that a speedy resolution would be in the best interest to all parties.

The rental space had been a massage parlor at one time. He stated that his facility would include a sauna, whirlpool, locker room and the largest private gym in the area. He stated that the professional staff would design a total individualized and personalized conditioning program for its members using the most modern equipment available. Mr. Goyea stated that Nautilus would be a definite asset to the area.

Mr. Hyland stated that this was the second application from Nautilus for a fitness center within the last few weeks that had been unaware of the requirement for a special permit application. Mr. Hyland inquired that if there was someone who was distributing the information for Nautilus in the area, that they get the word to them about the zoning requirements. Mr. Goyea responded that the Nautilus operation was not a franchise.

Mr. DiGiulian inquired if the other shops in the shopping center were occupied. Mr. Goyea stated that they were and his center was the last one to occupy the center.

Mr. T. J. McCork of 5016 Head Court in Fairfax, an employee of Wills and Van Metre, informed the Board that this would be the final step in the renovation process of the shopping center. He stated that this would be the last unit to be occupied. Mr. DiGiulian inquired if Mr. McCork was aware of the staff report comments. Mr. McCork stated that with respect to the comments on the parking tabulation, that based on personal observation of passing by the center on a daily basis that there had never been a parking problem. He stated that the center was usually virtually empty. Mr. McCork stated that there seemed to be a certain mixture of establishments that spread the traffic over a full 8 to 12 hour period. The 7-11 on the corner seemed to have the constant traffic. Next door to them was a sports store establishment which did not open until 10:00 and closed at 6:00 P.M. Mr. McCork stated that their business seemed to be very light. Mr. McCork stated that there was a cross section of establishments that did not seem to generate the type of traffic anticipated by Design Review.

Mr. DiGiulian inquired if Mr. McCork felt the parking on the site met the requirements for parking for the type of uses in the center. Mr. McCork stated that it did and indicated that the parking lot in the rear and the side was not striped off as being usable parking spaces at the present time. He stated that they were planning to have that done but they did not use those spaces at the present time and had not experienced any significant problems as far as parking at the center.

Mr. DiGiulian inquired about the hours of operation for the Nautilus center. Mr. Goyea stated that they would operate Monday through Friday from 10 A.M. to 9 P.M. On Saturday, they would operate from 9 A.M. to 7 P.M. and on Sunday from Noon to 6 P.M.

Mr. Hyland stated that he was familiar with this area. He stated that he had been at the center on numerous occasions and parking was not a problem. He stated that the parking was spread out and there was plenty of room. Each business seems to be able to accommodate all its parking in front of its business very adequately.

Mr. McCork stated that out of the 180 memberships available, 24 were from the apartments nearby and would be walk-in traffic. He stated that the traffic generated from the Nautilus center would be 10 to 12% less than anticipated by Design Review.

Mr. DiGiulian inquired as to the terms of the lease and was informed it was for three years.

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

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-V-032 by NAUTILUS FITNESS CENTER under Section 4-603 of the Fairfax County Zoning Ordinance to permit health club within shopping center on property located at 2915-B Arlington Drive, tax map reference 93-3((2))(1)12 & 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 20, 1980; and

WHEREAS, the Board has made the following finding of fact:

R E S O L U T I O N

335

1. That the applicant is the lessee.
2. That the present zoning is C-6.
3. That the area of the lot is 2.1264 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of patrons shall be 50 per day.
8. The hours of operation shall be 10:00 A.M. to 9:00 P.M., seven days a week.
9. This permit is granted for a period of three (3) years.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

 Page 335, May 20, 1980, Scheduled case of:

9:15 MONTESSORI SCHOOL OF FRANCONIA, INC., appl. under Sect. 3-403 of
 P.M. the Ord. to amend S-50-78 for school of general education to permit change in
 age range to students for 11 to 16 years, located 6300 Florence Lane, Lee Dist.,
 82-4((1))17A, R-4, 3.3590 acres, S-80-L-033.

Mr. Bernard Fagelson of 401 Wythe Avenue in Alexandria represented the applicant. Mr. Fagelson informed the Board that he had represented the school with the original special permit. At that time, the school was going to operate a school for children 2½ to 6 years of age. Mr. Fagelson stated that now the school wished to further the education process. There had been talk of starting a high school but instead the application was for a junior high school. Mr. Fagelson stated that the school did not wish to increase the number of students allowed under the previous special permit. The original permit had allowed 50 children. Only the ages were changing. Mr. Fagelson stated that the school would start with an enrollment of 15 children and two teachers and gradually increase the number to 50. Mr. Fagelson stated that the existing 12 parking spaces would be adequate for the use. The hours of operation would be 9 A.M. to 3 P.M. Some of the children would arrive by car-pool and some by individual cars.

Mr. Fagelson stated that the Montessori School served a need in the community. He stated that there was a great need for a junior high in the area also. Mr. Fagelson stated that this school would have little impact on the area.

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

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-L-033 by MONTESSORI SCHOOL OF FRANCONIA, INC., under Section 3-403 of the Fairfax County Zoning Ordinance to amend S-50-78 for school of general education to permit change in age range of students for 11 to 16 years, on property located at 6300 Florence Lane, tax map reference 82-4((1))17A, 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 20, 1980; 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 3.3590 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 50, ages 11 to 16 years.
8. The hours of operation shall be 8 A.M. to 4 P.M.
9. All other limitations of S-50-78 not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 336, May 20, 1980, Scheduled case of

9:30 SYLVIA M. SHORT, appl. under Sect. 3-203 of the Ord. to amend
P.M. S-34-75 to allow continued operation of beauty shop in home without time
limitation, located 7020 Grove Rd., Valley View Subd., 92-2((19))174, Lee Dist.,
R-2, 11,739 sq. ft., S-80-L-034.

Ms. Sylvia Short of 7020 Grove Road informed the Board that she had applied to extend her special permit for operation of a home beauty shop. She stated that she operated four days a week from 9 A.M. to 5 P.M. by appointment only. Ms. Short stated that only two customers at a time were ever present. Ms. Short stated that she provided a convenience for the neighborhood. She stated that there was no hurried rush and no tension in the operation of her business.

Page 337, May 20, 1980
SYLVIA SHORT
(continued)

Ms. Short stated that she attended beauty classes to keep current with the business. The extra money she made with her shop helped her husband as he was employed in construction which was seasonal work. Ms. Short stated that there was not any problem with traffic in the subdivision. Ms. Short stated that she had been before the Board on two other occasions to renew her permit. Each time it had been extended for a five year period.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 337, May 20, 1980
SYLVIA M. SHORT

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-L-034 by SYLVIA M. SHORT under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-34-75 to allow continued operation of beauty shop in home without time limitation on property located at 7020 Grove Road, tax map reference 92-2((19))174, 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 20, 1980; 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 11,739 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. This permit is granted to the applicant only without time limitation.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 337, May 20, 1980, Scheduled case of:

9:45 P.M. MT. VERNON PLAZA PUTT-PUTT GOLF COURSE, INC., appl. under Sect. 4-603 of the Ord. to amend S-28-76 to change permittee & to change hours of operation to 9 A.M. to 2 A.M., located 7898 Richmond Highway, 101-2((1))12A, Lee Dist., C-6, 37,500 sq. ft., S-80-L-022. (Deferred from April 29, 1980 for Notices.)

Page 338, May 20, 1980
 MT. VERNON PLAZA PUTT-PUTT GOLF COURSE, INC.
 (continued)

Mr. Bernard Fagelson of 401 Mythe Avenue in Alexandria represented the applicant. Mr. Fagelson stated that the present request was an extension of the special permit granted to Mt. Vernon Plaza, Inc. which was owned by Mr. Dennis McHavkey who for the past two months had been operating the putt-putt center under the direction of the present owners. Mr. Fagelson stated that Mr. McHavkey was the contract purchaser. Mr. Fagelson stated that there had been a story in the Alexandria Gazette about Mr. McHavkey and his work with youth and the Washington Hill PTA. Chairman Smith accepted a letter in support which was presented by Mr. Fagelson.

Mr. Fagelson informed the Board that the only question before the Board was the extension of the hours. The present hours of operation were from 9 A.M. to 12 midnight. Mr. Fagelson stated that it had been their experience that many young people moonlight and after they got off work at 10 or 11 o'clock at night, they wanted some place to get rid of their excess energy. Mr. Fagelson stated that these youngsters played putt-putt golf. In addition, many of the restaurants and other businesses in the area were pleased with the idea of the lights from the putt-putt golf being on later than midnight. Mr. Fagelson stated that the putt-putt golf was located in the busiest part of the Mt. Vernon corridor. Therefore, they were requesting the Board to extend the hours from 9 A.M. to 2 A.M.

Mr. Fagelson stated that the Dart Drug and some of the grocery stores in the area were open 24 hours.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 338, May 20, 1980
 MT. VERNON PLAZA PUTT-PUTT
 GOLF COURSE, INC.

Board of Zoning Appeals

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-L-022 by MT. VERNON PUTT-PUTT GOLF COURSE, INC. under Section 4-603 of the Fairfax County Zoning Ordinance to change permittee and to change hours of operation to 9 A.M. to 2 A.M., on property located at 7898 Richmond Highway, tax map reference 101-2((1))12A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 20, 1980; 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 37,500 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

R E S O L U T I O N

- 5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
- 7. The hours of operation shall be 9 A.M. to 2 A.M.
- 8. All other requirements of S-28-76 not altered by this resolution shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 339, May 20, 1980, After Agenda Items

PORTER, A-80-D-004: The Board was in receipt of a request from Mr. Richard G. Hobson for reconsideration of the denial of Mr. Porter's appeal heard on April 15, 1980. As the letter did not mention any new information which could not have been presented previously, Mr. DiGiulian moved that the Board deny the reconsideration request. Mr. Barnes seconded the motion and it passed by a vote of 5 to 0.

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Page 339, May 20, 1980, After Agenda Items

TEMPLE BAPTIST CHURCH, S-214-78 and V-215-78: The Board was in receipt of a request from Dr. John Bonds, Pastor of the Temple Baptist Church, seeking an extension of S-214-78 and V-215-78 granted on October 17, 1978. The variance had been granted for a period of five years but the church had been unaware of the one year limitation to begin operation or construction. Dr. Bonds' letter stated that the church had been in the site plan process for some period of time and were just recently made aware of the condition. They were seeking an extension from the Board.

As the permits had already expired, it was the consensus of the Board to deny the request for extension. The Clerk was advised to notify the church to refile its application and that the Board would schedule them for as soon as possible. The date of June 24, 1980 at 8:15 P.M. was given if the applications were received in a timely manner.

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Page 339, May 20, 1980, After Agenda Items

ETA Associates: The Board was in receipt of a request via Ms. Jane Kelsey from the Board of Supervisors asking the BZA to reschedule the special permit application of ETA Associates to a night meeting. After a lengthy discussion, it was the consensus of the Board to voice its intent to defer the hearing on ETA Associates until the night meeting of June 10th. The Chairman asked the clerk to take care of the legal advertisement and to notify the applicant.

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Page 339, May 20, 1980, After Agenda Items

BARBARA KAPLAN & MARY BYERS: The Board was in receipt of a request for an out-of-turn hearing on the special permit application of Barbara Kaplan and Mary Byers. It was the consensus of the Board to grant the request and the hearing was scheduled for June 24, 1980 at 8:30 P.M.

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Page 339, May 20, 1980, After Agenda Items

EDC JOINT VENTURE: The Board was in receipt of a request from EDC Joint Venture for a six month extension of the variance granted May 22, 1979. Mr. Hyland moved that the Board grant a six month extension. Mr. Barnes seconded the motion and it passed unanimously by a vote of 5 to 0.

// There being no further business, the Board adjourned at 11:05 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 3/16/82

APPROVED: March 23, 1982
Date



The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 3, 1980. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes and John Yaremchuk. (Mr. Gerald Hyland was absent due to military reserve duty).

The Chairman called the meeting to order at 10:10 A.M. and Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. GEOFFREY WASHBURN, appl. under Sect. 18-401 of the Ord. to allow construction of additions to dwelling to 3.9 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-E07), located 9818 Arnon Chapel Rd., 8-3((1))15, Dranesville Dist., R-E, 2.983 acres, V-80-D-069.

Mr. Charles Runyon, an engineer in Falls Church, represented the applicant. He presented the Board with photographs of the subject property. Mr. Runyon stated that Mr. Washburn owned an older house situated on three acres. The home had been constructed 20 ft. from the side lot line which made it difficult to construct any additions in compliance with the Code without doing extensive renovations to the inside of the dwelling. Mr. Runyon stated that the kitchen was on the left rear of the home. The stairway was located on the left side of the house. The western wall was where the addition was proposed. The addition would be used as a living room and kitchen expansion on the lower level. Upstairs, the two existing small bedrooms would be expanded.

Accordingly, Mr. Runyon stated that the applicant was asking for a very large variance due to the location of the house. The existing house did not give the Washburns much room to live. He stated that Mrs. Washburn was Chairman of the Great Falls Historical Society and was very sensitive as to how to treat the addition to her home. Mr. Runyon presented a letter from the Riverbend Country Club who were in support of the variance. He stated that the trees along their property line would remain and that the proposed addition would blend in very well. Mr. Runyon stated that the Washburns had not started any architectural work at all yet as they were awaiting consideration of the variance.

Mr. Barnes reported to the Board that he examined the property when he was in the neighborhood. He stated that he could not see where it would make much difference. He stated that the lot was very narrow. Mr. Barnes stated that there was a letter in opposition but it was from a neighbor was back from the Washburns. Mr. Barnes stated that he could not see how the variance would do any harm to them. Mr. Barnes stated that it was a nice old house and was sitting on three acres.

Chairman Smith stated that it was unfortunate that the applicant could not find anywhere else to construct the addition since he had three acres. All the construction was up on one corner of the lot which made it very difficult.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 341, June 3, 1980
GEOFFREY WASHBURN

Board of Zoning Appeals

RESOLUTION

In Application No. V-80-D-069 by GEOFFREY WASHBURN under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 3.9 ft. from side lot line (20 ft. minimum side yard required by Section 3-E07), on property located at 9818 Arnon Chapel Road, tax map reference 8-3((1))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 3, 1980; and

WHEREAS, the Board has made the following findings of fact:

R E S O L U T I O N

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 2.983 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

 Page 342, June 3, 1980, Scheduled case of

10:10 DONNA M. ZIMMER, appl. under Sect. 18-406 of the Ord. to allow
 A.M. dwelling to remain 26.3 ft. from street line (30 ft. min. front yard req. by Sect. 3-E07), located 2200 Lomond Ct., The Glade Subd., 27-3(5)6, Centreville Dist., R-E(C), 43,560 sq. ft., V-80-C-070.

As the required notices were not in order, the Board deferred the application until July 1, 1980 at 12:15 P.M.

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Page 342, June 3, 1980, Scheduled case of

10:20 A. CHARLES BROWN & JOHN L. DONIPHAN, appl. under Sect. 18-401
 A.M. of the Ord. to allow subd. into seven (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., 101-4(1)27, Mt. Vernon Dist., R-3, 2.66 acres, V-80-V-071.

Mr. Charles Runyon, an engineer in Falls Church, represented the applicants. Mr. Runyon informed the Board that this application was merely a renewal of a previously granted variance that had expired while the applicants were trying to get site plan approval. Mr. Runyon stated that the property has very narrow frontage along Old Mt. Vernon Road. Mr. Runyon stated that they did not wish to construct a road as a pipestem would serve the proposed lots better and provide better access for the front lot. Mr. Runyon stated that they would use one entrance and access all four of the lots onto Mt. Vernon Road. He stated that the pipestem would be maintained by the four property owners. Mr. Runyon stated that this was a reasonable use of the property and did not exceed the density for the zone.

There was no one else to speak in support of the application and no one to speak in opposition.

 Page 342, June 3, 1980

Board of Zoning Appeals

A. CHARLES BROWN & JOHN L. DONIPHAN

R E S O L U T I O N

In Application No. V-80-V-071 by A. CHARLES BROWN AND JOHN L. DONIPHAN under Section 18-401 of the Zoning Ordinance to allow subdivision into seven (7) lots with proposed lots 3 & 4 each having width of 10 ft. (80 ft. minimum lot width required by Section 3-306) on property located at 8029 and 8215 Mt. Vernon Highway, tax map reference 101-4(1)27, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 3, 1980; 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 or to other structures on the same land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 343, June 3, 1980, Scheduled case of

10:30 A.M. DR. JERRY & JOYCE LEVY, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport to 11.2 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8717 Higdon Dr., Tyson's Green Subd., 29-3-(11)107, Centreville Dist., R-3, 14,169 sq. ft., V-80-C-072.

Mrs. Joyce Levy of 8717 Higdon Drive in Vienna informed the Board that she and her husband wanted to enclose the existing carport and convert it into a family room. She stated that the property was U-shaped and was a corner lot. The builder had placed the house at the very back of the property. Mrs. Levy stated that she was seeking an 8 ft. variance and assured the Board that construction would be completed in harmony with the rest of the house.

Chairman Smith stated that the location of the house was the only place on the lot that the builder could have placed it in compliance with the setback requirements. Mr. DiGiulian noted that only a small corner of the carport would be in the setback.

In response to questions from the Board, Mrs. Levy stated that they did not need the carport and did not use it much now. She stated that they could park in front as they had a double driveway. She stated that the house was 12 years old and they had owned it for 3 years.

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-80-C-072 by DR. JERRY AND JOYCE LEVY under Section 18-401 of the Zoning Ordinance to allow enclosure of carport to 11.2 ft. from side lot line (12 ft. minimum side yard required by Section 3-307) on property located at 8717 Higdon Drive, tax map reference 29-3((11))107, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

R E S O L U T I O N

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 3, 1980; 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 14.169 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and is a corner lot.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

 Page 344, June 3, 1980, After Agenda Item

TARA SCHOOL, S-301-78: The Board was in receipt of a letter from Mr. Ross F. Rogers, President of Tara School, Inc., requesting the Board to grant a further extension of S-301-78 which had been granted on January 17, 1979. On January 8, 1980, the Board had granted a six month extension. In addition to the request for an extension, the Board had received a letter from the architect for Tara School seeking approval for some minor engineering changes with respect to the site plan.

It was the consensus of the Board that the request for a change in the building design and the request for a relocation of the building were more than minor engineering changes. Mr. Barnes moved that the Board grant the extension for a period of six months but deny the request for the changes in design and relocation. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 (Mr. Hyland being absent).

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Page 344, June 3, 1980, Scheduled case of

10:40 MR. & MRS. DAVID SMALL, appl. under Sect. 18-401 of the Ord. to
 A.M. allow construction of addition to dwelling to 10 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 1969 Massachusetts Avenue, 41-1-((13))(5)77 & 78, Franklin Park Subd., Dranesville Dist., R-2, 20,000 sq. ft., V-80-D-073.

Mr. David Small of 1969 Massachusetts Avenue in McLean stated that he was seeking permission to place an addition onto the back of his house. The addition would be 10 ft. from the property line. The existing house was situated 10 ft. from the line and the proposed addition would continue the 10 ft. setback. Mr. Small stated that he was the second owner of the home and had not built it in this manner.

In response to questions from the Board, Mr. Small stated that he had owned the house since 1973 and planned to continue to live there. He reemphasized that he was not planning to come any closer to the side line than the existing house. Chairman Smith inquired if the previous Code had allowed the house to be constructed 10 ft. from the side line. Mr. Covington stated that the previous Code required a 20 ft. setback. He informed the Board that the lot was substandard and that the house had been built prior to the Code. Mr. Small stated that the old house had been 7 ft. from the lot line. Mr. Covington stated that the whole area was substandard. The subdivision was built in 1928.

There was no one else to speak in support of the application and no one to speak in opposition.

RESOLUTION

In Application No. V-80-D-073 by MR. AND MRS. DAVID SMALL under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10 ft. from side lot line (15 ft. minimum side yard required by Section 3-207) on property located at 1969 Massachusetts Avenue, tax map reference 41-1((13))(5)77 & 78, 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 3, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 20,000 sq. ft.
4. That the applicant's property has an unusual condition in that it is composed of two substandard lots.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 345, June 3, 1980, Scheduled case of

10:50 HELMUT & FRANCES PISTOR, appl. under Sect. 18-401 of the Ord.
A.M. to allow construction of detached garage to 5.5 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107 & 10-105), located 12723 Olivia Drive, Willowmeade Subd., 55-4((6))14, Springfield Dist., R-1, 1.0222 acres, V-80-S-075.

Mr. Helmut Pistor of 12723 Olivia Drive informed the Board that he had moved into the house 2 years ago when it was first built. He stated that he chose at that time not to build a garage. Mr. Pistor stated that the house was laid out and the driveway was existing. Mr. Pistor stated that because of the topography of the lot, there really was no other place to construct the garage except at the end of the driveway. Mr. Pistor stated that the property dropped away from the front door by at least one story. Mr. Pistor requested that he be allowed to build a detached garage 5 ft. from the side line. He indicated that he would like to move the garage forward but it would still be 5 ft. from the side line.

Chairman Smith stated that Mr. Pistor would need a new plat if he changed locations. Mr. Pistor inquired if he would need a new plat if he built the garage 10 ft. from the side line. Chairman Smith stated that would be up to the Board. Mr. Pistor stated that all other locations around his house were more than one story below the level of the proposed location. He stated that he had utility lines running through his property. In addition, there was an old civil war ditch that would have to be filled in. Mr. Pistor stated that the proposed location was the most convenient one.

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

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In Application No. V-80-S-075 by HELMUT AND FRANCES PISTOR under Section 18-401 of the Zoning Ordinance to allow construction of detached garage to 5.5 ft. from side lot line (20 ft. minimum side yard required by Section 3-107 and 10-105) on property located at 12723 Olivia Drive, tax map reference 55-4((6))14, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 3, 1980; 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 1.0222 acres.
4. That the applicant's property has exceptional topographic problems.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusion of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 346, June 3, 1980, Recess

At 11:00 A.M., the Board recessed for a short period. At 11:10 A.M., the Board reconvened to continue with the scheduled agenda.

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Page 346, June 3, 1980, Scheduled case of

11:00 A.M. GARRY & SHARON SEALOCK, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling with attached garage to 12 ft. from one side lot line & 16 ft. from the other, such that side yards total 28 ft. (12 ft. minimum but 40 ft. total side yard req. by Sect. 3-107), located 5002 Pheasant Ridge Rd., Lee Pines Subd., 56-3((7))19, Springfield Dist., R-1(C), 20,634 sq. ft., V-80-S-076.

Ms. Sharon Sealock of 10718 Oak Place in Fairfax stated that they were requesting a variance of 12 ft. She stated that the total side yard was 28 ft. and the Code required 40 ft. Ms. Sealock stated that the minimum 12 ft. side yard had been met on both sides of the lot. She stated that her property was zoned R-1 cluster. Ms. Sealock informed the Board that there was no other location to construct the dwelling with a garage. The rear of the lot had septic fields which prevented the house from being moved back any further. She stated that the lot was only 20,000 sq. ft. and had a lot of trees. In addition, there was a 10 ft. easement running through the back of the lot. She stated that the lot had topographic problems as it sloped downward from the front to the rear. She stated that she had spoken with the general contractor and in order to change the house without the garage would require a new set of plans.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mr. Joseph Crawley of 5000 Pheasant Ridge Road informed the Board he had moved to his property 3 years ago and had a full acre of ground. He stated that he had situated his house so it would never be too close to anyone else. Mr. Crawley stated that he was very much opposed to the requested variance. He stated that he did

not want a building any closer to his property than allowed by the Code. Mr. Crawley stated that he did not have a garage as he had abided by the regulations at the time he constructed his home. He stated that when he builds his garage, it would still be out of the 20 ft. setback. Mr. Crawley stated that it would not do the development any good to have the houses this close together. Mr. Crawley inquired as to when the cluster rule had gone into effect. He was informed by Mr. Covington that the cluster zoning took effect in August of 1978. Mr. Covington stated that at that time, the applicant could have built up to 12 ft. of the side line. The only real change added had been that the total side yard meet a 40 ft. requirement.

Chairman Smith stated that the applicants were not seeking a variance to the 12 ft. requirement but to the total overall side yard requirement of 40 ft. He stated that this was a narrow lot and inquired as to the size of the house. Ms. Sealock stated that it would be 2,000 sq. ft. and was 42 ft. long. The garage was 22 ft. wide. She stated that her property was less than 1/4 acre.

The next speaker in opposition was Mr. Gerald White of 5004 Pheasant Ridge Road, owner of lot 18. He stated that he was opposed to the variance because it would devalue his property and would not look right. Chairman Smith explained that the applicants proposed to be 16 ft. from Mr. White's property line and the Ordinance would allow them to be as close as 12 ft.

There was no one else to speak in opposition. During rebuttal, Mrs. Sealock stated that the Ordinance would allow her to build up to 12 ft. by right.

R E S O L U T I O N

In Application No. V-80-S-076 by GARRY AND SHARON SEALOCK under Section 18-401 of the Zoning Ordinance to allow construction of dwelling with attached garage to 12 feet from one side lot line and 16 feet from the other such that total side yards would be 28 ft. (12 ft. minimum but 40 feet total side yard required by Sect. 3-107) on property located at 5002 Pheasant Ridge Road, tax map reference 56-3((7))19, County of Fairfax, Virginia, Mr. Yarenchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 3, 1980; 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 20,634 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow frontage being 81.65 ft. wide and has an unusual condition in that it is a cluster development with the minimum land area.

AND, WHEREAS, the Board of Zoning Appeals had reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 348, June 3, 1980, Scheduled case of

11:10 MILTON M. THORNE, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of second story addition over an existing garage, which was constructed to 10.7 ft. from side lot line pursuant to V-40-76 (15 ft. min. side yard req. by Sect. 3-207), located 9832 Vale Rd., Town & Country Gardens Subd., 38-3((20))57, Providence Dist., R-2, 23,649 sq. ft., V-80-P-077.

Mr. Milton Thorne of 9832 Vale Road in Oakton informed the Board that he wanted to have room over an existing attached garage. Mr. Thorne stated that the BZA had previously granted permission in 1976 for the garage which was built 10.7 ft. from the side lot line. Mr. Thorne stated that there would be no additional encroachment as they were asking for additional height of 10 ft.

Chairman Smith inquired as to the justification for the request. Mr. Thorne stated that he wanted to enlarge the dining room and living room. The dining room was exceptionally small. He stated that with a table, four chairs and a hutch, there was no room for anyone to sit at the table. Mr. Thorne stated that he wanted to expand the dining room and the living room the same distance to keep everything uniform.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 348, June 3, 1980
MILTON M. THORNE

Board of Zoning Appeals

RESOLUTION

In Application No. V-80-P-077 by MILTON M. THORNE under Section 18-401 of the Zoning Ordinance to allow construction of second story addition on existing garage which was constructed to 10.7 ft. from side lot line pursuant to V-40-76 (15 ft. minimum side yard required by Sect. 3-207) on property located at 9832 Vale Road, tax map reference 38-3-((20))57, 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 3, 1980; 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 23,649 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 349, June 3, 1980, Scheduled case of

11:20 JAMES R. SKALICKY, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of garage addition to dwelling to 7 ft. from side lot line such that total side yards would be 16 ft. (8 ft. min. but 20 ft. total min. side yard req. by Sect. 3-307), located 5808 Broadmoor St., Hayfield Farms Subd., 91-4((4))624, Lee Dist., R-3, 8,614 sq. ft., V-80-L-078.

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JAMES R. SKALICKY
(continued)

Mr. James Skalicky of 5808 Broadmor Street in Alexandria informed the Board that due to the narrowness of his lot and the way his house was constructed with the present carport that he would be violating the Ordinance if he enclosed it for a garage. He stated that there were other variances in his area similar to his request which had been granted. Mr. Skalicky stated that he wanted to enclose the carport to enhance his property and to get rid of a metal shed he was presently using. He stated that he had owned the property for 3 years. Mr. Skalicky stated that his area had a variety of split level homes, all having carports. Four of the six homes had garages, two of which had required a variance.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 349, June 3, 1980
JAMES R. SKALICKY

Board of Zoning Appeals

RESOLUTION

In Application No. V-80-L-078 by JAMES R. SKALICKY under Section 18-401 of the Ordinance to allow construction of garage addition to dwelling to 7 ft. from side lot line such that total side yards would be 16 ft. (8 ft. minimum but 20 ft. total minimum side yards required by Sect. 3-307) on property located at 5808 Broadmor Street, tax map reference 91-4((4))624, 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 3, 1980; 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 8,614 sq. ft.
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 and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

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11:30 A.M. WALLACE C. COOPER (RONALD TYDINGS TRUSTEE), appl. under Sect. 18-401 of the Ord. to allow resubd. into 2 lots, one of which would have a width of 20 ft. (150 ft. min. lot width req. by Sect. 3-106), located Marshall Farms Subd., 55-4((3))R-5, Springfield Dist., 5.012 acres, R-1, V-80-S-079.

Mr. Wallace Cooper of 4017 Crable Drive stated he wanted a variance in order to resubdivide lot R-5. He stated that the total frontage for the lot was 250 ft. The property was presently zoned R-1 and consisted of five acres. Mr. Cooper stated that the Ordinance required a minimum of 150 ft. frontage for each lot. Mr. Cooper was proposing to have 225 ft. for the front two acre lot leaving a 20 ft. strip for a driveway to the back three acre lot. Mr. Cooper stated that this request would not drastically change the character of the five acre subdivision and he asked the Board to grant the variance.

There was no one else to speak in support of the application. Mr. Phil Kennett of 5000 Lincoln Drive, an adjacent neighbor of Mr. Cooper's, spoke in opposition to the request. He presented the Board with a petition signed by the residents of the Marshall Farms subdivision who were also in opposition.

Chairman Smith inquired as to the ownership of the property. Mr. Cooper stated that he was the owner. Chairman Smith stated that the staff report indicated Mr. Ronald Tydings to be the record owner of the property. Mr. Cooper stated that Mr. Tydings had held the property in trust for him. Mr. Cooper did not wish to present any rebuttal to the opposition.

R E S O L U T I O N

In Application No. V-80-S-079 by WALLACE C. COOPER (RONALD TYDINGS, TRUSTEE) under Section 18-401 of the Zoning Ordinance to allow resubdivision into 2 lots, one of which would have a width of 20 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at Marshall Farms Subd., tax map reference 55-4((3))R-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 June 3, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 5.012 acres.

AND, WHEREAS, the Board of Zoning Appeals had reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

11:40 A.M. ELEANOR C. THOMPSON, appl. under Sect. 18-401 of the Ord. to allow subd. into 4 lots, 3 of which would have a width of 6 ft. each (80 ft. min. lot width req. by Sect. 3-306), located 7537 Idylwood Rd., 40-3((1))68, Providence Dist., R-3, 1.3942 acres, V-80-P-080.

Mrs. Eleanor Thompson of 7537 Idylwood Road in Vienna informed the Board that she wished to subdivide her property as she was not able to take care of it due to allergies. She stated that she also wished to subdivide the land as she needed the money. Chairman Smith informed Ms. Thompson that she needed justification other than that for seeking a variance. Mr. DiGiulian inquired if the property was irregular in shape and was informed by Mrs. Thompson that it was. Mr. DiGiulian stated that there was very little frontage for the amount of land. Mrs. Thompson informed the Board that the back of the property was quite a bit wider than the front of the land. Chairman Smith inquired if she lived in the existing house and Mrs. Thompson responded that she did. She stated that a lot of neighbors did not even know the house was back there. Mrs. Thompson stated she wished to subdivide it into 4 lots.

The following persons spoke in support of the application. Mrs. Betty Stewart of 302 Branch Road in Vienna stated she had lived in the area for 23 years. She stated that Mrs. Thompson wished to divide the land to be of more use. She stated that it would be to Mrs. Thompson's advantage to have the land subdivided leaving a small area for her home. Mrs. Thompson wished to build a home closer to the street. Mrs. Stewart stated that she did not have any objection to the variance.

A neighbor of 3869 Wilcoxsin Drive in Fairfax informed the Board she had known Mrs. Thompson for quite a few years. She stated that the property was a large wooded lot and Mrs. Thompson lived there by herself. The property was very secluded. Mrs. Thompson wanted to continue living on the property and wished to have the property developed in order to have neighbors close by to help her.

Mr. Ray Keating spoke in opposition to the request. He represented Mrs. Mary Howell, Mrs. Mary Crager and Dr. Rexall, adjacent property owners to Mrs. Thompson. Mr. Keating stated there would be some advantage to Mrs. Thompson to have the property subdivided but there was overwhelming opposition from the neighbors. Mr. Keating stated that the speakers in support were not neighbors from the immediate area. He stated that Dr. Rexall resided next door to the old cemetery. Mrs. Howell moved to her property in 1951 seeking open space. Mr. Keating stated that the character of Idylwood Road on both sides was large lots with ample space. Mr. Keating informed the Board that there was not any sewer available or water to serve the lots at the present time. He stated that there was a sewer line 300 yards away from the subject property. Mr. Keating stated that the subdivision would be dependent upon septic fields. The subdivision would require a 24 ft. pipestem easement. Mr. Keating stated that the pipestem access would be a constant nuisance as far as traffic, noise and pollution. Mr. Keating presented the Board with a petition signed by both neighbors on either side of Mrs. Thompson who opposed the resubdivision as it would destroy the character of the area. Mr. Keating stated that he did not believe the subdivision would be in keeping with the master plan if it was granted.

During rebuttal Mrs. Thompson stated that the property was serviced by Falls Church city water. She stated that the property could be served by sewer.

R E S O L U T I O N

In Application No. V-80-P-080 by ELEANOR C. THOMPSON under Section 18-401 of the Zoning Ordinance to allow subdivision into 4 lots, 3 of which would have a width of 6 ft. each (80 ft. minimum lot width required by Sect. 3-306) on property located at 7537 Idylwood Rd., tax map reference 40-3(1)68, 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 3, 1980; 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 1.3942 acres.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow and has an unusual condition in the location of the subject property being encompassed by high density development.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

At 12:00 noon, the Board recessed for a lunch break. At 12:45 P.M., the Board reconvened to continue with the scheduled agenda.

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12:00 DR. & MRS. LAWRENCE L. ZIEMANSKI, appl. under Sect. 3-103 of the Ord. to
 NOON permit home professional (dentist) office, located 1300 Beulah Rd., 19-3((1))12,
 Dranesville Dist., R-1, 38,801 sq. ft., S-80-D-035.

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Dr. Lawrence L. Ziemanski informed the Board that he had a contract to purchase the property which was located on Rt. 7 and Beulah Road. Dr. Ziemanski stated he planned to construct a home at this location. He stated he planned to use septic fields as sewer was not available at this time. Dr. Ziemanski stated that there was a row of trees to the rear of the property and along Rt. 7. The ingress and egress would be from Beulah Road. The parking area shown on the plat would be set back 10 ft. from the property line. Dr. Ziemanski anticipated having public water to serve the property. He showed the Board color photographs of the site. Dr. Ziemanski stated that his hours of operation would be 8:30 A.M. to 5:30 P.M. He indicated that he would not have many patients at the beginning but hoped to increase his patient load to 15 or 20 per day. Dr. Ziemanski stated that he would like to be allowed the maximum number of employees allowed under the Zoning Ordinance which would be four for the land area involved. Dr. Ziemanski informed the Board that he was a graduate of the University of Pittsburgh School of Dental Medicine. He stated that he would work by appointment over an 8 hour schedule so that the traffic would not disturb the neighbors. Dr. Ziemanski stated that the vicinity to be served did not have a dentist within 4 to 5 miles. The closest would be Great Falls. Dr. Ziemanski stated he was able to contact 8 of the 12 neighbors. The eight he contacted were supportive of his application. Dr. Ziemanski informed the Board that this same property had been considered for a 7-11 store about one year ago. He indicated that the neighbors welcomed a dentist office instead of the 7-11.

With respect to the staff comments requiring a service road for the frontage of the property along Rt. 7, Dr. Ziemanski informed the Board that he would not be able to afford to construct it and it would take away too much of the property and the septic area. Dr. Ziemanski stated that was the only area on the property where the septic fields could be located. He stated he had talked to Mr. Oscar Hendrickson who had stated that it would be better if the BZA did not lock in the building on the site because of the septic. Mr. Hendrickson suggested that Dr. Ziemanski meet with him and he would consider waiving the service driveway.

There was no one else to speak in support of the application and no one to speak in opposition. The file contained one letter in support and one in opposition.

In response to questions from the Board, Dr. Ziemanski stated he only planned to work Monday through Friday and not on Saturdays in order to keep the residential character of the area. Chairman Smith was concerned about the parking area as the patients would have to back out on Beulah Road. Chairman Smith stated that 12 parking spaces 10 ft. from the property line was not in keeping with the residential character or in harmony with the area. Dr. Ziemanski stated that he doubted anyone would be interested in building a home on Rt. 7 and Beulah. He stated that if he did not build a home, the residents might later be faced with a 7-11 or a McDonald's on this corner. Dr. Ziemanski stated he would consider screening the parking. He stated that the parking would allow plenty of room for a turn around. There was no off street parking provided. Dr. Ziemanski stated that even if he did not use the property for a dental office but a residence, he would still need plenty of parking as he had three children and five cars.

Chairman Smith stated the discussion regarding a 7-11 or a McDonald's was not relevant to what the Board had to consider. He stated the BZA did not have the authority to grant such uses. Mr. Yaremchuk informed Dr. Ziemanski that even though someone applied for a 7-11, it did not mean that the property would be zoned for that use.

Dr. Ziemanski stated he liked the Wolftrap area. It was close to Lake Fairfax and the schools were good. Mr. Yaremchuk inquired if Dr. Ziemanski made a market analysis of the area and was informed that there were not any dentists for a 4 to 5 mile radius. He stated that he had looked for a location that would lend itself ideally to both a home and a dental office. He stated that with the present gas shortage, he would be serving the neighbors in a better way. Mr. Yaremchuk inquired if Dr. Ziemanski had looked for commercial space. Dr. Ziemanski responded that he had an office at the present time in Prince Georges County. He stated that the problem he had there was a metro station right next door which was not suitable for business and living purposes. Mr. DiGiulian inquired if Dr. Ziemanski was familiar with the Design Review comments. He asked how much distance Dr. Ziemanski proposed between the western property line and the edge of the parking lot. Mr. Covington stated that a 25 ft. strip of screening was required by Design Review. However, he stated that he could not find where the Ordinance required any amount of distance from the parking lot. Mr. Covington stated that the requirement probably came from the Public Facilities Manual. Mr. Rounds, the architect, informed the Board that the distance provided on the plat was about 5 to 6 ft. He stated that they had been asked by the staff to move the parking from the front but the staff had not expressed a concern about the side yard. Chairman Smith inquired about the 25 ft. transitional screening. Mr. DiGiulian stated that sometimes the Ordinance didn't require any but Design Review believed it was required. Mr. Covington stated he could not find any requirement. Mr. Rounds suggested 6 ft. high shrubs or a line of trees that could possibly serve as screening.

R E S O L U T I O N

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Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-D-035 by DR. & MRS. LAWRENCE L. ZIEMANSKI under Section 3-103 of the Fairfax County Zoning Ordinance to permit home professional (dentist) office on property located at 1300 Beulah Rd, tax map reference 19-3((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 June 3, 1980; 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 38,801 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering changes) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of employees shall be four (4).
8. The hours of operation shall be 8:30 A.M. to 5:30 P.M., Monday through Friday.
9. The number of parking spaces shall be twelve (12).
10. This permit is granted for a period of five (5) years.
11. Plantings acceptable to the Director of Environmental Management shall be provided in the 5 ft. strip between the westerly property line and the parking lot.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

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12:15 P.M. KATIE H. BARR, appl. under Sect. 3-103 of the Ord. to permit continuation of a new term for a boarding kennel for cats and dogs, located 7121 Bull Run Post Office Rd., 64-1((1))36, Springfield Dist., R-1, 28.403 acres, S-80-S-019. (DEFERRED FROM APRIL 29, 1980 FOR NOTICES.)

Ms. Katie H. Barr of 7121 Bull Run Post Office Road in Centreville informed the Board that she had a cinderblock kennel, 10'x16' with four dog runs. The kennel contained 12 cages on one side and 12 cages on the other. Ms. Barr stated she proposed to keep approximately 30 to 35 dogs and cats without any trouble. She stated that with four runs, she would be able to keep about 15 to 20 dogs with the balance being made up of cats. Ms. Barr stated she boarded small animals and would only handle the little felines.

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KATIE H. BARR
(continued)

Mr. Barnes inquired about a fire at the kennel. Ms. Barr stated that her larger kennel had caught on fire. She informed the Board that she might return at a later date to seek permission to replace that kennel. Right now she only wished to carry on with her own animals. She stated that the cinderblock kennel had not been in use for many years. She stated she had repaired the roof and would make the other repairs that were necessary.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 354, June 3, 1980
KATIE H. BARR

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-S-019 by KATIE H. BARR under Section 3-103 of the Fairfax County Zoning Ordinance to permit continuation of a new term for a boarding kennel for cats and dogs on property located at 7121 Bull Run Post Office Road, tax map reference 64-1((1))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 June 3, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 28.403 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction of operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. This permit is limited to 20 dogs and 15 cats or a maximum of 35 animals at any one time.
8. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one-year extension.
9. All previous limitations not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

12:30 P.M. LADAN KIAN-POUR, appl. under Sect. 3-303 of the Ord. to permit school of special education (classical ballet-slymastic), located 8502 Little River Turnpike, Varsity Park Subd., 59-3((16))19, Providence Dist., R-3, 14,438 sq. ft., S-80-P-037.

Ms. Ladan Kian-Pour of 1648 Lake Shore Drive in Virginia Beach informed the Board that her request was very simple. She stated she had been teaching ballet for 14 years and was presently teaching at the Virginia Beach Conservatory of Arts. Ms. Kian-Pour stated she was asking to operate a small ballet school for children and adults in her home which she purchased on Little River Turnpike in Annandale. Ms. Kian-Pour stated she would like to operate one hour in the morning and two to three hours in the evening with class size ranging from 9 to 12 people at any one time. Ms. Kian-Pour stated that would be the peak operation. She assured the Board that there would not be any outside noise. The children would either walk to the facility or be dropped off. Ms. Kian-Pour felt that her school would be a benefit to the neighborhood. In addition, Ms. Kian-Pour was asking to be able to display a lighted sign of the size allowed within the Ordinance.

In response to questions from the Board, Ms. Kian-Pour stated she would operate one hour in the morning and two to three hours in the evening. She stated that the hours in the morning would be 10 A.M. to 11 A.M. and the afternoon classes from 3:30 P.M. to 4:30 P.M. and from 5:00 P.M. to 6:00 P.M. She stated she wanted to operate six days a week, Monday through Saturday.

There was no one else to speak in support of the application. The following persons spoke in opposition. The Chairman of the Varsity Park Civic Association informed the Board that they had forwarded a letter of opposition stating their objections to the special permit request for a ballet school. He stated that the letter was endorsed by 37 out of the 38 residents. The two primary objections were the traffic and parking problems as the street on which the home was located was a narrow service road. There was no available space for off-street parking. The homes had small aprons which would accommodate one car at most. In addition, the homes on the service drive had steep topographic problems so there was no way to add parking on the property. The residents of the homes along the service drive had been experiencing problems with parking from the students of the community college. He stated that the college and the police had made efforts to improve the parking situation but it was hard to prevent students from parking there while attending school. He stated that there was no way to keep the traffic situation from becoming worse if the ballet school were granted. The second objection was to the commercial use. He informed the Board that there were many commercial areas in which the school could be located. He urged the Board to deny the special permit.

The next speaker in opposition was Mr. D. Wayne White of 8428 Little River Turnpike of Northern Virginia Community College. He informed the Board that he moved to his home in 1972 because of its close proximity to the Annandale campus. He indicated that he spoke for most of the residents in the area when he stated that they had gone to considerable expense to improve their property. There was a lot of traffic congestion on Little River Turnpike. The entrance to Varsity Park was the only ingress and egress off of Little River Turnpike. There was a back way to enter the subdivision through Gallows Road off of Woodburn Road. Mostly, there was limited access to the development. Mr. White stated that the house in question was situated squarely at the intersection of Little River Turnpike and the subdivision. There were enough cars parked there already to provide a bottleneck situation. Mr. White stated that there was a new subdivision built next to Varsity Park which added to the traffic congestion.

Another cause of problems was the Pleasant Valley Cemetery which was located off of the service drive. During funerals, the traffic really became a bottleneck. Mr. White stated that the area has had problems with students from the college parking on the access road. He stated that they had put no parking signs there but there was no way to solve the problem of the students driving through the subdivision in order to beat the light. He stated that during prime time and in the evening hours, the students continually used the access road and it was very difficult to get in and out of the subdivision. Mr. White stated that there was no place to park along the access road. The driveways for the residents were only built for one vehicle. Mr. White stated that even though Ms. Kian-Pour proposed to have the students dropped off, the traffic would still cause a bottleneck and impede the traffic in and out of Varsity Park. He urged the Board to vote in opposition to the request.

Mr. Yaremchuk stated that all the statements regarding the traffic problems appeared to be caused by the students. He inquired that since Mr. White was a member of the faculty, why could he not control the students and make them park on campus. Mr. White stated that the campus did provide adequate parking and charged a reasonable fee for parking. The students who did not pay the parking fee were the ones parking on the side streets in order to avoid buying a parking permit.

The next speaker in opposition was Donna White of 8428 Little River Turnpike. She stated that she taught school in Prince William County and very seldom took a day off. However, she felt very strongly about this application and wanted to express her feelings. She informed the Board that she did not want to see the ballet school in a residential neighborhood. Mrs. White stated that the school where she teaches rents its facility for ballet schools, etc. She stated that there were other facilities in the area where the school could be located. Since there was a problem with parking, she felt it would be much wiser if the school were located elsewhere. Mrs. White indicated the problem with the student parking was a concern. However, she indicated there was a problem with the citizens who cut through the subdivision which added to the problem. Mrs. White stated that this was not the best location for the ballet school. In fact, the college offered ballet courses at its facility. If the citizens wanted to participate, the college was within walking distance also.

During rebuttal, Mrs. Kian-Pour stated that the peak number of students would be between 9 to 12 persons. She did not feel that the ballet school would cause any parking problem. She stated that the courses at the college were for grown-ups. Mrs. Kian-Pour stated she specialized in children. In response to questions from the Board, Mrs. Kian-Pour stated she only had one car. Mr. DiGiulian inquired if there was room on the property for a parent to pull in the driveway and discharge students. Mrs. Kian-Pour stated the parents could drop off the children and return later to pick them up so there would not be any parking problem.

Chairman Smith stated that the driveway for the residence was very short. In addition, the house sat on a hill and there was an incline. The service road was heavily travelled by the people beating the light and by the use of the cemetery. He stated that he travelled that road on a daily basis and was very familiar with the traffic situation.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-P-037 by LADAN KIAN-POUR under Section 3-303 of the Fairfax County Zoning Ordinance to permit school of special education (classical ballet-symnastic) on property located at 8502 Little River Turnpike, tax map reference 59-3-((16))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 June 3, 1980; 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-3.
3. That the area of the lot is 14,438 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approvals granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

R E S O L U T I O N

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The maximum number of students shall be twelve (12).

8. The hours of operation shall be 10 A.M. to 11 A.M. & 3:30 P.M. to 6 P.M., Monday through Saturday.

9. This permit is granted for a period of one (1) year with the Zoning Administrator empowered to grant three (3) one-year extensions.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 357, June 3, 1980, Scheduled case of

12:45 P.M. NATIONAL MEMORIAL PARK, INC., appl. under Sect. 18-401 of the Ord. to allow construction of mausoleum to 20 ft. from front lot line (40 ft. min. front yard req. by Sect. 3-107), located Lee Highway, 50-1((1))30, Providence Dist., 92.9859 acres, V-80-P-064. (DEFERRED FROM MAY 13, 1980 FOR NOTICES.)

&

12:45 P.M. NATIONAL MEMORIAL PARK, INC., appl. under Sect. 3-303 of the Ord. to allow addition of mausoleum to existing cemetery, located Lee Highway, 50-1((1))30, Providence Dist., R-1, 92.9859 acres, S-80-P-027. (DEFERRED FROM MAY 13, 1980 FOR NOTICES.)

Mr. William Hansbarger, an attorney in Fairfax, represented the applicant. Chairman Smith stated that the staff report did not contain some of the information he had requested the first time the application was presented. He stated that he had not kept the original staff report. Mr. Hansbarger informed the Board that the original plat for the cemetery was prepared by Mr. Long in 1958. He stated that all the special permits since 1958 dealt with adding land to the original parcel. Mr. Hansbarger informed the Board that the mausoleum was located on the original parcel of 92.99 acres. What the cemetery was now proposing was to erect a mausoleum on the old section of the cemetery which predated the Zoning Ordinance. Originally, the cemetery was able to add a number of structures on the site and only had to obtain a building permit. Now, the cemetery was required to obtain a special permit for each addition. Mr. Hansbarger reserved the right to contest that requirement if it became necessary.

Chairman Smith inquired if the other mausoleum was under a special permit and was informed it was not. Mr. Hansbarger stated that the previous special permits all dealt with the addition of land area to the cemetery. The newly proposed mausoleum would have a courtyard in the center. Mr. Hansbarger stated that the design had been planned for a long period of time. He stated that the mausoleum was an appropriate use. There was an existing mausoleum already located on the site.

For background purposes, Mr. Hansbarger stated that the original cemetery contained 93 acres in 1949 before any Zoning Ordinance was established. Later, the cemetery applied for a special permit to add 63 acres for the King David part of the cemetery. New tracts of land had been added to the cemetery over the years. Mr. Hansbarger informed the Board that there had been a number of articles written over the years praising the cemetery for the way it maintained the grounds. He stated it was a place of interest to view because of the various statutes and the Fountain of Youth. Mr. Hansbarger stated that the cemetery had not had any adverse effect on the adjoining properties. Mr. Hansbarger stated that all of the burial plots had been sold along the Hollywood Road area. There were 57 burials right up to the property line. Mr. Hansbarger stated that all of the requirements for a special permit had been met and asked the Board to grant the variance.

Chairman Smith inquired as to the hardship for requesting the variance. Mr. Hansbarger replied there did not have to be a hardship. Chairman Smith responded that the hardship was the only justification the BZA had in granting a variance. Mr. DiGiulian stated that the mausoleum was approximately 85 ft. from the exit way so that the courtyard would be about 65 ft. wide between the two. Mr. Hansbarger replied the courtyard would be 50 ft. wide. Mr. DiGiulian stated that it did not scale that way to him from examining the plats. Mr. Hansbarger informed the Board that there was no setback requirement in his opinion. The cemetery was controlled by the State. Chairman Smith stated that was only as far as the in-ground burials and did not include the above ground ones. He stated that the mausoleum was considered a structure and Fairfax County had jurisdiction over a structure. Mr. Hansbarger responded that in 99 out of a 100 cases he would agree with the Board but in the case of cemeteries and ones that were established prior to the Zoning Ordinance, he disagreed.

Mr. Hansbarger stated that with respect to the variance, the practical difficulty did not have to be a hardship. He stated that the Board could authorize a variance where a house situation existed which would result in a difficulty that would deprive the owner of the reasonable use of the land. Chairman Smith stated that the setback was the only quarrel that he had with the application. He asked Mr. Hansbarger what justification the BZA would have to grant a variance when the cemetery had all that land to construct it on. Mr. Hansbarger stated that the justification argument did not apply in this case. Chairman Smith inquired as to the height of the mausoleum and was informed it was seven tiers high. Mr. Hansbarger stated that in his opinion, no permit was necessary. However, the Zoning Administrator had disagreed and that was why the application was before the BZA. Mr. Hansbarger stated that the original plans showed the proposed plans and the mausoleums. He indicated that no useful purposed would be served by not granting the variance. There would not be any effect on traffic or on the residents. Mr. Hansbarger stated that the buildings across the street and the apartments nearby were far more adverse than the mausoleum would be. Mr. Hansbarger stated that all entrances would be from Lee Highway and there would not be a driveway from Hollywood Road. Mr. Hansbarger stated that this cemetery was extremely beautiful.

Mr. Covington informed the Board that there was difference in elevation from 8 to 10 ft. in the area where the mausoleum would be located. Mr. Yaremchuk stated that topography was a hardship as far as the variance was concerned.

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-80-P-064 by NATIONAL MEMORIAL PARK, INC. under Section 18-401 of the Ordinance to allow construction of mausoleum to 20 ft. from front lot line (40 ft. min. front yard req. by Sect. 3-107) on property located at Lee Highway, tax map reference 50-1((1))30, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 3, 1980; 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 92.9859 acres.
4. That the applicant's property has exceptional topographic problems.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

RESOLUTION

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Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-P-027 by NATIONAL MEMORIAL PARK, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to allow addition of mausoleum to existing cemetery on property located at Lee Highway, tax map reference 50-1((1))30, 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 3, 1980; 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 92.9859 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. All other requirements of any previous use permits shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 359, June 3, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of the BZA Minutes for June 19, 1979. Mr. Barnes moved that the Minutes be approved as amended. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 (Mr. Hyland being absent).

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Page 359, June 3, 1980, After Agenda Items

ETA ENTERPRISES: The Board was in receipt of a request from Verdia L. Haywood, Executive Assistant to the County Executive, requesting the BZA to schedule an evening meeting on the application of ETA Enterprises. The Board had previously directed the Clerk to schedule such a meeting. The date selected was Friday evening, June 20, 1980 at 8:00 P.M. The Board directed that the meeting not last any longer than two hours.

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Page 360, June 3, 1980, After Agenda Items

RICHARD A. TARKIR, V-90-79: The Board was in receipt of a letter from Mr. Richard A. Tarkir requesting an extension of his variance which had been granted on June 5, 1979. Mr. Barnes moved that the Board grant a six month extension. Mr. DiGiulian seconded the motion and it passed unanimously.

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Page 360, June 3, 1980, After Agenda Items

COMMONWEALTH SWIM CLUB: The Board was in receipt of a request for an extension of the permit for Commonwealth Swim Club. Mr. Barnes moved that the Board grant a six month extension. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 (Mr. Hyland being absent).

// There being no further business, the Board adjourned at 2:20 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 3/16/82

APPROVED: March 23, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 10, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Gerald Hyland.

The Chairman opened the meeting at 10:30 A.M. and Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. JERRY L. BUFFAY, appl. under Sect. 18-401 of the Ord. to allow construction of a double garage addition to dwelling to 18 ft. from street line (25 ft. min. front yard req. by Sect. 3-207), located 1848 Abbotsford Dr., Eudora Subd., 28-3((10))19, Centreville Dist., R-2(C), 11,239 sq. ft., V-80-C-081.

Mr. Jerry Buffay of 1848 Abbotsford Drive in Vienna informed the Board he had requested a variance in order to construct a garage. He stated that he planned to extend the existing carport into a double garage to provide storage space and to provide better drainage. Chairman Smith inquired as to why Mr. Buffay needed a double garage. Mr. Barnes stated that this was only a 7 ft. variance. In response to questions from the Board, Mr. Buffay stated that he had owned the property for 10 years. It was a cluster development of single family homes. Chairman Smith stated he was concerned about the cluster development. Mr. Buffay informed the Board that that his property was located on a cul-de-sac. Mr. Buffay stated that he considered the area to be his side yard rather than the front yard as defined by the Zoning Ordinance. Mr. Buffay stated that the garage would be located on the side of his house and expanded towards Cliffdale Court. Chairman Smith stated that the applicant already had an existing garage. Mr. Buffay responded that he only had an existing single carport. He stated he would be adding an additional concrete apron and enclosing the whole structure. Mr. Hyland inquired as to what there was about the property that justified granting the variance. Mr. Buffay stated that he needed the extra space and indicated that he did have drainage problems in the front yard and the construction of the garage would help to alleviate them.

The applicant's engineer spoke in support of the application. He confirmed that a drainage problem existed and informed the Board that by extending the carport it would alleviate the drainage situation. Only a 7 ft. variance was necessary to comply with the Code. The engineer stated that Mr. Buffay would not have needed to apply for a variance at all if he didn't have a corner lot. By extending the carport and constructing a garage, it would alleviate the standing water problem that existed in the front yard. The engineer stated that they would landscape the area to control the water situation. Mr. Hyland inquired as to the nature of the water problem. The engineer stated that the construction would alleviate the standing water. In addition, they would cut away the slope and let the water flow behind the garage into a drainage easement at the rear rather than have it go across the neighbor's yard. Chairman Smith inquired as to why construction of a garage was necessary to correct the water problem. The engineer stated that the garage was for the convenience of Mr. Buffay and for storage. The garage would be a total brick structure and would be very attractive.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 361, June 10, 1980
JERRY L. BUFFAY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-C-081 by JERRY L. BUFFAY under Section 18-401 of the Zoning Ordinance to allow construction of double garage addition to dwelling to 18 ft. from street line (25 ft. minimum yard required by Sect. 3-207) on property located at 1848 Abbotsford Drive, tax map reference 28-3((10))19, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 10, 1980; 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 11,239 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and is a corner lot.

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 with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 362, June 10, 1980, Scheduled case of

10:10 JOHN H. BATY, appl. under Sect. 18-401 of the Ord. to allow construction of
A.M. double garage addition to dwelling to 2.9 ft. from side lot line such that
side yards total 13.1 ft. (8 ft. min. but 24 ft. total min. side yards req.
by Sect. 3-207), located 2228 Abbotsford Dr., Tanglewood Subd., 38-1((22))123,
Centreville Dist., R-2(C), 16,736 sq. ft., V-80-C-082.

Mr. John H. Baty of 2228 Abbotsford Drive in Vienna informed the Board that he had a problem with the topography on his property. The land sloped on one side of his property which caused a water problem. Mr. Baty stated that he had filled in the area and placed drainage tiles in the area. Mr. Baty stated that there was a sewer at the back of the property. He indicated that he had decided to go whole hog and construct a garage to help the situation. Mr. Yaremchuk inquired if the topographic problem was very pronounced. Mr. Baty responded that to say he needed a garage was not entirely based on the water situation was not correct. In response to questions from the Board, Mr. Baty stated that there was not any other location on the property to construct a garage that would be in compliance with the Code. Mr. Yaremchuk inquired if Mr. Baty had discussed the variance with his neighbor in as much as the garage would be located 2.9 ft. from the side lot line. Mr. Baty stated that he had the support of his neighbor and the Architectural Review Committee.

Mr. Sherman Vaneker of International Builders in Vienna spoke in support of the variance. He stated that Mr. Baty had the same type of problem as was previously discussed. He stated that his company had demolished a wall on Mr. Baty's property and replaced it adding tiles to take care of the water. The water problem has been stopped at the present time. Mr. Baty had decided to construct a garage and International Builders would do the work. He stated that he had been licensed for 15 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-80-C-082 by JOHN H. BATY under Section 18-401 of the Zoning Ordinance to allow construction of double garage addition to dwelling to 2.9 ft. from side lot line such that total side yards total 13.1 ft. (8 ft. minimum but 24 ft. total minimum side yards required by Sect. 3-207) on property located at 2228 Abbotsford Drive, tax map reference 38-1((22))123, 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 10, 1980; 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 16,737 sq. ft.
4. That the applicant's property is exceptionally irregular including converging lot lines and has exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property.

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 with the following limitations:

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)

Page 363, June 10, 1980, Scheduled case of

10:20 A.M. GLENN & BEVERLY ANDERSON, appl. under Sect. 18-401 of the Ord. to allow construction of a 16 ft. high free standing garage to 2 ft. from side and rear lot lines (12 ft. min. side yard & 16 ft. min. rear yard req. by Sect. 3-307 & 10-105), located 6200 Hillview Ave., Virginia Hills Subd., Lee Dist., 82-4((14))(25)28, R-3, 10,694 sq. ft., V-80-L-083.

Ms. Beverly Anderson of 6200 Hillview Avenue informed the Board that they had purchased their home in May of 1978. At that time, the Ordinance would allow the construction of a garage to 2 ft. from the side lot line. The requirement at that time was to be 2 ft. from the side and 2 ft. from the rear and 25 ft. behind the structure provided it was constructed of a fireproof material. Since that time, the Ordinance had changed.

Mr. Hyland inquired as to what there was about the lot that prompted the Andersons to request a variance. Ms. Anderson stated that the way the house was situated on the property, it was not appropriate to attach the garage to the house. Ms. Anderson stated that they proposed to extend the driveway. In response to further questions regarding the hardship, Ms. Anderson stated that the area between the house and the side lot line was too narrow to construct a garage attached to the house. Chairman Smith inquired as why the Andersons could not move the garage over. Ms. Anderson responded that there was not enough existing land there. Mr. Hyland inquired as to what surrounded the back of the property. Mrs. Anderson stated that there were other houses in the back sitting back more than 25 ft. from the property line. In addition, there was an anchor fence surrounding the property.

Chairman Smith inquired as to the reason for the structure being 16 ft. in height. Ms. Anderson stated that they had a van that they wanted to keep in the garage. Mr. Yaremchuk stated that if the Andersons moved the garage over the way the Chairman stated that it would take away from the back yard. Mr. Yaremchuk stated that the Board had previously requested a study be made on accessory structures and he inquired as to the status of that study. Chairman Smith stated that the Board could only consider the variance under the present provisions of the Ordinance. Mr. Yaremchuk assured the applicant and the Chairman that he was not criticizing anyone but merely wondered about the requested study.

Mr. Hyland inquired as to the type of materials to be used in constructing the garage. Mrs. Anderson stated they planned to use cinderblock and brick.

There was no one else to speak in support of the application. Mr. Virgil O'Connor of 3716 Austin Avenue spoke in opposition to the request. He stated that the homes in the area all had carports. Mr. O'Connor informed the Board that if this variance were granted it would open Pandora's box and change the whole area. He stated that he could not see having the structure at the position where it was being requested. Mr. Hyland inquired as to where Mr. O'Connor resided in relationship to the Anderson property. Mr. O'Connor stated that he could look directly at their house on Hillview Avenue.

Chairman Smith stated that he was familiar with the subdivision and he could not remember any garages there. Mr. O'Connor stated that there were not any. Mr. O'Connor objected to the height of the structure since the house was a single story with a full basement. He questioned the reason for a 16 ft. high garage.

There was no one else to speak in opposition. During rebuttal, Mrs. Anderson stated that Mr. O'Connor's house was up on a hill. She informed the Board that there were other garages in the area. One was on the parkway and the other on Hillview Avenue. Mrs. Anderson stated that none of her neighbors objected to the variance and she indicated she had their full support.

Mr. Hyland questioned the necessity of building such a large structure at the proposed location. Mrs. Anderson stated that they needed a double garage because they had three cars. She stated that they needed room to extend the driveway in order to turn the cars around so they would not have to back out onto Hillview Avenue. Mr. Barnes questioned whether the garage could be moved to the right. Mrs. Anderson responded that it would take up more of the back yard. Mr. Barnes informed Mrs. Anderson that you can't have everything. Mrs. Anderson stated there would not be any problem with water. Mr. Smith stated that the water running off of the building would go onto the neighbor's property. Mrs. Anderson replied that they would put in water tiles. Mr. Hyland questioned where the water would go. Mrs. Anderson replied that it would go where it has always gone which was out into the yard. Mr. Hyland questioned whether it would go onto lot 27.

Ms. Lynn Anderson informed the Board that the grading on the north side of the proposed garage was such that the water would not be able to run uphill. Instead, the water would run out onto the Anderson property. She stated that she had thought about putting in a dry well.

Chairman Smith questioned why a 25 ft. wide garage was necessary since 20 ft. to 22 ft. was normal. Mrs. Anderson stated that they had three cars. In addition, they wanted to keep tools and a lawnmower inside the garage since the house was not big enough. Mrs. Anderson stated that her house had a finished basement so there wasn't enough storage space. She informed the Board that the property had a metal shed which she planned to remove after constructing the garage. Mr. Barnes questioned why the garage could not be moved over towards lot 29. Mrs. Anderson stated that the only reason was they would lose that much more of the back yard just for the sake of having a garage.

Page 364, June 10, 1980
GLEN & BEVERLY ANDERSON

Board of Zoning Appeals

RESOLUTION

In Application No. V-80-L-083 by GLEN & BEVERLY ANDERSON under Section 18-401 of the Zoning Ordinance to allow construction of a 16 ft. high free standing garage to *2 ft. from side and rear lot lines (12 ft. minimum side yard and 16 ft. minimum rear yard required by Sect. 3-307 and 10-105) on property located at 6200 Hillview Avenue, tax map reference 82-4(14)(25)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 June 10, 1980; 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 10,694 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART *(to allow construction of a 16 ft. high free standing garage to 4 ft. from side and rear lot lines) with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

RESOLUTION

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Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 365, June 10, 1980, Scheduled case of

10:30 A.M. ALINE BLAKE IMLER, appl. under Sect. 18-401 of the Ord. to allow subd. into three (3) lots, two of which would have width of 20 ft. each (150 - ft. min. lot width req. by Sect. 3-106), located 1686 Beulah Road, 28-1((1))31, Centreville Dist., R-1, 3.2229 acres, V-80-C-084.

Ms. Imler informed the Board that she owned 3.3229 acres located at 1686 Beulah Road. She stated that she needed a variance in order to subdivide the property as she did not have enough frontage. The property was zoned R-1 and she stated she had owned it for six years. Ms. Imler stated that she had kept the taxes paid up but now she wanted to make adequate use of the land. Ms. Imler stated that she had no income from the property. The land is irregularly shaped and has narrow frontage. The lot widened out at the rear. Ms. Imler stated she wanted to subdivide the land into three lots, two of which would meet the zoning requirements if a variance were granted. Ms. Imler stated that at the present time, it was difficult to get a mower onto the property. Once a road was put in, the engineer had assured Ms. Imler that the lots would meet the requirements of the Ordinance.

There was no one else to speak in support of the application. Mr. Paul Nesmick of 1694 Beulah Road questioned the application. He asked the Board to allow him to review the plat. Mr. Nesmick stated that he was an adjacent property owner and wanted to know where the road would be located on the property. He stated that he had a swimming pool which was located 8 ft. from the property line and was concerned about the location of the road. After reviewing the plat, it was determined that the road would be on the other side. Accordingly, Mr. Nesmick stated that he had no objection to the subdivision. Mr. Nesmick stated that the density was not being increased. He stated that the traffic was heavy in this area but indicated he was very pleased that the road would not go along the property line. Mr. Nesmick stated that he owned two acres.

During rebuttal, Ms. Imler stated that she was not aware of a swimming pool that close to the property line. She stated that she had to utilize her property in some manner. She stated that she could not afford to keep paying taxes on vacant land. She stated that she was asking the Board for the privilege of subdividing the land.

Page 365, June 10, 1980
ALINE BLAKE IMLER

RESOLUTION

In Application No. V-80-C-084 by ALINE BLAKE IMLER under Section 18-401 of the Zoning Ordinance to allow subdivision into three lots, two having a width of 20 ft. each (150 ft. minimum lot width required by Sect. 3-106), on property located at 1686 Beulah Road, tax map reference 28-1((1))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 June 10, 1980; 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 3.2229 acres.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

Page 366, June 10, 1980
 ALINE BLAKE IMLER
 (continued)

Board of Zoning Appeals

R E S O L U T I O N

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. There shall be one common driveway provided for proposed lots 2 and 3.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 366, June 10, 1980, Scheduled case of

10:40 A.M. BERNARD EUGENE WHITE, appl. under Sect. 18-401 of the Ord. to allow enclosure of an existing carport 7.4 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 3222 Campbell Dr., Burgundy Village Subd., 82-2((13))176, Lee Dist., R-4, 8,023 sq. ft., V-80-L-087.

Mr. White stated that he had requested a variance in order to enclose an existing carport. He stated that if he were to build behind the house, he would still require a variance and it would break up the back yard into two sections. In response to questions from the Board, Mr. White indicated that he had owned the property for one year. Mr. White stated that he did not have any opposition from his neighbors. He stated that he was only enclosing the existing carport and was not extending it any closer to the lot line. Mr. Yaremchuk inquired if there was a noise wall along the beltway at this location. Mr. White stated that there was noise wall which greatly improved the situation. The noise skipped over his house.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 366, June 10, 1980
 BERNARD EUGENE WHITE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-L-089 by BERNARD EUGENE WHITE under Section 18-401 of the Zoning Ordinance to allow enclosure of an existing carport to 7.4 ft. from side lot line (10 ft. min. side yard required by Sect. 3-407) on property located at 3222 Campbell Dr., tax map reference 82-2((13))176, 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 10, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 8,023 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

RESOLUTION

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Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 367, June 10, 1980, Scheduled case of

10:50 A.M. ROBERT J. NIERMEYER, appl. under Sect. 18-401 of the Ord. to allow construction of a screened porch to 18.58 ft. of the rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located 1304 Timberly Lane, Timberly 11 South Subd., 29-2((12))15, Dranesville Dist., R-2(C), 13,098 sq. ft., V-80-D-088.

As the required notices were in not in order, the application was deferred until September 16, 1980 at 10:00 A.M.

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Page 367, June 10, 1980, Scheduled case of

11:00 A.M. JAMES H. MARTIN, appl. under Sect. 18-401 of the Ord. to allow construction of carport to the property line (7 ft. min. side yard req. by Sect. 2-412), located 7007 Elizabeth Dr., Broyhill Langley Estates Subd., 30-2-((25))126, R-3, 17,679 sq. ft., V-80-D-089.

Mr. James H. Martin of 7007 Elizabeth Drive in McLean. He stated that his property was irregularly shaped being pie-shaped. He stated that his property bordered parkland. There was an easement along the left side of the property and a floodplain in the back which made it impossible to build at any location other than on the right side of the property. Mr. Martin stated that he had a chimney protruding on that side of the house which but down on the size of the carport that could be constructed there. Mr. Martin stated that the preferred to have an enclosed garage but because of the size of the structure and the proximity to the property line, he was only requesting to build an open carport. He stated that he was requesting to build up to the property line. The carport was odd-shaped as the rear portion would be 2 ft. narrower than the front. The reason for that design was to make maximum use of the available property. Mr. Martin stated that it was easier to drive into the carport if it was wider at the front. He assured the Board that this would not detract from the construction of the carport at all. Mr. Martin informed the Board that he had a letter in support from his next door neighbor.

In response to questions from the Board, Mr. Martin stated that the only trees to be removed would be the ones necessary for construction of the carport. He stated that his property drained from the front to the rear into the floodplain area. Mr. DiGiulian inquired as how the water running off the carport would get to the rear lot for drainage. Mr. Martin responded that there was a slope and the water from the front drained into that sloping area. He stated that the water would flow in the same pattern which went to the rear of the property. Mr. Martin stated that he would put gutter up to channel the water. Mr. DiGiulian inquired as to how the water from the front would be channeled after construction of the carport. Mr. DiGiulian questioned whether it would flow onto lot 127. Mr. Martin stated that the front portion might flow onto lot 127 but the other half would flow down to the back of the lot. Mr. DiGiulian inquired if the front property drained towards the street. Mr. Martin stated that not that much drained towards the street. He stated that his house was on a lower level than the street. All of the water flowed towards the floodplain.

Mr. Hyland inquired if any water drained towards the property line during heavy storms. Mr. Martin stated that he had not experienced a heavy enough rain to know where it would run. He stated that the water at the present time ran down his driveway onto the ground adjacent to the house. Mr. Hyland inquired as to how the carport would be maintained if it was constructed right up to the property line. Mr. Martin stated that he would have to go onto the neighbor's property for maintenance. He reemphasized that the water would continue to flow towards the back of the property. Mr. Martin stated that he planned to construct a 22 ft. wide open carport.

Mr. Barnes inquired if there was any way to make the structure smaller. Mr. Martin stated that he had two cars and 22 ft. was the minimum amount to accommodate them. Mr. Yaremchuk stated that he was concerned about the water being able to get around the carport. He inquired if Mr. Martin could construct a ditch to keep the water from going onto the neighbor's property. Mr. Martin stated that he could cut down the size of the front of the carport. Chairman Smith stated that it would have to be cut down 4 ft. in order to maintain the structure.

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-80-D-089 by JAMES H. MARTIN under Section 18-401 of the Zoning Ordinance to allow construction of carport to the property line *(7 ft. minimum side yard required by Section 2-412) on property located at 7007 Elizabeth Drive, tax map reference 30-2((25))126, 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 10, 1980; 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 17,679 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging lot lines and has exceptional topographic problems and a floodplain and has an unusual condition in the existence of a storm and sanitary sewer easement 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 carport to 1.5 ft. of the property line) with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 368, June 10, 1980, Scheduled case of

11:10 A.M. JON W. WHITTON, appl. under Sect. 18-401 of the Ord. to allow construction of a garage within 8.4 ft. of the side property line with total side yards of 16.4 ft. (8 ft. min. but total of 20 ft. min. side yard req. by Sect. 3-307), located 12016 Cheviot Dr., Stuart Ridge Subd., 11-3((3))8, Dranesville Dist., R-3(C), 9,760 sq. ft., V-80-D-090.

Mr. John W. Whitton of 12016 Cheviot Drive in Herndon informed the Board that he lived on a pipestem lot which was irregular in shape and had converging lot lines. He stated that his property was bounded on all sides by woods. There was an existing concrete slab which covered 2/3 of the proposed area. Mr. Whitton stated that this was the only location on his property where he could construct a garage. He stated that he met the minimum 8 ft. requirement and only needed a variance to the over all total side yard requirement. The Ordinance required 20 ft. and he had a total of 16.4 ft. He stated that only one corner of the garage would extend into the setback area.

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-80-D-090 by JON W. WHITTON under Section 18-401 of the Zoning Ordinance to allow construction of a garage to 8.4 ft. of the side property line with total side yards of 16.4 ft. (8 ft. minimum but total of 20 ft. minimum side yard required by Sect. 3-307) on property located at 12016 Cheviot Drive, tax map reference 11-3((3))8, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 10, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 9,760 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging lot lines.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 369, June 10, 1980, Scheduled case of

11:20 BARBARA A. COUNTS, appl. under Sect. 3-303 of the Ord. to allow
A.M. family day care home, located 1646 1st Place, El Nido Subd., 31-3((3))(3)1,
Dranesville Dist., R-3, 11,025 sq. ft., S-80-D-013. (Deferred from April 8,
1980 to allow applicant to file variance.)

&

11:20 PAUL R. ALLEN, SR., (BARBARA COUNTS, AGENT), appl. under Sect.
A.M. 18-401 of the Ord. to vary the setback requirements for a family day care home
in an existing dwelling located 14.8 ft. from one front property line & 24.9 ft.
from the other property line (30 ft. min. front yard req. by Sect. 3-307), locat-
ed 1646 First Place, El Nido Subd., Dranesville Dist., 31-3((3))(301, R-3,
11,025 sq. ft., V-80-D-091.

Ms. Barbara Counts informed the Board that she was requesting a family day care home center for nine children from the ages of 3 to 5. She planned to operate from 7:30 A.M. to 6:00 P.M., Monday through Friday. She stated that there had been an addition to the dwelling which would be used for the day care home. Traffic would be between the hours of 7:30 A.M. to 9:00 A.M. in the morning and again from 5:00 to 6:00 P.M. in the evening. She stated that the parking area could accommodate 5 to 6 cars so there would not be much traffic congestion.

With regard to the variance request to the bulk regulations, Ms. Counts stated that the house was built prior to the zoning regulations. She stated that this was a corner lot and had two front yard requirements. In response to questions from the Board, Ms. Counts stated that she was going to lease the property. With respect to the variance, she stated that there was no way to move the house to meet the setbacks. Chairman Smith inquired if Ms. Counts resided in the house and was informed that the owner's son would live in the house. Chairman Smith inquired as to how Ms. Counts proposed to have the children dropped off at the center. Ms. Counts stated that the parking would be along the front of the addition which was to be used for the day care center. Chairman Smith stated that they would not be allowed to park within 25 ft. of the property line. Mr. Covington informed the Chairman that the requirement was 10 ft. from the street line. Mr. Hyland inquired if there was a way to drop off the children on the property. Ms. Counts stated that the parking was on the property. Chairman Smith inquired as to the age group of the children and was informed it would be 3 to 5 years. He next inquired if the applicant was presently running a day care home and was informed she was not.

Page 370, June 10, 1980
 BARBARA A. COUNTS
 (continued)

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However, Ms. Counts stated that she had a degree and had worked in a day care center for three years. Ms. Counts stated that at the present time she was a teacher.

Chairman Smith stated that the applicant had not answered the question regarding the parking. Ms. Counts stated that she did not know the exact measurements but assured the Board that six cars could pull into the parking area and then back out into the street.

Mr. Hyland inquired as to what the traffic was like on 1st Place and was informed by Ms. Counts that it was fairly light. She stated that it was only two blocks long and that not that many cars travelled down it. Mr. Hyland inquired as to the number of homes on 1st Place and was informed there were 8 or 9 homes.

There was no one else to speak in support of the application. Mr. William Harold of 6439 Hitt Avenue spoke in opposition. He stated that he had submitted a letter detailing the objections that he and his wife had regarding the proposed use. He further stated that he represented the neighbors from the area who were also in opposition. The reasons for the objections were: commercialization of the residential area; the operation of the day care center would result in traffic problems; noise; there was space available in commercial areas for the operation of a day care center; and lastly, the covenants of the area prohibited such a use. Mr. Harold stated that there was not adequate parking on the property. Mr. Harold presented the Board with a petition signed by 45 of the neighbors who were in opposition to the day care home.

During rebuttal, Ms. Counts stated that she did not realize there was any problem. She stated that she would not be harming the children. Chairman Smith advised the applicant that there were certain requirements to be met as far as the safety factors before the special permit could be granted for this type of use. He informed her that her application did not meet certain requirements. Chairman Smith advised Ms. Counts that her integrity and ability to operate a day care home was not in question. He informed her that the location she had selected was not in keeping with the Ordinance.

Ms. Counts stated that she was only keeping 9 children and the parking was adequate for that number. Chairman Smith informed her that the property did not meet the bulk requirements and she had applied for a variance. He stated that was a problem as far as the house was concerned. The parking was also a problem as there was no way for the parents to pull in and out without backing onto the street which was dangerous. Chairman Smith informed the applicant not to take the rejection personally as it was only the location she had selected which was in question. Ms. Counts inquired as to what kind of property the Board would consider safe and the Chairman replied property that would not require a variance. He stated that this was a small lot and was fine for a residence. However, under a special permit, the property would have a lot of traffic going in and out which would be a traffic hazard.

Page 370, June 10, 1980
 BARBARA A. COUNTS

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-D-013 by BARBARA A. COUNTS under Section 3-303 of the Fairfax County Zoning Ordinance to permit family day care home on property located at 1646 1st Place, tax map reference 31-3((3))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 June 10, 1980; 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 11,025 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

PAUL R. ALLEN, SR., (BARBARA COUNTS, AGENT): With regard to the requested variance, the matter was moot since the special permit application S-80-D-013 was denied.

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Page 371, June 10, 1980, Scheduled case of

11:40 A.M. MT. ZION THIRD BAPTIST CHURCH, appl. under Sect. 3-403 of the Ord. to permit building addition to existing church facilities, located 2813 Annandale Rd., Bowman Subd., 50-2((8))49, Providence Dist., R-4, 14,265 sq. ft., S-80-P-036.

Mr. Beards represented the church. He informed the Board that the addition was 20'x20' and would be used as a social hall. The addition was to be added to the rear of the church. The height of the addition would be 12 ft. The church had been constructed in 1886. The enrollment was about 20 families at the present time. There was parking to accommodate 32 families. Mr. Beards stated that the addition would be used as a social hall in order to attract some younger members to continue the church.

There was no one else to speak in support of the application and no one to speak in opposition.

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Board of Zoning Appeals

MT. ZION THIRD BAPTIST CHURCH

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-P-036 by MT. ZION THIRD BAPTIST CHURCH under Section 3-403 of the Fairfax County Zoning Ordinance to permit building addition to existing church facilities on property located at 2813 Annandale Road, tax map reference 50-2((8))49, 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 10, 1980; 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 14,265 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be hours of normal church activities.
8. The number of parking spaces shall be eight (8).

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 372, June 10, 1980, Recess

At 12:20 P.M., the Board recessed for lunch and reconvened the meeting at 1:20 P.M. to continue with the scheduled agenda.

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Page 372, June 10, 1980, Scheduled case of

11:50 A.M. ETA ENTERPRISES, INC., appl. under Sect. 4-603 & 8-501 of the Ord. to permit dance hall for high school age boys and girls per Sect. 8-501, located 6355 Rolling Rd., Springfield Dist., 79-3(1)7, C-6, 113,367 sq. ft., S-80-S-038. (TO BE DEFERRED TO FRIDAY, JUNE 20, 1980 AT 8:00 P.M. TO ALLOW ADDITIONAL TESTIMONY.)

Chairman Smith announced that the Board would hear approximately 40 to 55 minutes of testimony and then recess the hearing until the evening meeting of June 20, 1980 at 8:00 P.M. to continue with a maximum of two hours of testimony. He stated that the Board was recessing the hearing at the request of the Board of Supervisors in order to accommodate the persons not able to attend the day meeting.

The applicants introduced themselves as Mr. Tom Nesurage, attorney, of 2003 Hyber Way in Falls Church; Mr. Eugene Scheider of Essex Court in Springfield; and Mr. Gary Glass, member of the Board of Directors and future manager of the proposed facility. Mr. Glass resided in Arlington, Virginia. Mr. Nesurage stated that ETA Enterprises was a corporation established under the laws of the State of Virginia. It was formed two months ago for the exclusive purpose of opening and operating a teenage enterment facility. Mr. Nesurage stated that the facility they proposed to operate was located in the Chesapeake Bay Plaza at the intersection of Old Keene Mill Road and Rolling Road. He stated that they would serve high school age students of Fairfax County. He stated their primary market would be the Springfield area serving West Springfield High School and Lake Braddock. They did anticipate serving other area high schools such as Robinson, Lee and Jefferson.

Mr. Nesurage stated that the proposal would be an unstructured social environment for teenage students. He indicated that there were any number of structured activities for the youngsters in Fairfax County. He stated that the students could join a baseball team, soccer club, boy scouts, etc. but they would be required to do something structured or participate in the activities. The only exception to a non-structured environment was the Wakefield Park but Mr. Nesurage stated that was open to all members of the community and not just the high school students. Mr. Nesurage stated that the purpose of ETA Enterprises was to provide a service for the students between the ages of 14 to 18. They proposed to offer a social club to these students where only they would be allowed. They would be able to mix with their peers and not with older adults or young children still in the elementary grades.

The facility would have a snack bar and electronic type games, pinball machines and back-gammon boards. There would be dances which would be the primary feature. Mr. Nesurage stated that the dances would be the only attendance type feature with a separate admission fee required to enter the facility. Mr. Nesurage stated that they planned to offer memberships to the facility. Each person would have to file an application in advance stating certain information: age, residency status, name of high school, and other pertinent information. Each member would be given a card that would be laminated. The card would be renewable annually. Mr. Nesurage stated that the purpose of the card system was to have a control factor for the management. A \$5.00 fee would be charged for processing the card. Once a card was obtained, the student would be able to gain admission to the facility at any time. No one would be admitted to the facility without a card unless they did not live in the local area and were occupied by a local member. Mr. Nesurage stated that the card was an internal policing device and an external policing device. He stated that there would be rules for the members to follow. If they violated any rules, they would be excluded from the facility. They would only be allowed readmission after presenting the directors with written justification as to why they should be allowed readmission. Externally, the card was a good control as they intended to limit the number of memberships. Mr. Nesurage stated that they proposed to have memberships between 2,000 to 2,500 students. At a maximum, he predicted that only 10 to 20% of the membership would shop up on a given night.

Mr. Nesurage stated that he distributed a yellow and orange sheet to the Board members regarding an operation called Current Times run by Mr. Johnson from Fredericksburg. He stated that this was a comparable facility to what ETA Enterprises was proposing. Mr. Nesurage stated that Mr. Johnson would be able to enlighten the Board as to the type of problems that might be encountered and the way the facility was run to avoid problems.

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Mr. Nesurage assured the BZA that they planned to set up a community advisory board made up of approximately 14 people. He indicated that the advisory board would not run the facility but would assist with input and guidance on how to operate the facility.

Mr. Nesurage stated that ETA Enterprises had publicized their intentions and held several community meetings to discuss the application. He stated that they intended to keep the open door policy while they continued to operate.

The hours of operation during the school year would be Monday through Thursday from 3:00 P.M. to 8:00 P.M. On Friday, the hours would be from 3:00 P.M. until 1:00 A.M. which would include the dances. The hours on Saturdays would be from 12 Noon until 1:00 A.M. During the summer months, the hours of operation would be from 12 Noon until 8:00 P.M., Monday through Thursday and on Friday and Saturdays from 12 Noon until 1:00 A.M. Mr. Nesurage stated that they did not plan any regular operations for Sundays but reserved the right to conduct special activities at other hours. He cited an example of a long holiday weekend wherein they might wish to hire a band for a Sunday evening. Mr. Nesurage stated that they would work out these activities with the community advisory committee.

Mr. Nesurage reminded the Board that this was a land use issue. He indicated that they were before the Board on special permit use. Not all uses that would be allowed there would require the Board's approval. Mr. Nesurage stated that they had tried to get as much community input as possible. He stated that some of the citizens failed to realize that if the special permit were denied, they might never have a say about what went into the center or how it was operated because a lot of uses were allowed by right.

Originally, Mr. Nesurage stated that they had applied for a permit for approximately 490 people premised on their understanding that they had 169 parking spaces available on the ratio of 3 persons per space. Since talking with Ms. Kelsey and other members of staff, they realized that their numbers were incorrect. He stated that he accepted the staff revisions which indicated that there were 200 parking spaces available including 11 from Citgo and 54 underground parking spaces. Mr. Nesurage stated that 234 parking spaces were available of which 137 were already committed to other uses leaving a balance of 117. However, 35 of the 137 spaces were allocated to businesses that did not operate after 7:00 P.M. Mr. Nesurage stated that they would concede to the 117 parking spaces. He stated that later that might want to request the Board of Supervisors to allow them to use the 35 parking spaces in order to increase their capacity. Because of the 117 parking spaces, the maximum persons allowed in the facility would be approximately 300 so Mr. Nesurage stated that they would be able to reduce their management staff from ten to seven persons at any one time. The seven persons would be comprised of one manager, two supervisors, two ushers and two external uniform security officers. The officer would not be armed but would have a radio walkie-talkie system. Parking would then be reduced to 110 spaces which would allow 330 patrons maximum at the facility as opposed to the original request of 490 persons.

Mr. Nesurage stated that the managers would be trained. Mr. Gary Glass would have over all control of the employees. The managers and employees would be trained in recreation and how to handle young people.

With regard to traffic control at the intersection, Mr. Nesurage stated that they would construct signs inside the property lines at key points in the shopping center to indicate when the facility was at capacity and when the parking was not available. Mr. Nesurage stated that would detour 95% of the people trying to gain admission when the center was at capacity. If that was not effective, Mr. Nesurage stated that they would add additional security people to control the traffic. Also to help with traffic control was the readmission policy of the center. Persons would be free to leave the facility but in order to gain readmission, they would have to pay additional fees. Mr. Nesurage stated that the center had not established an exact amount yet as they did not want it to be too high but instead wanted it to discourage anyone from leaving the facility and then trying to get back in. An amount of \$1.25 was suggested at the present time. Mr. Nesurage stated that there might be other ways to control the traffic and stated that they would seek the help of the community.

In response to questions from the Board, Mr. Nesurage stated that the security officers would not be armed. He indicated that they officers would carry a two way radio which would be hooked to a system inside the facility to the general manager who would be able to contact West Springfield District Substation. The Police Department had advised them that if there was a problem and police were called and an arrest was made, they expected the facility to prosecute. Mr. Nesurage stated that it would be juvenile prosecution but emphasized that the center would cooperate with the Police.

Mr. Hyland questioned the membership numbers of 2,000 persons. Mr. Nesurage stated that there were 60,000 14 to 18 year olds in Northern Virginia. The marketing studies compiled by Mr. Glass was that at any given time, they could expect 10% of the membership to use the facility in the course of a week. Since they are not sure, they were only going to sell approximately 2,000 memberships to start and see how well they were able to control that number. Mr. Nesurage stated that they wanted to start off little slow and build up rather than start up with a bang. He felt they would have better control this way.

Mr. Hyland inquired if there would be a limit on the total memberships sold. Mr. Nesurage stated that they could not pin themselves to that restriction at the present time. He did emphasize that the membership would be geared and consistent with the number of people they could expect on any given night to a factor of 5% capacity. Mr. Hyland stated that consistent with that reasoning, then the maximum capacity of 330 persons would amount to a total membership of 4,000 to 5,000. Mr. Nesurage stated that 5,000 would be the ultimate maximum. He indicated that they wanted to start out with 2,000 memberships to see how it worked. Mr. Hyland inquired if the facility would sell up to 10,000 memberships ultimately. Mr. Nesurage stated that if they were that successful, someone else would start up another facility. Mr. Nesurage assured Mr. Hyland that he could not imagine selling 10,000 memberships. Mr. Hyland stated that the reason for his question was that it tied in with the number of persons on the premises. Testimony had been received that at any one given time, the facility would have 330 people utilizing the facility. Mr. Hyland inquired that if the facility sold 2,000 memberships and there were 500 persons who wanted to come on a given night, he questioned how the center would determine which of those 500 members would gain admission and which ones would not when presumably all members have the same right. Mr. Hyland stated that he had a problem with first come, first serve basis if they were all members. Mr. Nesurage stated that the ushers would have to count the people coming in as a control factor. He stated that it would be a first come, first served basis. He also stated that if the facility was too popular, that the members would know that they would have to be there early in order to gain admission.

Mr. Hyland questioned whether the special events would include rock concerts. Mr. Nesurage stated that they would have live bands. He indicated that there were a lot of bands put together by young people with no where to market themselves. He stated that was the type of band they had in mind for their special events. He indicated that they would a 4 piece or 5 piece combo for events like a New Years Party. He stated that the young people could come to the dance, have soft drinks, food, etc. without running around elsewhere.

Mr. Hyland inquired as to the area of draw for the potential members. He inquired if the membership would be limited to persons who lived in the Northern Virginia area or whether it would include anyone else in the Washington Metropolitan area. He wanted to know if there was a restriction of any kind. Mr. Nesurage stated that they would not be accepting memberships from anybody who lived outside Northern Virginia. He stated that they wanted to limit their market to this geographic market. Mr. Nesurage stated that they did not expect to get much interest from people in Maryland or the District. He stated that the policy was for the Northern Virginia area. It was not just limited to the Springfield area.

Mr. Hyland inquired if the community advisory committee to be formed would have access to the facility on a periodic basis to inspect it to determine what was going on. Mr. Nesurage stated that they would and further indicated that any parent would be allowed to do so. He stated that the community advisory committee would be very influential. However, they would not make decisions with regard to business economics of the facility. Mr. Yaremchuk inquired if the advisory committee would have any type of veto power. Mr. Nesurage replied that there were some questions the facility could not let the committee handle. He stated that they would not have veto power but if there was something the committee did not want the facility to do, Mr. Nesurage stated that they probably would not do it simply because they could not take the heat. Mr. Nesurage stated that he thought they would be able to reach a consensus in most areas.

Mr. Yaremchuk inquired if it would be feasible to have live entertainment for only 330 persons at one time. Mr. Nesurage informed him that three years ago they had held an outdoor concert where they almost made some money. They had hired 17 bands for \$100 to \$200 per night. He stated that they were good bands. He stated that they were not talking about \$5,000 bands as they were not in that league at all.

Mr. Jimmy A. Johnson of Rt. 4, Box 245 in Fredericksburg, Virginia, spoke in support of the application. He was the operator of a facility called Current Times. Mr. Hyland inquired if the testimony that had been given regarding the proposed facility consistent with the experience of Mr. Johnson in running Current Times. Mr. Johnson informed the Board that he did not have memberships. He stated that his facility was a lot smaller in area. He stated that his facility was open to any high school student between the ages of 13 to 19. Mr. Hyland inquired as to the number of persons using that facility at any given point and was informed that the average was 200 to 250 a night. Mr. Johnson stated that they were set up for 400 maximum. Mr. Johnson stated that they did not have any problems at all. Mr. Johnson informed the Board that they were getting a little bit off track. He stated that he had been through the special permit process in Fredericksburg. He stated that he found out from experience that they only get one out of five kids who would come to the facility. After finding out that they could not drink, smoke or ride around they would stop coming to the facility. Mr. Johnson stated that then they ended up with good kids. Mr. Johnson stated that he had only one instance during the past months since he has been open where one boy came in who had been drinking. He was not drunk but the operators smelled beer on him and asked him to leave. Mr. Johnson stated that there has not been indication that the kids using the facility were smoking pot. He stated that there has not been problems on the parking lot. The parking lot accommodates 100 cars. He stated that the most number of cars

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they had with 300 persons using their facility was approximately 50 cars. He indicated that most parents brought the kids to the facility. Mr. Johnson stated that his facility was a cheap babysitter because for \$3.00, they would watch the kids for five hours. Mr. Johnson stated that people get the wrong idea when you say you're going to have a disco. He stated that it was not a dirty word. He stated that the kids want a nice club for respectable young people. He indicated that he did not get the riff-raff. If they came in, the other good kids got rid of them. Mr. Johnson stated that his waiters and waitresses wear tuxedos. They were only high school kids themselves. Mr. Johnson stated that his facility only served Coca-Cola but it was a first class nightclub. The facility was carpeted and plush and the kids respected the atmosphere and behaved accordingly.

Mr. Hyland inquired as to the number of people in Mr. Johnson's facility who controlled the operation. Mr. Johnson stated that he had a disc jockey, a manager, five or six waitresses and one security guard on the parking lot and one security guard inside. He stated that his hours during the school year were from 8:00 P.M. until 1:00 A.M. on Friday nights and the same hours on Saturday. Sunday afternoons were reserved for the 8 to 12 year olds. In response to how long the facility had been in operation, Mr. Johnson stated that it had been open for three months. Mr. Johnson stated that he had styled his operation after a similar outfit in North Carolina which had six facilities and had been open for five years. He stated that the other operation was doing a lot more business as they packed their place every night and had to turn away 500 kids every night. He stated that they were located in a brand new shopping mall. Mr. Johnson stated that his area of population was 17,000 school kids in a 5 mile radius. He restated that you would only be able to get one out of five kids if it was a clean operation.

Mr. Hyland inquired as to what number of memberships should be sold by the facility in order to achieve the maximum 330 patrons. Mr. Johnson stated that they would only be able to draw one out of five of the high school population. He stated that if memberships were sold, only 10% would show up every night. Mr. Hyland inquired if Current Times had special events as was described by the applicants. Mr. Johnson stated that they did have live bands from the local high school for a concert on Saturday nights. He stated that they paid them \$50.00 and the kids liked the live music. He stated that he had dance contests every night.

Mr. Yaremchuk inquired as to the number of times the Police had to be called during the nine weeks Current Times had been in operation. Mr. Johnson stated that he had never seen the Police. He stated that he had never had to call a parent. He indicated that his philosophy was not to call the police but to call the parents and let them come and pick the kid up. He indicated that he had the right to detain the kids. Mr. Yaremchuk inquired if nine weeks was enough of a track record to know how the operation would function. Mr. Johnson stated that he had never heard a cuss word in his place and stated he walked through it all night long. Mr. Johnson stated that most people thought that when kids got together, there was going to be trouble. He stated that most people did not give the kids any breaks whatsoever as they put them down before they even got started. He emphasized that if you put the kids in the right atmosphere, there would not be any problems.

Mr. Yaremchuk stated that he had wanted to know how many times the Police Department had been called to the facility but since it had only been open for 8 or 9 weeks, it wasn't much of a record to go on. Chairman Smith stated that Mr. Johnson would have to give his permission to have the record released from the Police Department. Mr. Yaremchuk stated that it was public information. Ms. Kelsey informed the Board that she had contacted the Fredericksburg Police Department and so far there had not been any problems with this particular facility.

The next speaker was Mr. Conrad Poyant of 2329 Archdale Road in Reston, Virginia. He stated that he believed in what the applicants were trying to accomplish. He stated that prior to moving into Fairfax County, he had been involved with the Sugarland Run Jaycees. He stated that at that time, they had a problem with the youth of the community. The Jaycees decided to get involved in trying to give the kids something to do. One of the big problems they found was there was nothing for the kids to do. There was a lot of vandalism in the area during that time. The Jaycees did get involved. Mr. Poyant stated that he knew Mr. Eugene Sneider and the idea he was offering was a good service. He stated that control was the main thing. He believed that the applicants would have the backup and the control.

Chairman Smith inquired of Ms. Kelsey as to the report she had for the Board members on the proposed facility. Ms. Kelsey stated that the report had been mailed to the Board. There was a correction to be made in the report. The staff report indicated that there were 272 parking spaces shown on the site plan for the shopping center. Ms. Kelsey stated that there was a discrepancy on the plan as 29 of those spaces were actually on the property of the gasoline station adjacent to the center. The gas station was under special permit from the BZA and 18 spaces were required and are presently being used by the station. Ms. Kelsey stated that she could not understand why the 18 spaces were then used for the shopping center and she had asked the Department of Environmental Management to look into that. Ms. Kelsey stated that until a response from DEM, the staff would have to reduce the 272 spaces by the 29 shown on the gasoline service station site plan. Ms. Kelsey stated that this would lower the occupancy of the proposed facility to 330 as stated by the applicant. Chairman Smith inquired if 330 patrons would meet the parking requirements. Ms. Kelsey stated that the staff would have a definite answer by June 20th as to the number of spaces in the shopping center.

Mr. Charles E. Fincher, member of the Board of Directors of the Springfield Golf and Country Club, spoke in opposition to the proposed facility. He stated that he had a letter from the President of the club which was also in opposition. The letter had been addressed to Ms. Travesky earlier but it was determined that it was more appropriate to address it to the BZA.

The next speaker in opposition was Ms. Jan Cardwine, President of the Rygate Homeowners Association. She had a question of Mr. Johnson and his facility in Fredericksburg. She inquired as to the location of the facility as to whether it was in a shopping center or in an area of its own. Mr. Johnson responded that the facility was located in the middle of downtown Fredericksburg in a residential area. He stated that there were residents who lived across the street and all the way around the facility. He stated that he was located on Williams Street in the old Safeway building right in the heart of Fredericksburg.

Chairman Smith recessed the hearing until June 20, 1980 at 8:00 P.M. to allow two hours of additional testimony.

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Page 376, June 10, 1980, Scheduled case of

12:00 VIVLOW & CO. AND/OR MILDRED FRAZER, appl. under Sect. 3-203 of the Ord. to allow
NOON continuation of school of general education without time limitation, located
4955 Sunset Lane, Springfield Subd., 71-4((1))12 & 13, Annandale Dist., R-5,
2.83 acres, S-80-A-026. (DEFERRED FROM MAY 13, 1980 AT THE REQUEST OF THE
APPLICANT.)

Ms. Mildred Frazer of 4953 Sunset Lane in Annandale thanked the Board for rescheduling her application since she was out of town. She stated that she was the owner and operator of Grasshopper Green which had been in operation for forty years. She stated that the school had started at its present location in 1965 for an unlimited time and was allowed a maximum of 100 students between the hours of 7 A.M. to 6 P.M. Ms. Frazer stated that she was also the operator of another school in Fairfax County which had been in operation for over 20 years. The two schools were now joined together. In 1973, Mrs. Frazer stated she had gone to the BZA to request an increase in the number of students to a maximum of 220. She stated that she had never achieved that maximum yet. At that time, the Board imposed a three year limit on the special permit. Ms. Frazer stated that there was a bus issue that came up at that same time. Ms. Frazer stated that when she came back to the BZA for an extension she also asked to construct a new building. She informed the Board that the building had been completed in December and she obtained the occupancy permit in January. Another three year limitation had been imposed on the special permit. Ms. Frazer informed the Board that she was having difficulty in obtaining financing for her school because of the three year limitations which were being imposed.

At this time, Ms. Frazer sought the permission of the Board to grant her special permit with out any time limitation. She reminded the Board that her original special permit never had any limitation. In response to questions from the Board, Ms. Frazer stated that the maximum number of students allowed were 220 but she only had 190 students at the present time. She was informed by the Board that she would be required to come back if she wanted an increase in the number of students.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 376, June 10, 1980

Board of Zoning Appeals

VIVLOW & CO. AND/OR MILDRED FRAZER

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-A-026 by VIVLOW & CO. AND/OR MILDRED FRAZER under Section 3-203 of the Fairfax County Zoning Ordinance to permit continuation of school of general education without time limitation on property located at 4955 Sunset Lane, tax map reference 71-4((1))12 & 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 10, 1980; 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-5.
3. That the area of the lot is 2.83 acres.
4. That compliance with the Site Plan Ordinance is required.

R E S O L U T I O N

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AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
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 requirements of S-288-76 not altered by this resolution shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 377, June 10, 1980, After Agenda Items

JOHN R. ARANT & ANN COE SAVIDGE & WILLIAM LEE SAVIDGE, V-60-79: The Board was in receipt of a letter from Mr. Kenneth W. White requesting an extension of the variance granted to John R. Arant & Ann Coe Savidge & William Lee Savidge on June 12, 1979. Mr. Barnes moved that the Board grant a six month extension of V-60-79. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 0.

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Page 377, June 10, 1980, After Agenda Items

PET MEMORIAL GARDENS, S-94-79: The Board was in receipt of a letter from Mr. Jim Morrison requesting an extension of the special permit granted to Pet Memorial Gardens on June 12, 1979. It was the consensus of the Board to grant a six month extension.

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Page 377, June 10, 1980, After Agenda Items

Reconsideration of S-80-P-037, Ladan Kian-Pour: The Board was in receipt of a memorandum from the Zoning Administrator dated June 10, 1980 regarding the granting of a special permit on June 3, 1980 to Ladan Kian-Pour for the operation of a school of special education. The memorandum cited problems associated with access to the facility unless an access easement to the rear was provided which would require a new public hearing. Mr. Yaremchuk moved that the Board reconsider its motion for the reasons stated in the memorandum. Mr. Hyland seconded the motion and it passed unanimously by a vote of 5 to 0. It was the consensus of the Board to schedule the new public hearing for Tuesday, July 22, 1980 at 10:00 A.M.

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June 10, 1980, After Agenda Items

// There being no further business, the Board adjourned at 2:45 P.M.

By *Sandra L. Hicks*
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on *March 23, 1982*

APPROVED: *March 30, 1982*
Date



The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 17, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Gerald Hyland.

The Chairman opened the meeting at 10:20 A.M. and Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. TOM BRUBAKER & THOMAS McFADDEN, appl. under Sect. 18-401 of the Ord. to allow subd. of three (3) lots with one lot having a width of 15 ft. (100 ft. min. lot width req. by Sect. 3-206), located 6220 Park Rd., 31-3((1))78, Dranesville Dist., R-2, 29,916 sq. ft., V-80-D-092.

Mr. Charles E. Runyon of 7649 Leesburg Pike in Falls Church represented the applicants. Chairman Smith questioned whether Mr. Brubaker was the owner of the property. Mr. Runyon stated that Mr. Brubaker was either the property owner at the present time or in the process of becoming the property owner. Chairman Smith reminded Mr. Runyon that only the property owner was entitled to seek a variance. He stated that Mr. Brubaker could be the co-applicant of the application. Mr. Runyon advised Mr. Smith that Mr. Brubaker had gone to settlement last Tuesday. Chairman Smith stated that Mr. Brubaker had been a little premature in making application for a variance prior to actual ownership. Mr. Runyon stated that the procedure had been going on for the past 20 years. Chairman Smith inquired who signed the application. Mr. Runyon stated that he signed the application as agent. Mr. Covington advised the Board that it had amended these applications previously at the time of the public hearing. Mr. Barnes stated that if Mr. Brubaker was the owner of the property now, that the Board should go on with the hearing. He stated that he could not see a reason why the Board could not hear it. Mr. DiGiulian agreed with Mr. Barnes and seconded the motion. The vote to continue with the hearing passed by a vote of 4 to 1 (Mr. Smith).

Chairman Smith inquired if Mr. Runyon wanted to amend the application. Mr. Runyon stated that he would do whatever the Board felt was necessary. Mr. Runyon asked that the application be amended to read: Thomas & Olivia McFadden and Thomas Brubaker. The Board amended the application as requested.

Mr. Runyon stated that the parcel had enough frontage until it was subdivided and then it did not provide direct frontage on Alherst Avenue because of a technicality. Alherst Avenue was not a through street and did not have pavement. Mr. Runyon stated that a variance was necessary to provide frontage on a public street. Mr. Runyon stated that the applicants were seeking a variance because of the topographic conditions of the property. There was a stream running through the property and he stated that they did not wish to restrict it with culverts. He indicated that they would rather have direct access from Park Road for the proposed lot 3. Mr. Runyon stated that based on the conditions of the topography, the applicants felt that the variance would be acceptable and would not cause any real difficulty to the way the property was developed.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 379, June 17, 1980 Board of Zoning Appeals

TOM BRUBAKER & THOMAS McFADDEN

R E S O L U T I O N

In Application No. V-80-D-092 by Thomas & Olivia McFadden & Thomas Brubaker (amended at hearing) under Section 18-401 of the Zoning Ordinance to allow subdivision of three (3) lots with one lot having a width of 15 ft. (100 ft. minimum lot width required by Sect. 3-206) on property located at 6220 Park Road, tax map reference 31-3((1))78, 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 17, 1980; 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 29,916 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in that there is a gap between the northerly right of way line of Park Road and the southerly property line of the parcel involved.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 380, June 17, 1980, Scheduled case of

10:10 JOHN S. & DEBORAH L. GALENSKI, appl. under Sect. 18-401 of the Ord. to allow
A.M. enclosure of existing porch which is 1.4 ft. closer to side property line than allowed by Sect. 3-307 of the Zoning Ordinance, located 6914 Fern Place, Columbia Pines, 60-4((3))199, R-3, 12,592 sq. ft., V-80-M-093, Mason Dist.

Mr. John S. Galenski of 6914 Fern Place in Annandale stated that he wanted to enclose an existing porch on the lefthand side of his home. He stated that if he could, he wanted to enclose it but it was located 1.4 ft. closer to the side property line than allowed by the Ordinance. Mr. Galenski stated that there were five primary reasons for seeking the variance. He stated that he was renovating the interior of his home. He stated that he had discussed the variance with all of his neighbors. He stated that he lived on a cul-de-sac and no one objected to the variance. Mr. Galenski stated that he would not be expanding the porch as he only wanted to enclose it. He stated that the porch had existed at this location for the past 25 years which was the age of the house. He indicated that no element of the structure had changed during the past 25 years. Another factor for the Board's consideration was there was not any other area which would be economically feasible for expansion. The front yard sloped in two different directions which would make it difficult to expand. The right side of the property had a 25 ft. drop to the property line. The back of the house was an area of rocky terrain and soil. Construction at the rear would be extremely difficult. Mr. Galenski stated that enclosure of the porch was more reasonable. He stated that almost of the homes in the areas with porches had enclosed them. The enclosure of this porch would be in harmony with the neighborhood.

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-80-M-093 by JOHN S. & DEBORAH L. GALENSKI under Section 18-401 of the Zoning Ordinance to allow enclosure of existing porch which is 1.4 ft. closer to side property line than allowed by Sect. 3-307, on property located at 6914 Fern Place, tax map reference 60-4((3))199, 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 17, 1980; 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 12,592 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including converging lot lines and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

R E S O L U T I O N

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THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 381, June 17, 1980, Scheduled case of

10:20 A.M. THOMAS H. BULL, appl. under Sect. 18-401 of the Ord. to allow shed to remain 2.7 ft. from side lot line, to remain in front yard on a lot less than 36,000 sq. ft. in area and to be 219,1184 sq. ft. in area, maximum area allowed 200 sq. ft., located 8112 Russell Rd., Fairfield Subd., 101-1((3))5, Mt. Vernon Dist., R-3, 14,483 sq. ft., V-80-V-094.

Mr. Thomas H. Bull of 8112 Russell Road in Alexandria informed the Board that his shed was from a kit from Hechinger's. He stated that at the time he constructed the shed, he was not aware that he needed a building permit. Mr. Bull informed the Board that other people in his neighborhood had put up metal sheds like this. Mr. Bull stated that he had three children all with bicycles. The shed was built to store the bicycles, a lawnmower, and garden equipment. Mr. Bull stated that he could not keep these things on a patio and needed room to store them. He also stated that he needed room to store things from his profession. Mr. Bull stated that he did not have a garage or any attic space. Mr. Bull stated that he had an unusual situation because he had a corner lot. He indicated that his house was situated way back on the property leaving him with very little rear yard. The terrain was fairly level. He stated that he did not have any drainage problems.

In response to questions from the Board, Mr. Bull stated that he was not aware that he needed a building permit. The shed had been erected in the fall. He stated that he had not contacted anyone from the Zoning Office. Mr. Bull stated that he erected the shed himself. It was put on a concrete slab and was bolted down. A neighbor had expressed opposition to the shed after it was constructed.

There was no one else to speak in support of the application. Mr. Colton Boyd spoke in opposition. He stated that he was not aware of the size of the shed until it was built. Mr. Boyd stated that the shed was an eyesore to his property. The shed was located about 4 ft. in front of Mr. Boyd's home and blocked the view of the whole end of the house. Mr. Boyd stated that the shed was a fire hazard because it was too close to the lot line.

There was no one else to speak in opposition. During rebuttal, Mr. Bull stated that he had tried to talk to Mr. Boyd about the shed on several occasions. He stated that he had tried to make the shed very pleasing and had offered to paint it in a different color and plant shrubs around it to screen it. Mr. Bull stated that the previous property owner had planted two trees in the same area but they had died. Mr. Bull stated that it was possible to screen the shed.

R E S O L U T I O N

WHEREAS, Application No. V-80-V-094 by THOMAS H. BULL under Section 18-406 of the Fairfax County Zoning Ordinance to allow shed to remain 2.7 ft. from side lot line, to remain in front yard on a lot less than 36,000 sq. ft. in area and to be 219,2184 sq. ft. in area (maximum area allowed 200 sq. ft.) on property located at 8112 Russell Road, tax map reference 101-1((3))5, 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 held on June 17, 1980; and

WHEREAS, the Board has made the following findings of fact:

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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:

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

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. Further, that a building permit shall be obtained and the proper inspections shall be conducted.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 382, June 17, 1980, Scheduled case of

10:30 MICHAEL NADANYI, appl. under Sect. 18-404 of the Ord. to allow three (3) lots
 A.M. with width of 10 ft. (150 ft. ft. min. lot width req. by Sect. 3-106), located
 West Ox Road, 35-4((1))14, Centreville Dist., R-1, 15.0 acres, V-80-C-095.

Mr. Charles Runyon, an engineer of 7649 Leesburg Pike in Falls Church, represented the applicant. In addition, he stated that he was also part owner of the property. Chairman Smith stated that the Board would include Mr. Runyon as part owner of the property. Mr. Runyon stated that the property was actually two pieces totalling approximately 35 acres. The subject parcel would ultimately be a part of a subdivision. Mr. Runyon stated that the percolation was not very good in many areas of the acreage. He stated that they had picked areas immediately next to Southfield subdivision and had indicated three one acre parcels that they would like to develop and build on at this time. Mr. Runyon stated that they had chosen a pipestem driveway in order to develop the three lots. Mr. Runyon stated that eventually the area long the western portion of lot 14 and lot 11 would be dedicated out for a future street. He stated that the plat did not indicate the future street. This would be an extension of the Southfield subdivision. Mr. Runyon showed the Board a plat with dash lines drawn in to indicate the where the future street would be located. He stated that when they had determined the exact alignment, they would have to put a general easement road to indicate that that area would be dedicated for a public street. Mr. Runyon advised the Board that the County staff had asked for dedication at this time but stated that he could not give it. He indicated that he was not certain where the alignment would be and but stated that he would dedicate the property for public street purposes. He stated his only problem at this point was not knowing the exact alignment of the public street. He stated that he did not believe DEM was aware of the location either.

In response to questions from the Board, Mr. Runyon stated that he had perc tests on all three lots. Mr. Runyon stated that he had done a preliminary site plan. He stated that he would be willing to dedicate and encumber the lots with an easement. In response to Chairman's question whether Southfield was being developed on public water, Mr. Runyon stated they were. He indicated that the lots were one acre cluster developed in half-acre lots. Mr. Runyon stated that he would bring water in to his subdivision if he had to but he wished to use the wells. Mr. Barnes inquired about the septic fields. Mr. Runyon replied that the land had been tested and the perc areas had been approved by the Health Department for the three lots.

Mr. DiGiulian stated that in the staff comments from Design Review, it sounded like DEM had an idea of where they wanted the future road. Mr. Knowlton stated that the comments from DEM were the results of comments from the Comprehensive Plan which talked about the interior street. Mr. Knowlton stated what the staff had was a 200 ft. section of one of these proposed communities which was proposed to come through the subject property across the south of it. Mr. Knowlton advised the Board that the major interconnection was already part of the planning. DEM was concerned about the pipestem becoming difficult to develop the roads that they wanted dedicated at this time.

Mr. Runyon stated that dedication was not a problem as he would dedicate later on. Chairman Smith inquired as to why Mr. Runyon could not dedicate and have the pipestem come out on Southfield. Mr. Runyon stated that his problem was in providing it and paving it and then later on having to go back and tear it up. He stated that it was premature to do it at this time. Mr. Runyon stated that there were over 35 acres which someday he would be able to develop but not at this time. Chairman Smith advised Mr. Runyon that he was not ready to

develop the other part of the 15 acres but Mr. Runyon stated that he was. Mr. Yaremchuk inquired as to why Mr. Runyon didn't prepare some sort of a preliminary plan to show the Board what he had planned for the rest of the area. Mr. Yaremchuk stated that he thought the applicants were cutting off the property with no thought to the future. Mr. Runyon stated that he could show the Board his best estimate of how the property would be developed.

There was no one else to speak in support of the application and no one to speak in opposition.

Chairman Smith stated that Mr. Yaremchuk had expressed a desire to see additional information before making a decision on the variance application. Mr. DiGiulian agreed with that position. He stated that the Board needed to see what the applicants had in mind before taking any action. Chairman Smith stated that it concerned him that the applicants were cutting out three pipestem lots without some thought to the remainder of the land which he thought was premature.

Mr. Runyon advised the Board that the three lots would be a cul-de-sac no matter how you looked at it. The property dropped off into a stream valley. He stated that what he had showed the Board would be the only way to develop the land. He stated that he had shown the Board the area that was constrained. Mr. Runyon stated that the requested variance would help them move the property while they were determining what to do with the other property. He stated that he had owned the property for one year and a couple of months. He stated that he was trying to get sewer to the property.

The Board deferred the variance application until July 1, 1980 at 12:30 P.M. for a preliminary plan showing the development of the remainder of the property.

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Page 383, June 17, 1980, Scheduled case of

10:40 A.M. ROYAL VENTURES, LTD., appl. under Sect. 18-401 of the Ord. to allow enclosure of an existing carport within 8.6 ft. of the side property line (8 ft. min. side yard req. by Sect. 3-307), located 7775 Newington Woods Drive, Newton Woods, 98-1(6)30, Springfield Dist., R-3(C), 8,417 sq. ft., V-80-S-096.

Mr. William Rosenberger of 9942 Corsica Street in Vienna, Virginia represented the applicant. He stated that he was the President of Royal Ventures, Ltd. In response to questions from the Board as to the ownership of the property, Mr. Rosenberger advised the Board that Meyer Abraham was the Trustee of the property. Chairman Smith stated that he should have been names as owner instead of the development company. Mr. Rosenberger stated that originally a certain style house had been designed for this lot. They changed the plans of the house from a two story structure to a split level which came to 8.6 ft. of the side property line. The house was contracted for sale to people from Detroit who insisted upon having a garage. Mr. Rosenberger stated that the enclosure of the carport to a garage would meet the minimum side yard setback of 8 ft. but not the total overall setback of 20 ft. He stated that they were requesting a 3.4 ft. variance.

Mr. Hyland questions the justification for the variance. Mr. Rosenberger stated that his sales force had recently changed and the new sales people were not aware that this particular lot would not take a single car garage. The house had been sold with the understanding that the carport would be converted to a garage. The garage would be 12'x21' and would only encroach on the total setback of 20 ft. by just a little bit.

Mr. Covington informed the Board that this particular lot was narrow and had converging lot lines. There was no one else to speak in support of the application and no one to speak in opposition.

Page 383, June 17, 1980 Board of Zoning Appeals
ROYAL VENTURES, LTD.

R E S O L U T I O N

In Application No. V-80-S-096 by ROYAL VENTURES, LTD. & MEYER ABRAHAM, TRUSTEE (amended at hearing) under Section 18-401 of the Zoning Ordinance to allow enclosure of an existing carport to 8.6 ft. of the side property line (8 ft. minimum side yard but total of 20 ft. req. by Sect. 3-307) on property located at 7775 Newington Woods Drive, tax map reference 98-1(6)30, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and wity the by-laws of 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 17, 1980; and

WHEREAS, the Board has made the following findings of fact:

RESOLUTION

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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 8,417 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has converging lot lines and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 384, June 17, 1980, Scheduled case of

10:50 BRUCE WHITSON, appl. under Sect. 18-401 of the Ord. to allow two lots with less
 A.M. lot width than required (lot 2A 106.79 & lot 2B 133.90)(200 ft. min. lot width
 req. by Sect. 3-E06); located 1908 Hunters Den Lane, Hunters Den Subd.,
 27-2(1)25, Centreville Dist., R-E, 5.0 ac., V-80-C-097.

Mr. Charles Runyon of 7649 Leesburg Pike in Falls Church represented the applicant. He informed the Board that he had done the survey for the subdivision and the applicant had asked him to submit the application for the variance. Mr. Runyon stated that the lot was irregularly shaped and the frontage was very limited. Mr. Runyon stated that there was not enough frontage to make the split into two lots. He stated that sewer was available which they could hook onto for the two lots. Hunters Den Lane was an existing private drive serving four lots. There was a large stream running through the property and the proposed access was the only place on the property to do so. Mr. Runyon stated that they could have split the property to make one lot conforming and the other non-conforming but were not able to do so because of the access problems.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mr. Fred Stubel of 1900 Hunters Den Lane informed the Board that Mr. Runyon had originally developed a 20 acre tract into 4 lots having 5 acres each. Accordingly, the subdivision did not come under the County's control. The road that served the four lots was a private road and had not been built to State standards or County requirements. Mr. Stubel stated that the subdivision of this particular parcel into two lots would detract from the area. In addition, he felt that it would not comply with the covenants of the development. With regard to the stream, he stated that normally bridge work was required but a culvert had constructed instead. Mr. Stubel stated that they had problems with the culvert and any further development would cause further problems. He urged the Board to reject the plan.

In response to questions from the Board, Mr. Stubel stated that the private road was just a little wider than a normal driveway. Mr. Stubel stated that this was new subdivision of four lots having been developed from a 20 acre parcel. He stated that there was not any more room to situate a house. He stated that Mr. Whitson had a beautiful building site already. The subdivision was three years old. Mr. Stubel stated that he had bought his property after the road was developed so he knew what he was getting into.

The next speaker in opposition was Ann Sutliff of 1902 Whipping Post Way in Vienna. She stated that she lived in Tamarack which was across Hunter Station Road. Ms. Sutliff stated that she had three main objections to the variance. First she felt it was a subdivision within a subdivision. Second, she would not enjoy her neighbors subdividing their 5 acre lot. She stated that this parcel was a five acre parcel being divided into two acres. Ms. Sutliff informed the Board that she was worried about the culvert and the road as it already had holes in it. The most important reason was that they were all friends.

She stated that all the neighbors knew one another. She wished the matter could be settled could have been settled outside of the public hearing. Ms. Sutliff stated that Mr. Whitson should have gone to his neighbors and talked to them first. She stated that she had owned her property for three years and was almost ready to move in as soon as she sold the house she was currently living in. She stated that she had been building a house at this location for over a year and had invested a lot of time and money in it. Ms. Sutliff stated that the Essexes were the one who would really be affected by this variance. They were not able to come to the public hearing. She stated that the Essexes felt that the proposed variance would ultimately permit a house too close to the private road. In addition, they felt it would detract from their house. Ms. Sutliff stated that the lay of the land would not allow further subdivision. She stated that she had problems when she built her house. Ms. Sutliff stated that she might not be totally against the variance if she knew what kind of house would be put on the land. She asked the Board to deny the variance until additional plans regarding the house could be furnished.

The next speaker in opposition was Ms. Rose Ann Stubei of 1900 Hunters Den Lane. She stated that she supported her husband's statements. She stated that Mr. Runyon had built the road and the bridge and it was their understanding that only four families were to use it. If more homes were built, the road would have to be improved and the bridge would require more work. She stated that a house would have to be built very close to Hunters Den Lane because of the topographic problems of the lot. She stated that this would not conform with the existing homes in the area which were nestled among trees.

During rebuttal, Mr. Runyon stated that the road that was built was intended to serve four lots. He stated that to divide this one lot into two lots did meet a certain amount of practicality. Mr. Runyon stated that these people were all neighbors. Mr. Whitson had purchased the land from an owner who was in default. Mr. Runyon stated that perhaps it would be best for the Board to defer the variance for a few weeks to allow the neighbors to talk it over and for them to learn about the type of house to be built. Mr. Runyon stated that Mr. Whitson lived on the property. Mr. Runyon stated that the final development plan would not be much different from the existing situation. Mr. Runyon stated that in the interest of harmony, he was seeking a deferral of the application.

Mr. Yaremchuk informed Mr. Runyon that he could not support the variance or the request for deferral. He stated that the application did not have any merit as far as he was concerned.

Mr. Hyland stated that contrary to Mr. Yaremchuk's remarks, he was impressed by Mr. Runyon's response to the objections of the neighbors. He stated that it may be that when the matter came before the Board for a final decision, the objections might be resolved in a way that would satisfy them. For that reason, Mr. Hyland moved that the Board defer the matter for decision to give the applicant an opportunity to work with the citizens. Mr. Barnes seconded the motion. The vote to defer failed by a vote of 2 to 3 (Messrs. Smith, DiGiulian & Yaremchuk).

R E S O L U T I O N

In Application No. V-80-C-097 by BRUCE WHITSON under Section 18-401 of the Zoning Ordinance to allow two lots with less lot width than required (lot 2A, 106.79 & lot 2B 133.90) (200 ft. minimum lot width required by Sect. 3-E06), on property located at 1908 Hunters Den Lane, tax map reference 27-2((1))25, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 17, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 5.0 acres.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Barnes).

Page 386, June 17, 1980, Recess

At 11:35 A.M. the Board recessed the hearing for a short break. The Board returned at 11:45 A.M. to continue with the scheduled agenda.

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Page 386, June 17, 1980, Legal Opinion

The Clerk was asked to contact Mr. Stitt's Office to set up a meeting with the Board of Zoning Appeals in order to discuss a recent legal opinion from the County Attorney's Office. The meeting was scheduled for July 1, 1980 at 10:00 A.M.

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Page 386, June 17, 1980, Scheduled case of

11:15 WARREN & ELAINE MCCONNELL, appl. under Sect. 3-103 of the Ord. to allow construction of addition to an existing school (S-163-78) and to allow continued use of an existing trailer classroom, located 8519 Tuttle Rd., Fairfax Park Subd., 79-3((4)) 30A, Springfield Dist., R-1, 83,505 sq. ft., S-80-S-039.

Mr. McConnell, Director of Accotink Academy, located 8513 Tuttle Road in Springfield informed the Board that there was a note at the bottom of the staff report which indicated that they were changing their name. He stated that was not the case. Mr. McConnell stated that the purpose of this application was to allow the construction of addition to the existing school to be used as four classrooms and a room for the teachers along with a crisis room for emotionally disturbed children. Mr. McConnell stated that sometimes it was necessary to remove a child from the classroom and isolate him. Mr. McConnell explained to the Board that the school had such heavy supportive work that they had been converting classroom space into office space. The school had a maximum of 110 students. The nature of the teaching at the school often required a one to one ratio. Mr. McConnell stated that they wished to continue the use of the existing trailer which would be used by the physical therapist and a reading specialist.

In response to questions from the Board, Mr. McConnell stated that the school presently had an enrollment of 90 students. Mr. McConnell stated that the school often received placements from the County. The school had been in operation since 1964. Mr. Yaremchuk stated that he had worked with Mr. and Mrs. McConnell when they first opened the school. Mr. Barnes inquired as to whether 16 parking spaces were enough. Mr. McConnell stated that they were allowed some parking in the street. He stated that they might need to talk to the State about converting some of the frontage into parking. Mr. McConnell stated that the school employed 18 teachers in the classrooms and various other supportive staff. He stated that the staff went in and out all day. The staff parked in the medical building parking lot next door. The total number of staff was approximately 30 according to Mr. McConnell but they worked at two different locations. Mr. McConnell advised the Board that he and his wife resided next door to the school and allowed the staff to park there also.

Chairman Smith stated that perhaps the Board should allow some provision for the expansion of parking so the applicants would not have to come back. Chairman Smith stated that under the special permit, the applicant and staff were not allowed to park anywhere but on the actual site. Mr. McConnell stated that the school was aware of the parking problem and wanted to make arrangements for the staff to park. He stated that he hated to have to remove the trees on the property for parking. Parking could be provided in the front of the lot without removing any trees. Mr. Yaremchuk stated that the site plan would control the parking. Mr. DiGiulian inquired as to how many additional parking spaces were needed. Mr. McConnell stated that 10 would be great but they settle for 8 additional spaces. Chairman Smith stated that the Board should make a provision to allow the expansion of 8 parking spaces but indicated that the Board would need a new plat showing the parking area. Mr. Hyland inquired as to when Mr. McConnell anticipated expanding the parking. Mr. McConnell stated that he would like to expand the parking this fall.

In response to the type of materials to be used in the construction, Mr. McConnell stated it would be like the existing building which was brick and block.

There was no one else to speak in support of the application and no one to speak in opposition.

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RESOLUTION

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Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-S-039 by WARREN & ELAINE McCONNELL T/A ACCOTINK ACADEMY under Section 3-103 of the Fairfax County Zoning Ordinance to allow construction of an addition to an existing school and to allow continued use of an existing trailer classroom on property located at 8519 Tuttle Road, tax map reference 79-3((4))30A, 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 17, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicants.
2. That the present zoning is R-1.
3. That the area of the lot is 83,505 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 118.
8. The hours of operation shall be 8:00 A.M. to 4:00 P.M.
9. The minimum number of parking spaces shall be 24.
10. All other conditions of Permits S-32-78 and S-163-78 not modified by this action shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 387, June 17, 1980, Scheduled case of

11:30 A.M. THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, appl. under Sect. 3-303 of the Ord. to allow an addition to an existing church for related functions, located 3900 Howard Rd., Mason Dist., 60-3((1))18A, R-3, 7.9440 acres, S-80-M-040.

Mr. James Rees, an attorney at 8133 Leesburg Pike in Falls Church, represented the church. He stated that this was an application to construct an addition to an existing church building located on Howard Street in Annandale. The church had been built in 1966. The church had 500 families that attended service at this location. The addition would be used for additional classroom space and a library. There would be some reshuffling of office space. The library would be used by many non-members from the area. In the new addition, the library would be expanded. The addition was to be added onto the church was the area between the church and Gallows Road which was presently grass and shrubs. There would not be any encroachment into setback areas. There would not be any change in the parking or in the number of families attending the church or the number of meetings to be held or functions.

Mr. Rees stated that the application met the general standards of the Ordinance. It was in harmony with the Comprehensive Plan and was compatible with the existing uses. The addition would be built of brick as was presently existing on the site. He stated that the addition would not have any adverse affect on the surrounding properties. There would not be any change in the traffic patterns, either vehicular or pedestrian. The use would comply with the bulk regulations of the zone. The building height would be unaffected. He stated that a site plan would be submitted for approval.

Chairman Smith stated that the addition did not meet the setback from the property line and was informed by Mr. Rees that it did. The structure would be built of brick and block and would blend in with the existing church. Mr. Barnes informed the Board members that he had a church next door to him. He stated that he had sold the land to them. They utilized the property from early in the morning until late at night.

There was no one else to speak in support of the application and no one to speak in opposition.

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-M-040 by THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS under Section 3-303 of the Fairfax County Zoning Ordinance to allow an addition to an existing church for related functions on property located at 3900 Howard Road, 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 June 17, 1980; 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 7.9440 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, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering changes) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal hours of church operation.
8. The number of parking spaces shall be 355.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 389, June 17, 1980, After Agenda Items

TARA SCHOOL: The Board was in receipt of a request from Mr. Ross F. Rogers for an out-of-turn hearing for the application of Tara School. It was the consensus of the Board to grant the request and the application was scheduled for July 22, 1980 at 11:45 A.M.

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Page 389, June 17, 1980, After Agenda Items

WAYNE FOLEY: The Board was in receipt of a request from Mr. Wayne Foley regarding an extension of his variance granted by the Board in July 1979. Mr. Barnes moved that the Board grant Mr. Foley a six month extension. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0.

// There being no further business, the Board adjourned at 12:00 Noon.

Page 389, June 17, 1980, After Agenda Items

By *Sandra L. Hicks*
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on 3/30/82

APPROVED: April 6, 1982
Date

A Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Friday Night, June 20, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Gerald Hyland.

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The Chairman opened the meeting at 8:15 P.M. and Mr. Covington led the prayer.

The Chairman called the case of ETA Associates which had been recessed from June 10, 1980.

8:00 ETA ENTERPRISES, INC., appl. under Sect. 4-603 & 8-501 of the Ord. to permit dance hall for high school age boys and girls per Sect. 8-501, located 6355 Rolling Rd., Springfield Dist., 79-3((1))7, C-6, 113,367 sq. ft., S-80-S-038.
(RECESSED FROM JUNE 10, 1980 FOR ADDITIONAL TESTIMONY.)

Chairman Smith asked for additional testimony regarding the application of ETA Enterprises, Inc. Jack Herrity, Chairman of the Board of Supervisors, spoke as a resident of the Rolling Valley Subdivision and did not represent the Board of Supervisors. He stated that he was very concerned that a piece of property that had been heard by the BZA and denied six months ago was back before the Board again. Mr. Herrity informed the BZA that there was an Ordinance pending which would make that impossible in the future. Mr. Herrity stated that there were several reasons why the application should be turned down. There was only one access to the shopping center off of Rolling Road. The intersection was heavily congested at this time. Secondly, Mr. Herrity stated that according to the Police Department and other incidents he was personally aware of, there were several incidents of vandalism and problems with teenagers instigated from the Pizza Parlor and other stores in the shopping center. He stated that he did not believe that the addition of 400 or more teenagers to the area at one time from various areas of the County or the Northern Virginia area would help that situation. Mr. Herrity stated that he had five teenagers, three of which were in high school at West Springfield. He stated that his third oldest who was a senior at West Springfield had indicated to him that the proposed enterprise would conflict with the dances held every other week at West Springfield which raised money for the activities of the students. He stated that the enterprise would tend to drain away business from the high school dances.

Mr. Herrity called to the BZA's attention what he considered to be a very serious violation of the type of candor and type of demeanor that an applicant or a witness called by the applicant would appear before any body in Fairfax County. He stated that Mr. Johnson had testified at the request of Mr. Nedrich for the purpose of describing the type of teenage operation he operated in Fredericksburg. Mr. Nedrich had stated that all of the principals in ETA Enterprises had been to the facility in Fredericksburg and talked extensively with Mr. Johnson and learned a great deal from him. Mr. Herrity stated that if the applicants had learned a great deal from Mr. Johnson, he had too. He stated that he had learned that a person like Mr. Johnson would go before a body like the BZA and state one thing when facts are another thing. Mr. Herrity stated that he was very mad. Mr. Johnson had stated that his doors were open to any high school students between the ages of 13 to 19. He had also stated that there were about 200 to 250 patrons on an average night and that the facility was set up for 400. Mr. Johnson had indicated that there were not any problems in the parking lot. He had indicated that all the facility served was Coca-Cola and that the hours of operation were on Friday nights from 8 o'clock until 1 o'clock Saturday morning. Mr. Herrity stated that Mr. Johnson had made many statements to the BZA on June 10, 1980. Mr. Herrity stated that a packet had been distributed to the BZA which contained an article from the Freelance Star in Fredericksburg dated June 2, 1980 entitled, "Teens Out, Adults In at City Market Disco". Mr. Herrity read the article to the Board which stated that a teenage disco formerly called the Current Times Disco had been converted from a teenage facility to an adult facility and was renamed the Back Door Anchor Room. A beer license had been obtained and the facility was open to adults seven nights a week. The facility had been converted to adults because attendance at the disco was poor.

Mr. Herrity stated that included in the packet was a flyer which had been introduced to the BZA on June 10, 1980. Mr. Herrity stated that his office had checked and it had been verified by reliable sources that police had been called and they responded to calls at the Current Times disco.

Mr. Herrity stated that he had been involved with the Board of Supervisors for 8½ years and he had never seen such a blatant disregard for the governmental process by a witness appearing before any body in the County. He stated that he was greatly concerned by the candor of the applicant and Mr. Johnson and way the application was presented to the BZA. Mr. Herrity stated that he was concerned about possible illegalities and he intended to bring the matter to the attention of Mr. Robert Horan, the Commonwealth Attorney. He further stated that he intended to have the County Attorney consider an Ordinance to cover such situations in the future. Mr. Herrity stated that applicants who testify before a body should perhaps be placed under oath so that the laws of perjury would be binding in any future cases of misrepresentation.

Mr. Herrity stated that based on all the grounds presented, that the BZA deny the special permit application of ETA Enterprises, Inc.

The attorney for the applicant, Mr. Nedrich, apologized to the Board. He stated that he had no problem with going under oath. Mr. Nedrich stated that he had practiced law for twelve years and one thing he had learned was that you do not hold anything back in the findings of fact. He stated that he was quite upset about the matter but indicated he was just as upset with Mr. Herrity's method of producing the information. Mr. Nedrich stated that Mr. Glass and Mr. Schneider had discussed the matter and intended to bring the matter to the attention of the Board but as the Board deferred to Mr. Herrity first, it put them in a bad light. Mr. Nedrich stated that he had been prepared to discuss the subject with the Board because he did not want them to lose sight of the real issue which was whether or not a teenage facility such as they proposed was an appropriate land use.

Mr. Nedrich stated that they had found out about Mr. Johnson about two months ago and visited his facility two or three days later. At that time, it was a teenage only facility operating on Friday and Saturday nights. Mr. Johnson had discussed a great many things with them including his capitalization and what he was using the facility for. Mr. Nedrich stated that one of the things they had discussed which had not been disclosed to the Board at the previous hearing was that between the hours of 9 A.M. and 3 P.M., he attracted a sizable adult audience for his restaurant operation, his game machines and for his beer on the premises. Mr. Nedrich stated that when Mr. Johnson came to appear as a witness, they had learned that he was going to open his facility to persons over the age of 18 on several nights of the week for the same type of facility as the teenage disco but it would be open to adults only.

Mr. Yaremchuk inquired as to what Mr. Nedrich meant when he stated that Mr. Johnson's facility would be open to adults several nights a week. Mr. Nedrich stated that Mary Washington College was located nearby and there were a lot of older people in the area who had no place to go. Mr. Johnson had decided to open his facility for the purpose of catering to that age crowd. Mr. Nedrich emphasized that was something that ETA Enterprises was not contemplating. Mr. Johnson had also mentioned that it was his intention to open up Sunday nights for the teenage disco and have the same type of operation as was previously conducted on Friday and Saturday nights. Mr. Nedrich had inquired if there were any problems. He stated that Mr. Herrity had mentioned problems but not addressed them specifically. Mr. Nedrich stated that he had inquired as to the problems. Mr. Johnson verified that in the 2½ months of the Friday and Saturday night disco dances, he did not have any complaints at all. Since that time after opening up to the adult crowd, Mr. Johnson had two problems, both of which were reported by the off-duty policeman. The first problem dealt with two girls engaging in a cat fight. The second problem dealt with a young man urinating on a patio wall.

Mr. Nedrich stated that from what and his associates had seen at the time of their visit to Current Times, it was a good facility. Mr. Johnson had informed them that the reason he was not serving teenagers any longer was because he could not attract enough students. Mr. Nedrich stated that perhaps Mr. Johnson had not waited long enough for the market to build. He was attracting his students from a 40 mile radius which was not large enough to meet his expenses and so he had converted the operation to an adult facility.

Mr. Nedrich stated that the Board should focus their attention on what happened when it was a teenage disco operation. When Mr. Johnson had as many as 200 to 250 students, he did not have any problems or any traffic congestion or any fights at the facility during the 2½ months he was in operation.

Mr. Hyland questioned as to when consideration was given to switching the facility from a teenage disco to the adult operation. Mr. Nedrich stated that prior to the time Mr. Johnson had testified at the BZA hearing, he had given consideration to a possible change. In response to a question from Mr. Yaremchuk, Mr. Nedrich stated that he had been aware that Mr. Johnson was planning to convert his facility. Mr. Yaremchuk inquired as to why the BZA had not been informed of this change. Mr. Nedrich responded that Mr. Johnson had been serving teens at that time he testified. He was also serving adults but on a different night. When he was serving teenagers, no beer was sold. Teenagers were not allowed at the facility when adults were being served. In response to Chairman Smith's question, Mr. Nedrich stated that Mr. Johnson did not have any financial interest in the application of ETA Enterprises. He stated that Mr. Johnson was not paid to appear as a witness on their behalf. Mr. Nedrich stated that they had made the initial contact with Mr. Johnson after reading an article about the disco which Mr. Glass' mother had cut from the paper.

Mr. Yaremchuk inquired if Mr. Nedrich had told Mr. Johnson what to say at the public hearing. Mr. Nedrich stated that he and Mr. Johnson had discussed the operation and the fact that he was converting it to an adult facility. Mr. Nedrich stated that he did not tell Mr. Johnson what to say. Mr. Nedrich stated that they had been very open with the Board. He stated that he hated to think all their work could go down the drain just because of what a witness stated.

Mr. Hyland questioned Mr. Nedrich about the utilization of the site by "members". For background purposes, Mr. Hyland stated that he had asked his 14 year old daughter what her position would be about a teen center operation and had received an interesting reaction. He stated that he had also asked her about the membership angle. In particular, he had asked her what her reaction would be if there was a special event going on and as a member she could not gain access because it was a first come, first served basis. He stated that her reaction was that then she really wouldn't be a member because she did not have the same rights as everyone else and that the facility would then become like any other place. Mr. Hyland stated that he had talked about this issue at the last hearing. He stated that he was still concerned that if "memberships" were sold, but then the facility restricted certain members at certain times, then it really was not a membership that was sold.

Mr. Nedrich disagreed with Mr. Hyland and stated that the idea of the membership was as a control device. He stated that their purpose was to stage the membership where ten to fifteen individuals would be allowed to wait outside when the facility was full until they could gain access to the facility.

Mr. Hyland questioned the number of patrons needed to utilize the facility in order to make the facility viable. Mr. Nedrich stated that they would need 72% of the maximum of 330 patrons. Mr. Hyland questioned whether the facility would have to sell 4,000 memberships in order to get the maximum of 330 patrons. Mr. Nedrich responded that at the present time, they were considering staging 2,000 to 2,500 applications to see what happened. After that, he stated that they may move the number up but it would be determined by the amount of usage of the facility. Mr. Nedrich stated that they were taking an economic chance. If they were wrong, they would go broke.

Mr. Hyland stated that two things concerned him. First, if the facility sold 2,500 memberships and some weekend held a special event and notified all of its members about the event, and there was a limitation of 330 patrons allowed in the facility at any one time, he questioned what the applicants would do when they got 300 or 400 extra members coming to the shopping center beating on the door wanting to get inside. Mr. Hyland stated that he could handle ten to fifteen members waiting to get inside but he was greatly concerned about 600 or 700 or even 300. He asked for a reaction from Mr. Nedrich as to what they would do in that case and how they would control the crowd that wanted to get inside when they were all members. In addition, Mr. Hyland asked what the criteria would be for persons wishing to become a member and who would decide the membership question.

Mr. Nedrich stated that with regard to special events, they planned to pre-sell tickets. If a member did not have a ticket, he would not come to the facility at all. With regard to the regular nightly operation, Mr. Nedrich stated that they did not plan on pre-selling tickets to the members. He stated that it was their plan and they felt they could control the situation by having the employees enter by a staged procedure.

Mr. Yaremchuk questioned the population of Fredericksburg and Mr. Nedrich responded that it was about 16,000 in the City. Mr. Yaremchuk inquired as to the number of residents in Springfield. Mr. Nedrich stated that Springfield had a population of approximately 90,000 people. Mr. Yaremchuk stated that if Fredericksburg had a population of 16,000 and could not attract 200 teenagers on Friday and Saturday, he questioned how Mr. Nedrich could start a facility with only 2,500 members. He questioned whether Mr. Nedrich had canvassed the area to determine if there were 2,500 teenagers in the area who would be interested in the facility. Mr. Nedrich stated that they had made a market analysis and determined that there were 17,000 teenagers of high school age in the area which included six high schools. Mr. Nedrich stated that they figured they would only have a 10% usage of the membership on any given night.

With regard to the selection of memberships, Mr. Nedrich advised the Board that they were not going to be selective about the membership. Anybody who wanted to be a member would be allowed a membership. Mr. Nedrich stated that the key control factor was not who was a member but who well a member conducted himself. He stated that if they did not follow the rules, the member would be expelled. Mr. Hyland questioned whether there would be a rejection of any applicant and was told there would not. Mr. Hyland inquired as to the statement made that there would be some check with regard to membership. Mr. Nedrich stated that they would take the teenager's word when he listed the school he attended. Mr. Hyland questioned the issue of age and Mr. Nedrich responded that he did not believe there would be any problem. He stated that their facility would only serve Coca-Cola. He stated that the older kids would not want to settle for cokes and would not come. Mr. Nedrich did state that they planned to send a postcard to the address on the membership application advising the parents that a son or daughter had applied for membership.

Mr. Hyland questioned the area that the facility would draw from. Mr. Nedrich stated that they would only serve the Northern Virginia area. However, if a member had a guest from out of the area, they would be allowed access to the facility. Mr. DiGiulian inquired as to whether the facility would sell memberships to high school students from

outside of the Northern Virginia area. Mr. Nedrich stated that they defined the Northern Virginia area to be the City of Alexandria, Arlington County, Fairfax County, City of Falls Church and the City of Fairfax.

The next speaker in support of the application was Mrs. Abby Sternburg who resided in Annandale north of Braddock Road. She stated that she was a social worker with Fairfax County and had worked with children and adolescents and families for twelve years. Mrs. Sternburg stated that she had a master's degree in social work. She stated that she was also in private practice in the area. She requested that the BZA consider the special application in a favorable manner. Mrs. Sternburg stated that there were a lot of facilities in Northern Virginia where adolescents were excluded. Mrs. Sternburg stated that the community needed to work with the adolescents in order to help them become responsible adults. She stated that a facility such as was proposed would enable the parents to work together with the community and get to know their children. She stated that the community would have a chance to get involved and work with the teenagers. Mrs. Sternburg stated that she was very excited about the teen disco as it would provide a program which could include newcomers. She stated that the facility could become a teen club or a teen resource center. Mrs. Sternburg stated that the disco would be a good use of the land as it would have dances and would pull the community together.

Mr. Yaremchuk questioned whether Mrs. Sternburg truly felt that this proposal would really help the teenager's record. He stated that the schools already have dances and questioned whether the disco would be an asset to the community. Mrs. Sternburg stated that many teenagers were not athletes. She stated that they needed a facility where it was an informal setting. Mr. Yaremchuk questioned whether the teenagers would go to the disco when they did not attend the high school dances because of the fees. Mrs. Sternburg stated that she felt the teens would attend the disco. In response to whether she had a teenager, Mrs. Sternburg replied no. Mrs. Sternburg informed the Board that she worked with elementary age children, teenagers and adults. She stated that she mostly worked with teenagers and young children in families. Chairman Smith questioned whether Mrs. Sternburg had discussed the disco with the teenagers. Mrs. Sternburg stated the teenagers she had talked to felt the disco was a good idea but believed their parents would object to it. Mrs. Sternburg stated that most adults would want to check out the disco and would want to chaperon it. She stated that perhaps the parents could serve as volunteers.

The next speaker was Christopher Geddings of 8331 Queen Elizabeth Boulevard. He stated that he did not usually get involved with such issues. Mr. Geddings stated that he was 17 years old and had just graduated from Annandale High School. He stated that if the disco were allowed, perhaps some of his younger brothers and sisters would not make the same mistakes he had. Mr. Geddings stated that there was nothing in the area for young people to do. Any clubs that allowed dancing were not open to the people in his age group. Mr. Geddings stated that the disco would benefit him and his peers. He stated the way he understood the proposal, it would be conducted in a responsible manner. He stated that the disco would not contribute to problems in the area and, in fact, felt that it would help to solve some of the problems. He stated that the disco would give some of the young people something to do. Mr. Geddings stated that he was upset that people thought badly of teenagers and felt that they did not deserve a facility such as the disco. Mr. Geddings urged the Board to grant the disco as it was very important to people in his age group.

Mr. Yaremchuk inquired as to how Mr. Geddings learned about the disco proposal. Mr. Geddings advised the Board that for the past two years he had his own business. He stated that he planned dances for high schools and had met Gary Glass. Mr. Geddings stated that he was a disc jockey and had thought about working during the summer months at the disco.

Mr. Hyland complimented Mr. Geddings on being such an articulate young person and inquired as to where he planned to go to college. Mr. Geddings responded that he had been accepted at William and Mary, Virginia Tech and Holy Cross.

Mr. Nedrich informed the Board that Mr. Geddings had gone with them when they travelled to Fredericksburg. He stated that they had first considered having a disc jockey at their facility but that was no longer the case.

The next speaker was Mr. Roy Krieger of 8102 Old Oaks Drive in Springfield who stated that the Board should grant the special permit for a one year period and make the applicants reapply after the one year period to allow the citizens to express any concerns. He stated that he had been a resident of Springfield for 13 years and had three children pass through their teen years. Mr. Krieger stated that there was not any place for the teenagers to go. Wakefield Park had recently opened and had wholesome activities but it was not convenient as the teenagers would have to commute by car. Mr. Krieger stated that the proposed disco being offered would be a well supervised facility. It would allow teenagers to drive or they could walk to the facility. He stated that the disco would be a well structured place for the teenagers to hang out. He

stated that drugs and alcohol flourished at the 7-11s in the area. Mr. Krieger advised the BZA that the area needed a wholesome alternative for the teenagers. Mr. Krieger informed the Board that he was the past president of the West Springfield Civic Association. He stated that he had visited a youth disco called Lynn Haven in the Virginia Beach area. Normally, it was a roller rink but it was operated as youth disco on Friday nights. Mr. Krieger stated that he had been highly impressed with the center. It was similar to the proposed disco in that it allowed the teenagers to congregate in a well supervised atmosphere, to listen to music, rap with their friends and have cokes and snacks and enjoy themselves. Mr. Krieger stated that the evening he visited Lynn Haven, he had observed 750 intermediate and high school children at the roller disco who might otherwise have been hanging around on the streets. He stated that we needed to offer our children a similar opportunity.

The next speaker was Allen Jackson of 12328 Fairfax Station Road in Clifton, Virginia. Mr. Jackson stated that he was 18 years old and had spent many Friday and Saturday nights without anything to do. He stated that as far as the high school dances, they were not held every weekend or even every other weekend. Even so, you needed a school I.D. to attend the dances. Mr. Jackson stated that with respect to memberships, recreational groups such as pool associations sold memberships and not everyone showed up at the same time. He stated that he felt the pre-selling of tickets for special events at the disco would eliminate any potential problems. Mr. Jackson stated that he felt the facility should be passed to give the teenagers something to do. Mr. Jackson stated that even though he was from Clifton, he would utilize the facility if he was not too old for it. However, he stated that his younger brothers and sisters would be able to use it.

The following persons spoke in opposition to the application. Mr. George Pearsall of 8401 Harland Drive in Springfield informed the Board that he had two teenagers. He also stated that he was Vice-President of the Rolling Valley Civic Association. Mr. Pearsall stated that he had been present at the hearing eight months ago for a similar request for a teen dancehall in a small, congested, poorly sited shopping center. Mr. Pearsall stated that he was not opposed to the concept of a disco but the inappropriateness of the location. He stated that no one else would use the space and that was the reason the rent was so cheap. Mr. Pearsall stated that no improvements had been made to the site. The civic association had voted unanimously to oppose the application. Mr. Pearsall stated that many other people wanted to speak and had specific areas of concern to discuss with the Board.

In response to questions from the Board, Mr. Pearsall stated that the congestion in the area had gotten worse over the past eight months. His basis for that reasoning was that he now had to leave for work fifteen to twenty minutes earlier. Mr. Pearsall stated that there were a lot more houses being developed in this area which had increased the traffic congestion. Mr. Pearsall stated that he would not oppose the concept if it was located in a more open area and was not in a restricted area or a highly congested area or in a shopping center.

Chairman Smith inquired as to what use Mr. Pearsall thought the the space could be used for. Mr. Pearsall stated that the space should not be used for large groups of people. Even the movie theater that was there previously had been under a special permit and had gone bankrupt because of the problems of access.

The next speaker was Frances Russ of the Rolling Valley Subdivision, 6505 Greenvew Lane which was located two miles from the proposed disco. She stated that she had evidence that the people in the area were opposed to the granting of the special permit. She presented the Board with three letters in opposition. One was from William Singleton of the Rolling Road Moboil Facility who was in opposition because people would have to drive through his facility to get to the shopping center. Mrs. Russ stated that the people from the shopping center also opposed the disco for safety reasons, primarily the parking and the influx of traffic. The other two letters of opposition were from the 7-11 store and the High's Dairy Store.

The next speaker in opposition was the area supervisor of Pizza Hut. He was Mr. Harry DuBetts of 11600 Stoneview Square in Reston, Virginia. Mr. DuBetts stated that he was replacing another gentleman who was supposed to speak for Pizza Hut of America. He stated that their concern was to the business to the area and the potential increase vandalism, the parking problems and the problems of access to the area. Mr. DuBetts stated that the reasons for their concerns were the number of young people that a venture of this type would attract if it was successful. He questioned the number of memberships. He stated that Pizza Hut had had some difficulty in the area because of vandalism. Pizza Hut served beer and many young people who were under age attempted to buy beer. Mr. DuBetts stated that they felt their problems would be compounded if the disco were installed. In addition, there would be a problem with the parking and the access to the shopping center.

Chairman Smith stated that a lot of restaurants had the problem with beer where young people attempted to buy it who were underage. He stated that this was not unusual for any area. He inquired if Pizza Hut had that same problem at every one of their locations rather than just the one in Springfield. Mr. DuBetts stated that they had more of a problem with the restaurant in Springfield than they did in most of their other restaurants. He stated that

they were fearful that the heavy concentration of people in the younger age group would substantially increase that problem. Mr. DuBetts stated that because of the problems with access and parking, they did not feel that this was the right location for the teen disco.

Chairman Smith inquired as to the number of parking spaces allotted for the Pizza Hut. Mr. DuBetts stated that he could not answer as he was not sure whether any specific number had been allocated at all. He stated that they had a share of what was available. Mr. Yaremchuk inquired as to the number of patrons who came to the Pizza Hut on a nightly basis. Mr. DuBetts stated that several hundred patrons came to the facility depending on the time of year. Mr. Yaremchuk inquired if any of the patrons had problems with access. Mr. DuBetts stated that there was difficulty in access. Mr. Yaremchuk inquired if the officials were aware of the difficulty when they selected the site. Mr. DuBetts stated that he could not answer because the operators of the Pizza Hut units were not the same officials who selected the sites. Chairman Smith inquired if the location in Springfield was successful and was assured by Mr. DuBetts that it was. He added that he had no quarrel with the plan of a teen disco but they thought the proposed location was unsuitable. Chairman Smith inquired if there had been any decrease in vandalism since the old theater was abandoned. Mr. DuBetts stated that he could not answer that question. He stated that the Pizza Hut had been experiencing vandalism and it had been more regular than in other existing locations. Chairman Smith stated that some of the youngsters who supported the disco had suggested that some of the vandalism problems would be alleviated if they had some place to go. Mr. DuBetts stated that a teen disco might help the situation but he felt the location was not right because of the parking, access and vandalism. Chairman Smith inquired as to what should be done with the old abandoned theater. Mr. DuBetts stated he could not answer that question.

The next speaker was James Monroe of the West Springfield Country Club. He resided at 8122 Marcy Avenue. Mr. Monroe stated that he had lived in the area for 15 years. He stated that there was not a stop light at the time he moved in. He stated that there has been a need for additional traffic control. Mr. Monroe stated that if the disco were allowed, it would eliminate any traffic controls. The country club consisted of 150 acres located east of the shopping center. Mr. Monroe stated that the country club had an 18 hole golf course, a competition sized swimming pool, nine tennis courts, etc. Mr. Monroe stated that every activity the club had was family oriented. They held events for the families, some for adults only and some for children only. Mr. Monroe stated that he had four children in all levels of schooling. He stated that all four of his children were against the disco when he asked them about it. Mr. Hyland inquired as to the children's reasons for their objection. Mr. Monroe stated that his children felt that if they had a family opportunity they would prefer to do that. He stated that they would not like to go to a facility like the disco where they would be forced to associate with youngsters that they didn't know and where there would be rough language, rough crowds and a wide separation in ages. Mr. Monroe stated that his 13 year old attended the school functions and attended the teen parties at the country club. Mr. Monroe stated that too many pressures would be associated with the teen disco.

Chairman Smith inquired as to the membership of the country club and was informed by Mr. Monroe that he represented 700 members. Chairman Smith stated that the country club was a limited group and that Mr. Monroe's children were very fortunate to have that facility. He stated that there were a lot of families in the community who did not have that benefit. Mr. Monroe stated that the country club had been in operation for 20 years and had a full membership at the present time. Mr. Yaremchuk inquired if there was an overflow parking problem whether the people would drive onto the golf course and park. Mr. Monroe stated that was not feasible but stated that the club had experienced many cases of trespass and vandalism that emanated from the shopping center. He stated that the club's tennis players had almost been struck by rocks and beer bottles thrown from the neighborhood of the shopping center over onto the tennis courts which were located 100 ft. from the shopping center. Mr. Monroe stated that the club had a private security guard but the club does not secure the gates. There was not a perimeter fence around the club property. The members are often subject to abusive language. He stated that the club has had to prosecute five individuals in the past for various crimes on the club property. He stated that the club would continue to prosecute any instance of trespass. Mr. Monroe stated that the club members did not want to subject the club property with its improvements to the type of activity that would be generated by the teen dance center. He stated that the trespass problems would occur. He suggested that other locations for the teen disco would be more desirable. He stated that it should be not be located back in a building where there were already congestion problems and traffic problems. Mr. Monroe stated that many nights around 9:30 P.M. when he would go to the High's store in the shopping center, there would be a gang of kids in the parking lot drinking beer.

Chairman Smith stated that these type of problems happened all over the County and was not isolated to this one area. Mr. Monroe stated that the activity should be controlled by denying the application for the disco. Mr. Barnes stated that perhaps the teenagers needed a facility like the disco to go. Mr. Monroe stated that his country club offered the kids a lot of programs. Mr. Barnes stated that the country club was only for their members. Mr. Monroe restated that it was the wish of the West Springfield Country Club that the special permit application be denied.

The next speaker was Lance Marston of 8237 Taunton Place in Rygate. He stated that he had three children who had grown up in West Springfield. He stated that he was the former President of the Rygate Civic Association and had been actively informed in community affairs in the Springfield area for a number of years. Mr. Marston inquired as to where the public and community stood on the application. He reminded the Board that they would be the ones directly affected by the outcome of the special permit. He stated that the public hearing was an important means of measuring the community's views as to whether a proposal like the disco would affect the community. He stated that it was reasonable to expect that an applicant would be under some obligation to demonstrate that the community would not be adversely affected by the use. Mr. Marston stated that ETA Enterprises had recognized that obligation and had published a flyer describing the disco and detailing background information on the officers. The flyer had included a survey form to sample public opinion about the disco. He stated that there had been very little support of the proposal from citizens living in the immediate area, any civic organization, or any business organization from the West Springfield area. With regard to the flyer survey, ETA Enterprises only received 10 to 15 responses. But the survey did activate the community and alert them. Mr. Marston stated that 732 residents lived in the immediate area. He presented the Board with a petition signed by 719 of the 732 residents who opposed the disco. Mr. Anthony Dzierski who was Treasurer of the Rolling Valley Civic Association and a notary public had notarized the petition.

The next speaker in opposition was Bob Edmonston, a naval officer and a civic engineer, residing at 6512 Rivington Road which was three blocks from the proposed disco center. He stated that he had lived at that location for six years and had four children ranging in age from 7 years to 15 years. Mr. Edmonston spoke in regard to the parking and traffic situation. He stated that the shopping center had not been properly designed to handle the traffic that would be generated by the proposed disco. There is only one legal access to the shopping center. The shopping center could only be entered by northbound traffic or by driving through the Mobil station or the Roy Rogers restaurant which were opposed to the disco operation. All other traffic would have to make a u-turn in the middle of Rolling Road in front of the Mobil station to enter the shopping center. This was a safety hazard especially after dark as there was very little lighting in the area. Mr. Edmonston stated that the danger was even greater when cars tried to exit the shopping center through Mobil to head south.

Chairman Smith stated that the board members were familiar with the intersection. He stated that there was no doubt that the traffic was getting worse because of the construction going on in the area. He stated that West Springfield was a very desirable area being a good commuting distance and having good schools. Mr. Edmonston stated that the main drawback to the special permit application was the amount of parking in the shopping center. He stated that many of the tenants in the center had their peak load during the evening hours particularly on Friday and Saturday nights. Mr. Edmonston stated that the shopping center could not accommodate all the vehicles expected to patronize the disco on Friday and Saturday nights. Mr. Edmonston stated that the overflow parking would spread to the adjacent communities. He stated that he could not find any basis for the applicant's estimate that patrons would arrive three to a car. Mr. Edmonston stated that a number of cars would be cruising through to see who was at the disco and what was going on. Mr. Edmonston stated that signs could not be placed at the entrance to close off parking when the disco was full as it would be cutting off business for the other tenants. He stated that the proposed security guards would be limited as to what they could do with respect to a parking problem. He stated that the guards would not have any jurisdiction over what happened off the premises or any overflow parking into the community. They would not be able to direct traffic in the streets. Mr. Edmonston stated that an off-duty policeman was hard to obtain and there would not be any guarantee that the disco could obtain them.

Chairman Smith stated that parking had been established for the original theater when it was in operation. He stated that it was still available. Mr. Edmonston advised the Board that 232 spaces were available in the shopping center. He stated that he did not know how many patrons used the theater. He stated that in the six years he had lived there, the theater never drew much of a crowd. Mr. Edmonston stated that the High's, the Pizza Hut and other stores in the shopping center relied on a carry-out business. He stated that if the parking lot was full, those stores would not be doing much business. He stated that anybody who parked outside the shopping center and tried to walk to the center took their life in their hands. There were no sidewalks or crosswalks provided. Mr. Edmonston informed the Board that the situation at the shopping center was no better now than it had been eight months ago when the previous special permit application had been denied on these same grounds.

The next speaker was George Reynolds of Kenwood Oaks. He stated that he had been a resident for nine years. He had two children and he opposed the disco facility. Mr. Reynolds stated that he was concerned that the controls of supervision inside the disco would create an adverse impact outside the facility. Mr. Reynolds stated that the balance of youngsters who were not allowed to enter would go to the neighboring subdivisions to wait. He stated there would be the potential for noise, litter and vandalism in the community. Mr. Reynolds stated that the shopping center did not have adequate parking and approximately 100 to 200

cars would flood the neighborhoods on weekends. Mr. Reynolds stated that he did not believe that the disco would be compatible with the surrounding area as defined in paragraph 1 of Article 8 of the Zoning Ordinance. He stated that a traffic hazard already existed and he urged the Board to deny the application.

The next speaker was Jan Cardwell of 6418 Waynesley Court. She stated she was the President of the Rygate Homeowners Association and the mother of two children. Ms. Cardwell stated that the issue had hand was land use as stated by Mr. Nedrich but it was also involved children. She stated that there were many factors for the Board to consider. Was it an adequate site? Was it adequate to meet the needs of the proposed use? Was adequate parking available? She stated these were all important considerations. As a mother, she felt the paramount concern should be the children and whether this was a safe site for such a facility. The traffic that would have to u-turn into the shopping center was a safety hazard. There were not sidewalks for the area. The hours of operation from 3 P.M. to 8 P.M., Monday through Friday would be attractive to the 14 and 15 year children who lived close by the facility and wanted to walk. She stated that there was not any safe, direct way for the children to walk to the shopping center. There were not adequate lights at the shopping center. Adequate parking was not available. She inquired if ETA would have adequate supervisory personnel to insure the safety of the children at any time a problem arose. As a mother, she stated that her concerns had not been satisfied.

The next speaker was Larry Pratt, a Virginia Delegate, residing at 6812 Landor Lane in West Springfield Village. Mr. Pratt was the past president of the civic association for that community. He stated that he was the father of four children, one of whom was 16 years old. Mr. Pratt stated that the existing establishments in the shopping center were able to produce enough traffic that already made parking difficult when you were trying to get in and out. He stated that the Spaghetti Mill and the Pizza Hut drew a good business. One item that Mr. Pratt that had not been addressed was that there were a number of alternatives in the area particularly in the summer months. He stated that the Recreation Department offered a drop-in program, a disco, and sport programs in every area high school. He stated that these programs were unstructured. Another concern of Mr. Pratt was the possible conversion of the disco into a saloon. He stated that if the proposed disco was comparable to the disco in Fredericksburg, it would not succeed. The solution in Fredericksburg had been to convert the disco and to obtain a beer license. Mr. Pratt stated that even if the disco were under a special permit, it would not preclude them from obtaining an alcoholic license.

Mr. Hyland stated that it was not possible to obtain an alcoholic license if there were going to be 14 through 18 year old using the facilities. Mr. Pratt stated that it was possible if they could demonstrate that the younger crowd would use the facility at a different time. He stated that he had talked to the ABC Board and found out that the special permit would not preclude an operating from selling on or off the premises. Mr. DiGiulian stated that if the special permit were granted and restricted alcohol, then they would be in violation of the Ordinance and could be closed down. Mr. Pratt stated that he hoped the BZA did not give ETA a permit. He stated that if the Board did, it would be an outrage if they did not restrict the disco from selling alcoholic beverages. Chairman Smith stated that no local jurisdiction could take an action which was governed by the State. He stated that the BZA could not prohibit the State from granting anyone a license. However, he stated that if there was a condition as far as Fairfax County was concerned that there be no alcoholic beverages on the premises, then the permit would be revoked if the condition was violated.

The next speaker was Don Banes, President of the West Springfield Village Civic Association. He stated that his community was located 3/4 mile from the shopping center. He stated that the community consisted of 423 homes and bordered both sides of Rolling Road. Rolling Road would be used as the main roadway to enter and leave the disco center. He stated that their residents shopped at the West Springfield Plaza. He stated that they had kept their members informed about the proposed disco and had mailed a questionnaire to its members. The response to the questionnaire indicated an 80% opposition to the disco. He stated that a great majority of the community did not want to encounter all the additional traffic on weekends and the excess noise, congestion and intrusion into the community that would be generated by the center. He asked the Board to deny the special permit. In response to questions from the Board, Mr. Banes stated that his association had 380 members. The total number of responses to the questionnaire had been 40. Mr. Banes stated that 91 people were involved in the 40 households. There were 73 out of the 91 people who were opposed to the disco.

The next speaker was Col. Ted Holt of 8518 Oakford Drive in Springfield. He stated that he had resided there since 1966. He stated that he represented the Washington Irving Intermediate School PTA Board. Col. Holt stated that he had two children at West Springfield High School and one child at Washington Irving. Col. Holt stated that he represented concerned parents who were disturbed by the application of ETA Enterprises and were requesting denial of the application. Col. Holt stated that he was involved with the school activities. He participated in the youth events. Col. Holt stated that there was overflow parking into the community even with the school sponsored events. There was some vandalism even at the school functions. Col. Holt stated that the Springfield area was heavily congested. There was limited ingress and egress at the shopping center for the proposed disco. He stated it was a dangerous intersection. There were not any sidewalks and not any stop signs.

At the intersection of Rolling Road and Old Keene Mill Road, there were business establishments on all four corners. The routes of ingress and egress were in close proximity to the road which limited the pedestrian routes. The disco would encompass youths from the ages of 14 through 18 years old. He stated some may drive there and some may not. Some may drink beer and some may not. Col. Holt was concerned about the parking situation. Col. Holt stated that the school population of West Springfield and Washington Irving amounted to 3,800 students which did not even take into account the other schools mentioned by the applications. Col. Holt requested that the permit be denied.

At this point in the meeting, the Board recessed for a short break. The Chairman stated that the Board hear the rebuttal statement upon reconvening the meeting. At 10:35 P.M., the Chairman reconvened the meeting. Ms. Kelsey from the Zoning Administrator's Office informed the Board as to the number of legal parking spaces in the shopping center. According to Site Plan Office, 272 parking spaces were indicated with 29 spaces being on the Cities Service station site. Ms. Kelsey stated that there was no record of any approvals being gained for the spaces to be counted so they had to subtract them from the total which left 243 spaces. Based on the 137 required spaces for the other uses, that left only 106 parking spaces which would be available for the disco. Ms. Kelsey stated that the disco planned to have six employees which would then only leave 100 spaces. She stated that they would be required to have one parking space for every three occupants. Based on the occupancy load, the disco would be allowed 300 occupants for the dance hall. Ms. Kelsey informed the Board that the underground parking garage was in disrepair and would have to be brought into good condition before it could be used or a non-residential use permit issued. She stated that at the last public hearing for a similar dance hall, the staff had suggested and the applicants had agreed to fence off and secure the underground garage except at such times when the dance hall was in operation. Ms. Kelsey stated that was to preclude further vandalism of the garage.

Mr. DiGiulian inquired if the 243 parking spaces that were available included the underground garage. Ms. Kelsey stated that it did. She informed the Board that the underground garage had 54 parking spaces.

During rebuttal, Mr. Nedrich stated that there appeared to some dispute over the allocated parking spaces. He stated that there was a letter attached to the original plat regarding the parking. The letter was from CITGO who owned the service station and it indicated that they had allocated 11 of their parking spaces to the shopping center when it went in. He stated that Ms. Kelsey had excluded those 11 parking spaces from the totals. That would then raise the total parking to 117 which was the applicants had stated at the last hearing. Ms. Kelsey responded by saying that CITGO was under a special permit from the BZA and that 18 of those spaces were required for the service station. She stated that the 11 parking spaces shown in front of the Pizza Hut had been given by CITO to the West Springfield Plaza shopping center. However, Ms. Kelsey stated that they did not have any record of anyone from the County ever approving it or the station ever going back to the BZA to request that the 11 spaces be allocated to the center.

The next speaker in rebuttal was Mr. Krieger of 8102 Old Oaks Drive. He stated that he lived $\frac{1}{2}$ mile from the proposed facility. Mr. Krieger stated that there had been a petition presented in opposition to the disco. However, there had not been any position petition submitted from those in support. Mr. Krieger stated that there were a lot of people in favor of the application. Mr. Krieger stated that no survey had been conducted in his community even though he lived $\frac{1}{2}$ mile away. Mr. Krieger urged the Board to use caution when weighing the results of the surveys or polls. A survey had been conducted at the West Springfield Civic Association of 185 individuals of which 121 were opposed; 34 were in favor and 30 were undecided. An individual who had participated in the survey informed the group that he really did not know much about the proposed facility to accurately participate.

Mr. Nedrich stated that reference had been made to opposition from the 7-11 and the Pizza Hut and he stated he was not aware he spoke for the companies. He referred the Board to a letter dated March 15, 1979 to the BZA which was in conjunction with the previous application of Good Times Productions. The letter was addressed to Mr. Bobby Rock from Mr. H. W. Stidman, District Manager of the 7-11. The letter indicated support for the proposed facility. In addition, Mr. Nedrich referred the Board to a letter from Mr. Harold Goldsmith, District Manager of the Pizza Hut, which was dated March 28, 1979 to Mr. Bobby Rock. It was a letter of support also.

With regard to the surveys, Mr. Nedrich stated that they were helpful but they were also political. Mr. Nedrich argued that the question was one of land use. He argued that with respect to the traffic, the proposed facility that they planned was not materially different from what could go in there by right. A theater could go in there and would use just as much parking and have just as much traffic. A restaurant could go in the space and have well over 400 patrons. Mr. Nedrich stated that anything that went in was subject to certain controls such as fire codes, building laws, nuisance laws, and others that the BZA had no control over. Mr. Nedrich stated that they did plan controls of their facility.

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Mr. Nedrich passed an article from the Springfield Journal to the Board. He stated that the opposition was afraid of their children and felt that they could not be controlled or trusted and should be kept away from other teenagers. The article in the Springfield Journal cited a letter from a local resident who was afraid and wondered if such a facility was needed. Mr. Nedrich stated that if the disco was not needed, then the operation would fail. He stated that they needed teenagers to be successful. Mr. Nedrich stated that teenagers had the tendency to be the best self-policing force when they had something they took pride in. He stated that they would not allow the troublemakers to interfere. Mr. Nedrich mentioned another letter from Mrs. Martha Miller of the First Presbyterian Church who supported the application for the disco. She felt that there was a need for a community based gathering for young people in a relaxed social environment. Mrs. Miller stated that there was a critical need for such community places for the teenagers to meet informally with their friends.

Mr. Nedrich stated that Delegate Pratt had indicated that the high schools had discos which was not accurate. He presented the Board with an advertisement from the Springfield Independent which listed the summer youth activities at the schools. There was basketball, soccer and swimming but not any unstructured activities.

Delegate Pratt tried to clarify his point but was ruled out of order by the Chairman. Mr. Nedrich stated that controls were a matter of concern to them. They had talked to the commander of the West Springfield Police District. He stated that they would be in close touch with the police force. Mr. Nedrich stated that one of the policies they would establish was once a teenager entered the facility he would remain there. They felt that they could control the traffic. The teenagers would be discouraged from leaving because of a readmission fee. Mr. Nedrich stated that Gary Glass had gone to the shopping center on a Friday night and counted an excess of 20 teenagers between the hours of 9 P.M. to midnight playing frisbee with their shirts off. They were sitting in cars and drinking beer. Mr. Nedrich stated that some of the teenagers may have been over the age of 18 but he stated that the disco could not do worse. In fact, he felt that they would be able to give the teenagers a place to go.

Chairman Smith concluded the public hearing and asked whether the Board was prepared to make a decision. Mr. Hyland stated that he shared the feeling that there was need for this type of facility but felt that this was not the right location for it.

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-S-038 by ETA ENTERPRISES, INC. under Section 4-603 & 8-501 of the Fairfax County Zoning Ordinance to permit dance hall for high school age boys and girls on property located at 6355 Rolling Road, tax map reference 79-3((1))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 June 10, 1980 and deferred until June 20, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the existing parking at the site is inadequate for the proposed use.
2. That the proposed use would create pedestrian and vehicular traffic which will be hazardous and conflict with the existing and anticipated traffic in the area.
3. That the proposed use would adversely affect the use of neighboring properties and is incompatible with other uses in the district.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Discussion following the motion and vote were as follows:

Mr. Yaremchuk stated that he agreed with the applicant that this should be political but based on a land use issue. However, he stated that this location was not convenient as it was small and congested and had inadequate ingress and egress. It was only a neighborhood

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ETA ENTERPRISES, INC.
(continued)

shopping center. Mr. Yaremchuk stated that a dance hall was more of a regional use. The facility was proposed to serve a population of 17,000 people and according to Mr. Yaremchuk that was a land use problem in itself. He stated that the facility did not belong at this location.

Mr. DiGiulian stated that he supported the motion. He stated that at the previous hearing he had indicated that he would support such a facility at any other location.

Mr. Barnes stated the idea of a disco was very good but it was located properly.

Chairman Smith stated that he supported the disco. He stated that he had some problems with it but felt it could have been approved on a trial basis. He stated that he appreciated the interest of all the people from the community and their efforts taken in whatever direction. He stated that he hoped that would not discourage the applicants from seeking another location for the teen center.

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Page 400, June 200, 1980, After Agenda Items

Accotink Academy: The Board was in receipt of a letter from Accotink Academy seeking an out-of-turn hearing on their special permit application. It was the consensus of the Board to grant the request and they scheduled the hearing for July 22, 1980.

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Page 400, June 200, 1980, After Agenda Items

Reston Recreation Center: The Board was made aware of a problem concerning the upcoming hearing on Reston Recreation Center. It was the consensus of the Board that the upcoming hearing be deferred and staff was asked to make sure that proper notice went out to the people involved.

// 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 3/30/82

APPROVED: April 6, 1982

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, June 24, 1980. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Gerald Hyland.

The Chairman opened the meeting at 8:15 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled case of:

8:00 P.M. BARBARA KAPLAN & MARY BYERS, appl. under Sect. 4-603 of the Ord. to permit day care center within shopping center, located 6226 Rolling Rd., 79-3((4))42, Springfield Dist., C-6, 6.9447 acres, S-80-S-042.

Ms. Mary Byers of 7936 Orange Plank Drive in Springfield and Ms. Barbara Kaplan of 5806 Wood Laurel Court in Burke informed the Board that they wished to open a day care center called the Little Acorn Patch, Ltd. Ms. Byers stated that she and Ms. Kaplan had a total of 18 years in education. They had a master's degree in education from George Mason University and from the University of Maryland. Both had been teachers and had obtained their Red Cross Certificates. They had taken the food courses from the Health Department. Ms. Byers stated that they intended to open a child care center and provide quality care and education. She stated that there was a definite need for this type of facility in the area. They proposed to have a maximum of 45 children. They planned to hire five fulltime employees.

As far as traffic, most of the parents would arrive between 7:30 A.M. to 9:30 A.M. Most of the stores in the shopping center would not open until 10 A.M. Therefore, there would not be any problem with parking. Ms. Byers stated that they did not have any problem with the staff suggestions regarding delivery points. She stated that they would fence the back yard and the side yard for the recreational area.

In response to questions from the Board, Ms. Byers stated that there was not another facility in the immediate area. She stated that they proposed to have 45 children, ages 2 to 5 years. The hours of operation would be 7 A.M. to 6 P.M.

There was no one to speak in support of the application and no one to speak in opposition.

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Board of Zoning Appeals

BARBARA KAPLAN & MARY BYERS

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-S-042 by BARBARA KAPLAN & MARY BYERS under Section 4-603 of the Fairfax County Zoning Ordinance to permit day care center within shopping center on property located at 6226 Rolling Road, tax map reference 79-3((4))42, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 24, 1980; 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 in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

R E S O L U T I O N

3. This approval is granted for the buildings and uses indicated by 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 45, ages 2 to 5 years.

8. The hours of operation shall be 7:00 A.M. to 6:00 P.M., Monday through Saturday.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 402, June 24, 1980, Scheduled case of

8:15 P.M. TEMPLE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit construction and operation of a church and related facilities, located 7200 Ox Road, Springfield Dist., 87-4((1))pt. 1, R-1, 15.0 acres, S-80-S-043.

Reverend John Bonds of 7750 Clifton Road in Fairfax Station represented the church. He stated that they had been granted a special permit one year ago at which time they had begun the Site Plan process. They had obtained the site plan approval and were seeking approval of the building permit when it was kicked back because the special permit had expired. Reverend Bonds stated that their building permit had been approved but had not been issued because of the technicality. Rev. Bonds stated that they were now requesting whatever was necessary in order to finalize their plans.

In response to questions from the Board, Rev. Bonds stated that the number of parking spaces would be 96. The maximum seating for the sanctuary would be 252 and the building would be constructed of stone, wood and glass. The hours of operation would be those of a normal church operation.

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

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-S-043 by TEMPLE BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit construction and operation of a church and related facilities on property located at 7200 Ox Road, tax map reference 87-4((1))pt. 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 24, 1980; 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 15 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

RESOLUTION

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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, 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 seats in the sanctuary shall be 252 persons.
8. The hours of operation shall be normal hours of church operation.
9. The number of parking spaces shall be 96.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 403, June 24, 1980, Scheduled case of

8:30 PROCTOR HATSELL PRIVATE SCHOOL, INC., appl. under Sect. 8-305 of the Ord. to
P.M. permit child care center per Sect. 8-301, located 5945 N. Kings Highway,
Fairhaven Subd., 83-3((9))(6)12, Mt. Vernon Dist., R-4, 12,525 sq. ft.,
S-80-V-041.

As the applicant was required to file for a variance in connection with the special permit use, the Board deferred the scheduled hearing until July 29, 1980 at 8:30 P.M.

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Page 403, June 24, 1980, After Agenda Items

Reston Recreation Center, S-80-C-046: The Board was in receipt of a memorandum from the Planning Commission regarding the pulling of the special permit application of Reston Recreation Center. Mr. Terry Light, attorney for the applicant, argued before the Board of Zoning Appeals about whether the matter should be deferred to the Planning Commission.

For information regarding the testimony, please refer to the verbatim transcript located in the file in the Clerk's Office.

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Page 403, June 24, 1980, After Agenda Items

Approval of Minutes for June 26, 1979 and July 10, 1979. The Board was in receipt of the BZA Minutes for June 26, 1979 and July 10, 1979. Mr. Barnes moved that the Minutes be approve. My. Hyland seconded the motion and it passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

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Page 403, June 24, 1980, After Agenda Items

Metropolitan Christian Church: The Board was in receipt of a letter from Pastor Bennie Harris requesting the Board to approve some minor engineering changes on the site plan. The site plan 1369 was being modified as follows:

1. Eliminate the planting of evergreen trees in the water retention ditch on the west side of the property, (The County arborist has stated that the trees will not grow there.) and use existing screening (bushes, trees, etc.) along the entire length of the west side.

Page 404, June 24, 1980
 METROPOLITAN CHRISTIAN CHURCH
 (continued)

2. Erect a stockade fence in lieu of planting trees along the southern edge of the property. This has been requested by the owner of the property who originally agreed to use existing foliage as screening. The fence eliminates a maintenance problem for him.

3. Erect a stockade fence along the eastern edge of the property from the southeast corner to the large (5' dia) tree shown on the site plan. This has been agreed to by the owners of the properties in order to insulate their animals (dogs) from the children which play on the church property.

4. Use existing foliage for screening from the large tree (5' dia) along the remainder of the eastern side of the property. This has been agreed to by the owners of the property.

After reading the above changes and reviewing the site plan, Mr. Barnes moved that the Board approve the changes as minor engineering changes. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

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Page 404, June 24, 1980, After Agenda Items

Albert S. Jarratt: The Board was in receipt of a hold harmless agreement forwarded by Mr. Gary Davis, attorney for Mr. and Mrs. Jarratt. Chairman Smith reviewed the document and requested the Clerk to advise Mr. Davis to remove the last paragraph and to spell the Board member's names correctly.

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Page 404, June 24, 1980, After Agenda Items

David Vanover: The Board was in receipt of a letter from Mr. Hudson F. Nagle regarding the home professional office granted to David Vanover. Chairman Smith read the letter and stated that the Zoning Administrator was the only one who had the authority to revoke a special permit.

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Page 404, June 24, 1980, After Agenda Items

The Clerk was asked to confirm the meeting scheduled with the County Attorney on July 1st at 10:00 A.M. on Pet-a-Pet Farm. The Board was advised that both Mr. Stitt and Mr. Yates would be present at the meeting.

// There being no further business, the Board adjourned at 9:30 P.M.

By

Sandra L. Hicks
 Sandra L. Hicks, Clerk to the
 Board of Zoning Appeals

Daniel Smith
 DANIEL SMITH, CHAIRMAN

Submitted to the Board on April 6, 1982

APPROVED: April 13, 1982
 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 1, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Gerald Hyland.

The meeting began at 10:05 A.M. led with a prayer by Mr. Barnes.

Mr. Hyland moved that the Board convene into an Executive Session to discuss legal matters that had come to the attention of the Board. Mr. Barnes seconded the motion and it passed unanimously. At 11:05 A.M., the Board reconvened the meeting and the Chairman called the scheduled 10 o'clock case.

10:00 EUGENE & MARY LUNDGREN, appl. under Sect. 18-401 of the Ord. to allow construction of 6 ft. high brick wall with 7 ft. high pillars within the required front yard (4 ft. max. hgt. for wall in front yard req. by Sect. 10-105) and within the corner triangle of the corner lot (obstructions to lateral vision above 3 1/2 ft. in hgt. & below 10 ft. in hgt. prohibited by Sect. 2-505), located 6368 Lynwood Hill Rd., Lynwood Subd., 31-1((17))46, Dranesville Dist., R-2, 16,122 sq. ft., V-340-79. (DEFERRED FROM FEBRUARY 5, 1980, FEBRUARY 26, 1980 AND APRIL 22, 1980 AT REQUEST OF APPLICANT.)

The Board was in receipt of a letter from Mr. Simmons, agent for the applicants, requesting a withdrawal of the variance. Mr. Barnes moved that the Board allow the withdrawal without prejudice. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 0.

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Page 405, July 1, 1980, Scheduled case of

10:00 L. RANDOLPH WILLIAMS, appl. under Sect. 18-401 of the Ord. to allow construction of a 6 ft. high brick wall with 7 ft. high pillars with the required front yard (4 ft. max. hgt. for wall in front yard req. by Sect. 10-105) and within the corner triangle of a corner lot (obstructions to lateral vision above 3 1/2 ft. in height & below 10 ft. in height prohibited by Sect. 2-505), located 6367 Lynwood Hill Rd., Lynwood Subd., 31-1((17))45, Dranesville Dist., R-2, 17,318 sq. ft., V-341-79. (DEFERRED FROM FEBRUARY 5, 1980, FEBRUARY 26, 1980 AND APRIL 22, 1980 AT REQUEST OF APPLICANT.)

The Board was in receipt of a letter from Mr. Simmons, agent for the applicant, requesting a withdrawal of the variance. Mr. Barnes moved that the Board allow the withdrawal without prejudice. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 0.

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Page 405, July 1, 1980, Scheduled case of

10:20 SIKH FOUNDATION OF VIRGINIA, appl. under Sect. 3-103 of the Ord. to permit operation of a church, located 7301 Ox Rd., 87-4((1))7, Springfield Dist., R-1, 5.0 acres, S-80-S-030. (DEFERRED FROM MAY 20, 1980 FOR CORPORATION PAPERS AND REVISED PLATS.)

Mr. Balwant Multani represented the church. He stated that they were seeking a special permit to operate a church. He informed the Board that the church had sent a letter stating that they were not incorporating; therefore, were seeking the permit in the name of Sikh Foundation of Virginia. The main hours of operation of the church would be from 9 A.M. until 11:30 A.M. on Sundays. Mr. Multani estimated that the church would have 75 to 100 people in the congregation. He stated that the church only had 45 members at the present time but wanted the permit to allow a maximum of 100 members.

In response to questions from the Board, Mr. Multani stated a caretaker would live on the property once the church was built. The caretaker would reside in the basement of the church. The church was proposing to have a one bedroom suite constructed for the caretaker in the basement. The construction would be of brick but the final design of the church was not formalized. Chairman Smith inquired if the church proposed to build all at one time or in phases since the plat submitted indicated future phases of construction. Mr. Multani stated that it was the intent of the church to build all at one time even if it meant delaying construction for several months. Mr. Hyland questioned as to when construction would begin and was informed not for two to three years. Mr. Multani stated that the church did not plan to begin construction for about 2 1/2 years as the plans were not finalized. He stated that once construction began, the church would be completed in six months. Mr. Hyland inquired as to the number of families represented in the maximum of 100 people requested in the application. Mr. Multani stated that it represented 30 to 35 families.

Mr. Gregory Pappas of Popes Head Road informed the Board that he was the seller of the property and represented the adjoining neighbors. He stated that one concern was to the screening. The church had proposed to construct a fence between the adjoining property on the south. Mr. Pappas stated that the neighbors preferred a natural barrier instead and the church was in agreement.

Mr. Pappas stated that with regard to the second point raised at the previous hearing, upon securing a state permit to tie into Rt. 123, the easement across lot 5 would be dropped and there would not be any entrance off of that side of the property. Mr. Pappas stated that there was almost 300 ft. of frontage on the lot.

Mr. DiGiulian stated that with regard to the transitional screening, he felt that the Board needed a plat to show where the plantings would be before any motion could be made on the application.

The next speaker was Arthur Morrison of 10504 Clipper Drive in Fairfax. Mr. Morrison stated that he supported the application. He stated that he preferred pine trees as screening rather than a 6 ft. fence.

There was no one else to speak in support of the application and no one to speak in opposition. Mr. DiGiulian stated that he did not have any problem with the application but wanted to see the screening on the plat before final approval was given. Chairman Smith recessed the hearing until later in the day to allow the applicant to come up with a plan showing the screening. All of the adjoining property owners were present to work with the applicant on the screening.

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Page 406, July 1, 1980, Scheduled case of

10:40 A.M. SIDNEY & JOYCE SCHANTZ, appl. under Sect. 18-401 of the Ord. to allow construction of addition to residence 10 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 6621 Malta Lane, 21-4(1)27A, Dranesville Dist., R-1, 1.044 acres, V-80-D-098.

Mr. Sidney Schantz of 6621 Malta Lane in McLean informed the Board that he was requesting a variance in order to extend his house to the west end of his property. He stated that this would allow him to add a room at that location. The addition could not built on the east side because of the sewer lines and the holding tank. In addition, a pool and a patio were on the south side with electrical wiring running underneath the ground at that side of the property. Mr. Schantz stated that an extension to his home towards the north or to the front would not be feasible because of the layout of the house. He stated that it was not possible to build at a higher level because he was confined to a wheelchair. Mr. Schantz stated that the proposed location was the only area in which he could extend his house.

Mr. Yaremchuk inquired of the applicant if he had topographic problems with the front of the property. Mr. Schantz stated that the problem with the front was that the pipes ran from the well and would complicate construction. Mr. Schantz stated that he needed the addition room to his house. He stated that his wife was pregnant. It was not possible to extend the house where the patio was located because of the pool and electric lines. Construction in that area would mean destroying the patio.

Mr. Yaremchuk inquired if the construction would fit on that side of the house. Mr. Schantz stated that if he constructed a room at that location, it would prohibit him access in case of fire. Mr. Yaremchuk stated that the applicant had a large lot but the addition did not fit the configuration of the building. He stated that the applicant desired the additional room. Mr. Yaremchuk inquired as to the hardship in this application. Chairman Smith stated that the applicant had not established a hardship as far as the Ordinance was concerned. He stated that the applicant did have a large lot. Chairman Smith inquired as to the number of rooms currently in the dwelling. Mr. Schantz responded that his house had eight rooms. In response to further questions from the Board, Mr. Schantz stated his family consisted of his wife and a housekeeper. Mr. Schantz stated that the new room would be used for the baby.

Chairman Smith inquired of Mr. Covington if it was possible for the applicant to build an additional structure on the lot without attaching it to the house. Mr. Covington stated that would be possible but indicated it would still have to meet the minimum side yard restrictions. Mr. Hyland inquired as to why the addition could not be located at the rear of the dwelling and was informed it was because of the electric lines and the sewer lines. Mr. Schantz stated that they needed the extra room.

There was no one else to speak in support of the application and no one to speak in opposition.

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RESOLUTION

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In Application No. V-80-D-098 by SIDNEY & JOYCE SCHANTZ under Section 18-401 of the Zoning Ordinance to allow construction of addition to residence 10 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107), on property located at 6621 Malta Lane, tax map reference 21-4((1))27A, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 1, 1980; 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 1.044 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals had reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

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 lane.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 407, July 1, 1980, Scheduled case of

10:50 ROBERT LOWE & CHERYL BAKER, appl. under Sect. 18-401 of the Ord.
A.M. to allow the creation of a lot (2B) with 15 ft. of lot width (100 ft. min. lot width req. by Sect. 3-206), located 7058 Idylwood Road, Ashleigh Subd., 40-1((1))9, Dranesville Dist., R-2, 21,500 sq. ft., V-80-D-099.

Ms. Patti Tilson of 7266 Church Street, N.W., Washington, was agent for the applicant. She stated that there was an unusual physical condition of the property which created a hardship. The applicant was requesting a reduction for lot 2B to allow 15 ft. frontage for a pipestem driveway. Ms. Tilson informed the Board that Colonel Lowe was the record owner of the property and Mrs. Baker was the contract purchaser.

In response to questions from the Board, Ms. Tilson stated that Mrs. Baker had purchased the property in January. Chairman Smith inquired if Mrs. Baker was a stockholder in the T. M. Baker Company and was informed by Ms. Tilson that Mrs. Baker purchased the land in her name and not in the name of the corporation.

Ms. Tilson explained the hardship to the Board. She stated that a variance was necessary because lot 2A was non-conforming and lot 2-B would not meet the lot width requirement of 100 ft. for the R-2 district. If a cul-de-sac was proposed to provide access to Idylwood Road and to provide access to lot 2-B, it would require demolition of Colonel Lowe's home on lot 2-A. Ms. Tilson explained that the cul-de-sac was not necessary for the orderly development of the property. Ms. Tilson stated that the proposed pipestem driveway would have frontage of 15 ft. She stated that denial of the variance would serve as a hardship to Colonel Lowe. She stated that there was no stacking of homes proposed. At the present time, there were two homes on one lot which had been created a long time ago. The applicants were proposing to create two lots.

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-80-D-099 by ROBERT LOWE & CHERYL BAKER under Section 18-401 of the Zoning Ordinance to allow the creation of a lot (2-8) with 15 ft. of lot width (100 ft. minimum lot width required by Sect. 3-206) on property located at 7058 Idylwood Road, tax map reference 40-1((1))9, 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 1, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 21,500 sq. ft.
4. That the applicant's property has an unusual physical condition due to the development of 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 approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 408, July 1, 1980, Scheduled case of:

11:00 A.M. VERNE V. WATTANA, appl. under Sect. 18-401 of the Ord. to allow enclosure of an existing carport within 7.2 ft. of side lot line (8 ft. min. side yard req. by Sect. 3-307), located 4321 Stream Bed Way, Stoneybrooke Subd., Lee Dist., 92-1((10))8020, R-3(C), 8,814 sq. ft., V-80-L-100.

As the required notices were not in order, the Board deferred the hearing until July 22, 1980 at 1:40 P.M.

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Page 408, July 1, 1980, Scheduled case of:

11:10 A.M. BERRY ASSOCIATES, A VIRGINIA GENERAL PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow resubd. into three (3) lots, two (2) of which have a width of 6 ft. (100 ft. min. lot width req. by Sect. 3-206), located 9727 Maury Rd., Vertain Park Subd., 69-3((2))8, outlot A, Annandale Dist., R-2, 1.5117 acres, V-80-A-102.

As the required notices were not in order, the Board deferred the application until July 22, 1980 at 1:50 P.M.

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Page 408, July 1, 1980, Recessed case of

SIKH FOUNDATION OF VIRGINIA: The Board was in receipt of revised plats in accordance. Following review of the plats, the Chairman closed the public hearing.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-S-030 by SIKH FOUNDATION under Section 3-103 of the Fairfax County Zoning Ordinance to permit operation of a church on property located at 7301 Ox Road, tax map reference 87-4((1))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 1, 1980; 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 5.0 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 8-806 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
- 2. This special permit shall expire three years from this date unless renewed by action of this Board prior to any expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
- 5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The number of memberships shall be 100.
- 7. The hours of operation shall be the hours of normal church activities.
- 8. The number of parking spaces shall be 30.
- 9. Ingress and egress shall be from Rt. 123 only.
- 10. Screening shall be provided in accordance with the plat submitted by the applicant.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 409, July 1, 1980, Scheduled case of

11:30 A.M. ~~BUCKE~~ COMMUNITY CHURCH, appl. under Sect. 3-103 of the Ord. to permit construction of a church and related facilities, located 6228-6232 Belleair Rd., Belleair Subd., 77-4((2))9 & 10, Springfield Dist., R-1, 4.5 acres, S-80-S-044.

Mr. Thomas S. Wickert of 5817 Wessex Lane in Alexandria represented the church. Mr. Michael Lemay, architect, was also present. Mr. Lemay informed the Board that the church had met numerous times with the neighbors in the area. From those discussions, the church had revised the site plan to increase the land area in the parking lot and to modify the lower level entrance to the church.

Mr. Wickert stated that the congregation was made up of families from the Fairfax and Springfield areas. The church had approximately 120 families in its congregation. They had been meeting in the Burke Elementary School and the Lake Braddock School. Mr. Wickert stated that in 1976, the church had formed a committee to locate site on which to build its church. He stated that they had made a thorough search and chose this site which they presently own. On July 5, 1978, the church was granted a special permit to develop the site. However, the church had to reevaluate and redesign their program.

Mr. Wickert stated that the church would be within walking distance from Burke Centre. The property was comprised of lots 9 & 10 of the Bellaire Subdivision. Lot 9 was cleared and lot 10 was completely wooded. Houses to the north and south would be completely screened from the church development. The property was 283 ft. wide by 648 ft. deep. There was a modular grade at the crest or center of the property. Mr. Wickert stated that the church proposed to have 100 parking spaces with 5 spaces for handicapped persons. The property would be used as a church and related uses. Construction would be of brick and block with pitch and flat roofs. There would be a small number of employees at the church on a daily basis.

Mr. Hyland inquired if the church had resolved all of the problems with the neighbors and was informed that no one had shown at the last meeting. Mr. Hyland stated that he was confused over the parking requirement. The church had indicated that it would have 100 parking spaces but the staff report indicated there would be 128 parking spaces. Mr. Wickert explained that the 100 spaces were the result of meetings with the neighbors. He stated that they had reduced the parking spaces but they would still meet the County's requirement for parking.

Mr. Fred Aaron of 7757 Carleigh Parkway in Springfield stated that the church was going to construct 94 parking spaces. He stated that they had increased it to 128 parking spaces and that number was submitted with the application. At that point in time, the church had a 5 to 6 ft. strip between the pavement and the property line on the north side. The neighbors wanted a 25 ft. strip. In the special permit granted in 1978, the church had a 20 ft. strip. Mr. Aaron stated that the church wanted to keep the 20 ft. so as not to reduce the parking any further. He stated that they planned to put more greenery within the parking area as desired by the neighbors. Mr. Aaron stated that in general, the church agreed with the neighbors. One neighbor still wanted a 25 ft. strip but the church had agreed to meet with him and work out a landscaping program between the property lines. He stated that he did not think there was any disagreement. They had talked about having an evergreen barrier between the two properties. The church would keep all the trees that they could.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mrs. Mary Simpson of 6624 Belleair Road stated that she did not wish to oppose the church but there were a few things she wanted to discuss. Every homeowner in Belleair had been opposed to development of the church. The area was to be developed with one house per two acres. She stated that they opposed the church two years ago but the zoning had been changed to allow special permits. She stated that later the zoning had changed back but not before the church had applied for its original special permit. No other special permit were allowed for this particular area. Mrs. Simpson stated that if they must have a church, she wanted it screened to the maximum. Mrs. Simpson stated that on June 25, she had met with Mr. Lemay and Mr. Aaron at Supervisor Travesky's Office. The agreement as far as the north property line had been to have a 25 ft. conservation buffer. She stated that she did not want anything removed for the full length of the property with the exception of the parking lot which was 20 ft. She requested some additional screening to be provided in the 20 ft. strip to screen her property from the church parking lot. Mrs. Simpson stated that she wanted it made very clear that she wanted that 20 ft. buffer to remain no matter what type of building the church constructed or how large it became. Mrs. Simpson stated that she was only speaking about the north side. The people to the south did not concur and wanted the full 25 ft. strip along the entire property line.

Mr. Hyland inquired if Mrs. Simpson had seen the revised plats and she stated she had. Mrs. Simpson stated that she did not have any objection to the plan on her side of the property line.

During rebuttal, Mr. Lemay stated that he had met with the neighbors. He stated that it was the desire of the church to bring in the County Arborist to advise them as to the screening and to help them retain as many trees as possible and to supplement it with evergreen plantings on the south property line. The desire of the church was to go beyond the normal screening requirements with a little more landscaping and evergreen plantings. In doing so, it was their hope that it would reduce the wall requirement in the County as far as transitional screening.

RESOLUTION

411
411

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-S-044 by BURKE COMMUNITY CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit construction of a church and related facilities on property located at 6228-6232 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 1, 1980; 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 4.5 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 in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the 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 of the church shall be 350.
8. The hours of operation shall be normal hours of 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.
11. A minimum of 25 ft. screening shall be provided on the southern boundary line.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 411, July 1, 1980, Recess

At 12:35 P.M., the Board recessed for lunch. The meeting reconvened at 1:20 P.M. and the Board continued with the scheduled agenda.

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Page 412, July 1, 1980, Scheduled case of

11:45 JMH, INC., T/A SLENDER LADY FIGURE SALON, appl. under Sect.
A.M. 4-603 of the Ord. to permit health club within shopping center, located 6218
Little River Turnpike, Mason Dist., 72-4((1))3, C-6, 25.1582 acres, S-80-M-045.

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As the required notices were not in order, the Board deferred the application until July 22, 1980 at 2:00 P.M.

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Page 412, July 1, 1980, Scheduled case of

12:00 RESTON RECREATION CENTER ASSOCIATES, A VA. LIMITED PARTNERSHIP,
NOON appl. under Sect. 5-503 of the Ord. to permit commercial tennis & similar
courts & roller skating facility, located 1800 Michael Farraday Ct., Reston
Subd., 18-3(5)9, Centreville Dist., I-5, 4.7595 acres, S-80-C-046.

Mr. Terry Light, an attorney in Fairfax, represented the applicant. For information regarding the hearing, please refer to the verbatim transcript located on file in the Clerk's Office.

The matter was deferred until July 22, 1980 at 2:15 P.M. to allow the Planning Commission to forward its recommendations to the Board.

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Page 412, July 1, 1980, Scheduled case of

12:15 DONNA ZIMMER, appl. under Sect. 18-401 of the Ord. to allow
P.M. dwelling to remain 26.3 ft. from street line (30 ft. min. front yard req. by
Sect. 3-E07), located 200 Lomond Ct., The Glade Subd., 27-3(5)6, Centreville
Dist., R-E(C), 43,560 sq. ft., V-80-C-070. (DEFERRED FROM JUNE 3, 1980 FOR
NOTICES.)

Ms. Kathleen McCracken of 2659 Quincy Adams Drive informed the Board that she represented Mr. John Tipton, sales manager for Kory-Tipton Homes, who was the agent for Ms. Zimmer. Ms. McCracken informed the Board that the error in the setback was not discovered until after the contract to purchase the property had been agreed upon. Chairman Smith inquired as to how the error had been overlooked. Ms. McCracken replied that at the time of the survey was when the error was discovered. However, Ms. Zimmer had decided to proceed with the settlement. Ms. Zimmer had been aware that the dwelling did not meet the setback requirement on the one corner but it was agreed that Kory-Tipton Homes would act as her agent in requesting a variance.

There was no one to speak in support of the application and no one to speak in opposition.

Page 412, July 1, 1980
DONNA ZIMMER

Board of Zoning Appeals

RESOLUTION

WHEREAS, Application No. V-80-C-070 by DONNA ZIMMER under Section 18-406 of the Fairfax County Zoning Ordinance to allow dwelling to remain 26.3 ft. from street line (30 ft. minimum front yard required by Sect. 3-E07), on property located at 200 Lomond Court, tax map reference 27-3(5)6, 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 July 1, 1980; 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 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.

R E S O L U T I O N

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Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 413, July 1, 1980, Scheduled case of

12:30 P.M. MICHAEL NADANYI, appl. under Sect. 18-401 of the Ord. to allow three (3) lots with width of 10 ft. (150 ft. min. lot width req. by Sect. 3-106), located West Ox Road, 35-4(1)14, Centreville Dist., R-1, 15.0 acres, V-80-C-095. (DEFERRED FROM JUNE 17, 1980 FOR PLATS SHOWING TOTAL DEVELOPMENT OF THE 15 ACRES.)

Mr. Charles Runyon, an engineer in Falls Church, represented the applicant. He informed the Board that two plats showing the total development had been provided to the Board. Chairman Smith inquired if the lots were being developed on septic and whether water was available. Mr. Runyon responded that the water would be extended down Southfield Drive. Mr. Runyon stated that the lots were being developed on septic. Mr. Runyon stated that he would put in the deed that lots 11-A, B & C would be designated for public street purposes. The pipestem lots 11, 12 & 13 would be designated as parcels 11-A, 12-A and 13A and there would be a provision in the deed that they would be dedicated for public street purposes at the time the entire area was subdivided. Mr. Runyon stated that it was not possible to dedicate at this time as they did not know the final outcome of Westward Hills Drive. He explained that the variances he was requesting was just a simple way of getting the development started to carry the property for the next few years.

Mr. Steve Reynolds reaffirmed the position of Subdivision Control in that they would require the dedication of Southfield Drive through lot 11. The Capital Improvement Plan did not anticipate sewer and the Subdivision Control Office could not tell the applicant when it would be available in order to develop the property. Mr. Reynolds stated that there was no hardship in this application other than a financial one. He stated that there was no hardship for not building the road. He stated that his office was supporting the extension of Southfield Drive. Mr. Reynolds stated that the expansion of Southfield Drive was questionable which was why Subdivision Control was taking its firm position.

There was no one else to speak in support of the application and no one to speak in opposition.

Mr. DiGiulian moved that the application be deferred until July 30, 1980 at 12:15 P.M.

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Page 413, July 1, 1980, After Agenda Items

BURKE CENTRE DAY SCHOOL: The Board was in receipt of a request from the Burke Centre Day School for an out-of-turn hearing prior to the Board's August recess. Mr. Hyland moved that the Board grant the request and it was seconded by Mr. Barnes. The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent). The hearing was scheduled for July 30, 1980 at 11:30 A.M.

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Page 413, July 1, 1980, After Agenda Items

AMOCO OIL COMPANY, V-288-78 (Coles Furniture of Arlington, Inc.): The Board was in receipt of a letter from Mr. Robert A. Lawrence, agent for the applicant, requesting a further extension of the variance granted to Amoco Oil Company. Mr. Hyland moved that the extension be granted for a period of six months. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

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Page 413, July 1, 1980, After Agenda Items

BRUCE HOUSTON, V-337-79: The Board was in receipt of a plat submitted for site plan approval which contained some revisions from the original plat which was approved by the Board on January 22, 1980. It was the consensus of the Board that these revisions were not a minor engineering change and would require a new public hearing process. The Clerk was asked to so inform the applicant and to forward a variance application for the applicant's convenience.

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There being no further business, the Board adjourned at 2:50 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 *April 20, 1982*

APPROVED: *April 27, 1982*
Date



415

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 15, 1980. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes and John Yaremchuk. (Mr. Gerald Hyland was absent on military leave.)

The Chairman opened the meeting at 10:15 A.M. and Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case of

10:00 GEORGE J. & ANNE G. DECKER, appl. under Sect. 18-401 of the Ord.
A.M. to allow the construction of a garage to 5 ft. from the side property line (12 ft. min. side yard req. by Sect. 3-307), located 4413 San Marcos Ct., 57-3((7))390, Fairfax Villa Subd., Annandale Dist., R-3, 13,825 sq. ft., V-80-A-103.

Mr. George Decker of 4413 San Marcos Court in Fairfax informed the Board that his property had converging lot lines and a very narrow lot that would not allow the required 12 ft. side yard to be met. Mr. Decker stated that there were a number of cars that parked in the cul-de-sac in front of his house. He stated that he wished to get his cars off of the street.

Chairman Smith stated that the applicant was requesting a 22 ft. garage when the normal two car garage was only 20 ft. in width. Mr. Decker informed the Board that the existing pad was 20 ft. wide and he needed to put the footings on the outside of that. He stated that he did not wish to break up the concrete in order to put in the footings. Mr. Decker stated that his neighbors did not object to his plans. In fact, there was a letter of support in the file from one of his neighbors.

Page 415, July 15, 1980
GEORGE J. & ANNE G. DECKER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-A-103 by GEORGE J. & ANNE G. DECKER under Section 18-401 of the Zoning Ordinance to allow the construction of a garage to 5 ft. from the side property line (12 ft. minimum side yard required by Sect. 3-307), on property located at 4413 San Marcos Court, tax map reference 57-3((7))390, 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, 1980; 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 13,825 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging lot lines.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 416, July 15, 1980, Scheduled case of

10:10 WILLIAM G. & JOANNA E. HARRIS, appl. under Sect. 18-401 of the
A.M. Ord. to allow construction of addition to residence to 8.4 ft. from side lot
line (12 ft. min. side yard req. by Sect. 3-307), located 1727 Melbourne Dr.,
Hillside Manor Subd., 30-4((20))38, Dranesville Dist., R-3, 17,047 sq. ft.,
V-80-D-105.

Mr. William G. Harris of 1727 Melbourne Drive in McLean informed the Board that the side yard of his property was very narrow. The front setback was already at the 30 ft. restriction line. The back side had a steep fall out which ran into a drainage ditch to Pimmit Run. Mr. Harris stated that the best location for the proposed addition was on the north side of his home. He stated that he was requesting a variance in order to build the addition to his home. As far as he knew, no one objected to his variance request.

There was no one to speak in support of the application and no one to speak in opposition.

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Board of Zoning Appeals

WILLIAM G. & JOANNA E. HARRIS

R E S O L U T I O N

In Application No. V-80-D-105 by WILLIAM G. & JOANNA E. HARRIS under Section 18-401 of the Zoning Ordinance to allow construction of addition to residence to 8.4 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1727 Melbourne Drive, tax map reference 30-4((20))38, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 15, 1980; 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 17,047 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and the lot is narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 417, July 1, 1980, Scheduled case of

10:20 LaMARR G. & JANETTE BEUCLER, appl. under Sect. 18-401 of the
A.M. Ord. to allow construction of porch addition to dwelling to 14.6 ft. from rear
lot line (25 ft. min. rear yard req. by Sect. 3-307), located 9121 Home Guard
Dr., Signal Hill Subd., 78-2((16))445A, Annandale Dist., R-3(C), 8,712 sq. ft.,
V-80-A-106.

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Mr. LaMarr Beuchler of 9121 Home Guard Drive in Burke informed the Board that he was requesting a variance in order to construct a porch on the rear of his home which would extend 10.4 ft. into the required 25 ft. rear yard setback. He stated that the rear yard was currently 25 ft. The dimensions of the porch were 11x19 ft. Mr. Beuchler stated that there was not any room on the side of the home in which to build this porch. Mr. Beuchler stated that his rear yard backed up to a floodplain which would not be developed. In response to questions from the Board, Mr. Beuchler stated that the addition would be a screened-in porch.

There was no one to speak in support of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-80-A-106 by LAMARR G. & JANETTE BEUCHLER under Section 18-401 of the Zoning Ordinance to allow construction of porch addition to dwelling to 14.6 ft. from rear lot line (25 ft. rear yard required by Sect. 3-307), on property located at 9121 Home Guard Drive, tax map reference 78-2((16))445A, 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 15, 1980; 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 8,712 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including shallow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable user of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

10:30 A.M. ALBERT H. HUNTINGTON, III, appl. under Sect. 18-406 of the Ord. to allow a shed to remain 20.6 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-107 & 10-105), located 1113 Challedon Rd., Lexington Estates Subd., 12-4((7))69, Dranesville Dist., R-1(C), 37,191 sq. ft., V-80-D-107.

Mr. Albert Huntington of 1113 Challedon Road in Great Falls presented some additional photographs to the Board to demonstrate why he could not locate his shed elsewhere on his property. He stated that he the requirement was 30 ft. for the front yard. Mr. Huntington stated that if he had come to the Board first before constructing the shed, he felt the Board would have granted him a variance anyway because he had a corner lot with two front yard restrictions. Mr. Huntington stated that his shed met the side yard requirements. Mr. Huntington presented his photos to the Board which demonstrated the sloping yard behind his house. He stated that it would be difficult to construct a shed in that area because of the trees. Mr. Huntington stated that the by-laws of his

Page 418, July 15, 1980
ALBERT H. HUNTINGTON, III
(continued)

community restricted him from cutting down any trees without prior approval. In addition, there were utility lines running through the area and a septic tank in that part of the yard.

Mr. Huntington stated that there was a ridge running through parcel 5. As he had the shed located at the present time, it was the most level area of his lot. He stated that he had planted shrubs around the shed and they were approved by his community. Mr. Huntington stated that he had visited 17 of his neighbors with respect to the shed. Two homes were unoccupied, two families were on vacation, and 13 neighbors had signed a petition in support of his application. Mr. Huntington stated that he believed he had the support of his community. Mr. Huntington stated that to move the shed would pose a hardship on him.

Chairman Smith inquired if Mr. Huntington had been issued a violation notice on the shed. Mr. Huntington responded that he had been in contact with Doug Leigh of the Zoning Enforcement Section. In response to further questions from the Board, Mr. Huntington stated that he intended to use the shed as a workshop. It was presently being used for storage. He stated that he had put in a window on the south side and wood siding. The shingles were the same as on his house. Mr. Huntington stated that the plans of his shed had been reviewed by Mr. Mills in Plan Review of the County.

The neighbor to the rear did not object to the location of the shed. In fact, Mr. Huntington stated that if he moved the shed, it would bring it closer to the neighbor's home. At the present time, the shed was situated among the trees. Mr. Huntington stated that he had a garden in front of his shed and kept his tools in the shed. Mr. Huntington stated that he had not intended to deceive the Board or to circumvent the Code. He stated that he had never had any trouble until this incident.

Ms. Susie Lubarsky of 1114 Challedon Road in Great Falls spoke in support of the variance. She stated that she lived across the street from Mr. Huntington. She stated that she could see the shed from her deck and it was not objectionable because Mr. Huntington had put in some screening around it.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 418, July 1, 1980
ALBERT H. HUNTINGTON, III

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-80-D-107 by ALBERT H. HUNTINGTON, III, under Section 18-406 of the Fairfax County Zoning Ordinance to allow a shed to remain 20.6 ft. front lot line (30 ft. min. front yard required by Sect. 3-107 & 10-105), on property located at 1113 Challedon Road, tax map reference 12-4((7))69, County of 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 July 15, 1980; 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 conclusion of law:

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitation:

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 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

10:40 A.M. WALTER E. MARDIS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to house to 4.5 ft. and balcony to 1.5 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 6124 Edgewood Terrace, Belle Haven Subd., 83-3((14))38, Mt. Vernon Dist., R-4, 9,577 sq. ft., V-80-V-108.

Mrs. Cynthia Mardis of 6124 Edgewood Terrace in Belle Haven informed the Board that she was requesting a variance to add an addition to their kitchen which was too small for their family. She stated that there was no other place to put the addition onto the kitchen. The kitchen was located on the front of the house. There was a fence at the right side of the house. Mrs. Mardis stated that they had assumed the fence was on their property but instead it was located 5 ft. onto the neighbor's property. Therefore, they had not known that a variance would be necessary. Mrs. Mardis stated that they had spoken with the neighbors and they were all in favor of the addition. Mr. Connelly next door was in support of the variance if they reduced it by 1 ft. and put in a stockade fence which they had agreed to do. Everyone else had told them that the addition was a great idea. Mrs. Mardis stated that the addition would fit in and would blend with the house. There would still be 20 ft. between the two houses. Mrs. Mardis stated that the addition would be on a hill and it was wooded. Therefore, the addition would not put on top of someone.

In response to questions from the Board, Mrs. Mardis stated that her lot was a substandard lot. The location of the existing house precluded building the addition anywhere else on the lot. The house had been constructed in 1942 or 1943. There was an addition of 5 ft. which was constructed in 1970. The proposed addition would 4 ft. more.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 419, July 15 1980
WALTER E. MARDIS

Board of Zoning Appeals

R E S O L U T I O N

In Application No.V-80-V-108 by WALTER E. MARDIS under Section 18-401 of the Zoning Ordinance to allow construction of addition to house to 4.5 ft. and balcony to 1.5 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407), on property located at 6124 Edgewood Terrace, tax map reference 83-3((14))38, 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 15, 1980; 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 9,577 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 420, July 15, 1980, Scheduled case of

10:50 PIERRE L. SALES, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of additions to residence to 12.5 ft. from rear lot line (25 ft.
min. rear yard req. by Sect. 3-107), located 6349 Linway Terrace, 31-3((1))37,
Dranesville Dist., R-1, 19,086 sq. ft., V-80-D-109.

Mr. Robert Lawrence, an attorney in Fairfax, represented the applicant. He stated that this was a variance request because of the hardship of the topography of the property as well as the location of the existing house on the lot. The variance was necessary in order to build an addition onto the house. There was an outbuilding already located on the lot. It would be attached to the addition and would become a part of the addition under the County Code requirements. The addition would then be considered to be in the setback area. Mr. Lawrence showed the Board a sketch of the plan. The house was located close to the property line on the westerly boundary. The lot was irregularly shaped. The property backed up to Old Dominion Drive which was much higher than Mr. Sales' property. Mr. Lawrence stated that the people across Old Dominion would not be able to see this property. The property to the east was 100 ft. away. The house to the west would not be able to see the additions either. Across the street was a vacant lot. Mr. Lawrence stated that there would not be any impact on the surrounding properties.

In response to questions from the Board, Mr. Lawrence stated that the variance was being requested only because the shed would be attached to the new addition. A small corner of the extended into the setback area. Chairman Smith stated that the existing shed was non-conforming. Mr. Covington stated that once the shed was attached to the addition, it became part of the structure and had to meet the setback requirement. Chairman Smith stated that he disagreed with that interpretation.

During rebuttal, Mr. Lawrence stated that he did not argue with the interpretation because a portion of the new building would also be in the setback area. Mr. Lawrence stated that the outbuildings limited where the new addition could go. He stated that it would be an unnecessary hardship on the applicant to deprive him of the variance. The buildings were already existing. There was no real encroachment on the rear yard. Mr. Lawrence stated that the addition would allow Mr. Sales to better utilize his property. Mr. Lawrence stated that the sketch shown to the Board was not the finalized yet. Chairman Smith stated that the Board was only concerned with that portion that was in the setback area.

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-80-D-109 by DELIA CERIA & PIERRE L. SALES under Section 18-401 of the Zoning Ordinance to allow construction of addition to residence 12.5 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-107) on property located at 6349 Linway Terrace, tax map reference 31-3((1))37, 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 15, 1980; 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 19,086 sq. ft.
4. That the applicant's property has an exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Yaremchuk) (Mr. Hyland being absent).

Page 421, July 15, 1980, Scheduled case of

11:00 MEADOW ASSOCIATES T/A REGENCY RACQUET CLUB, appl. under Sect. 18-401 of the Ord. to allow a 10 ft. high fence and a variable height bubble enclosure over tennis courts to 1 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-3007), located 1800 Old Meadow Rd., Regency at McLean Subd., 39-2((13))C, Dranesville Dist., R-30, 6.6617 acres, S-80-D-

&
11:00 MEADOW ASSOCIATES T/A REGENCY RACQUET CLUB, appl. under Sect. 3-3003 of the Ord. to amend Special Permit S-80-D-014 to permit construction of 5 additional tennis courts with perimeter fence and bubble enclosure, located 1800 Old Meadow Rd., Regency at McLean Subd., 39-2((13))C, Dranesville Dist., R-30, 6.6617 acres, S-80-D-048.

Ms. Minerva Andrews, an attorney in Fairfax, represented the applicant. Mr. Steinman, one of the partners, and Mr. Wilbur, manager, were present also. Ms. Andrews stated that they were before the Board in the spring for a special permit to construct the commercial recreational uses. Now they were before the Board to ask for five additional tennis courts. Ms. Andrews showed the Board a viewgraph of the property. An area had been planned for tennis courts but the club did not feel the need for them at first. Instead, six tennis courts were constructed on the roof of the building. However, they had not worked out because the roof material was not satisfactory. Therefore, the club was requesting permission to build five additional tennis courts with a bubble over the courts to be used during inclement weather. The bubble would be the inflatable type or a steel mounted canvas construction. Whatever they club built would be decided by the building code. The hours of operation for the tennis would be from 6 A.M. until midnight. The number of employees would not exceed 20 at any one time. The number of people on the courts at any one time would not exceed 90. The maximum use would not exceed 235 people. There would not be any adverse impact on the traffic as there would be no major increase in the use.

In response to whether the courts on the roof would be discontinued, Ms. Andrews stated that they were not being used at the present time. She stated that they would like to be able to use them at a later date. Mr. Steinman explained the problems of the courts to the Board. He stated that moisture from the roof had caused bubbles and the courts had to be torn up. A modular surface was built as the roof was not level enough. Mr. Steinman stated that at the present time, there were not any courts on the roof. He stated that they would leave the top as a roof or use it as a jogging track.

Mr. Robert Mats of 1800 Old Meadow Road spoke in support of the application. He represented the McLean Condominium Association of the Regency. He stated that they favored this application because they did not see any adverse impact and it would make the club more enjoyable.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 423, July 15, 1980

Board of Zoning Appeals

MEADOW ASSOCIATES T/A REGENCY RACQUET CLUB
R E S O L U T I O N

In Application No. V-80-D-104 by MEADOW ASSOCIATES T/a REGENCY RACQUET CLUB under Section 18-401 of the Zoning Ordinance to allow a 10 ft. high fence and a variable height bubble enclosure over tennis courts to 1 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-3007) on property located at 1800 Old Meadow Road, tax map reference 39-2((13))C, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 15, 1980; 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-30.
3. The area of the lot is 6.6617 acres.
4. That the applicant's property has an unusual condition in the location of a drainage ditch adjacent to the property 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-D-048 by MEADOW ASSOCIATES T/A REGENCY RACQUET CLUB under Section 3-3003 of the Fairfax County Zoning Ordinance to amend Special Permit S-80-D-014 to permit construction of five additional tennis courts with perimeter fence and bubble enclosure on property located at 1800 Old Meadow Road, tax map reference 39-2((13))C, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing by the Board of Zoning Appeals held on July 15, 1980; 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-30.
3. That the area of the lot is 6.6617 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 indicated compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

R E S O L U T I O N

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3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. All previous limitations set forth in S-80-D-014 not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 423, July 15, 1980, Scheduled case of

11:15 FRANCONIA GRAVEL CORPORATION, appl. under Sect. 7-305 & 8-101 of the Ord. to permit sand and gravel extraction, located 8246 Silverbrook Dr., 107-2((1))32, Mt. Vernon Dist., R-1(N.R.), 25.4 acres, S-80-V-047.

Mr. Royce Spence represented the applicant. Chairman Smith questioned why the application was submitted prior to approval of the site as a natural resource district. Mr. Spence asked that the Board defer the special permit application for a period of 120 days. Chairman Smith stated that the Board must hear applications within 60 days. Mr. Spence stated that he would waive that right. Chairman Smith stated that if the natural resource district rezoning was denied, there was a legal question as to whether the special permit application was properly before the Board. Chairman Smith stated that this was not a proper application. Mr. Spence stated that his client had spent \$950 on filing fees and even more on the preparation of the plats.

Chairman Smith stated that a deferral of 60 days was the maximum the Board could allow. Mr. DiGiulian stated that it appeared that the applicant had filed a special permit in anticipation of an action before the Board of Supervisors. They were trying to cut down on the time it took to get something through the County process. Mr. DiGiulian stated that a deferral of 120 days seemed reasonable to him.

Mr. DiGiulian moved that the Board grant the request for a deferral of 120 days. Mr. Barnes seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

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Page 423, July 15, 1980, After Agenda Items

LAKEVIEW SWIM CLUB: The Board was in receipt of a letter from Mr. Birtrun S. Kidwell, Jr., President of the Lakeview Swim Club, requesting the Board to allow an amendment to the special permit to expand the deck around the pool. Attached to the letter was support of the Fairfax County Park Authority who was the contiguous property owner.

Mr. Covington informed the Board that there was no visual impact to anyone. It would be a small deck around the pool. The deck would be extended 12 ft. and would be 30 ft. from the property line. The owner next door was the Park Authority.

Mr. Barnes moved that the request be approved as a minor engineering change. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

(See reconsideration request later in meeting).

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Page 423, July 15, 1980, After Agenda Items

PAUL & ADENE ROSE, V-298-78: The Board was in receipt of a letter from Mr. & Mrs. Rose requesting a second extension to the variance granted on January 17, 1979. One extension previously was granted for a six month period. The subdivision was in bonding at the present time.

Page 424, July 15, 1980
PAUL & ADENE ROSE
(continued)

Mr. Barnes moved that the extension be granted for a period of six months. Mr. DiGiulian seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

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Page 424, July 15, 1980, After Agenda Items

VIRGINIA HILLS BAPTIST CHURCH, S-132-79: The Board was in receipt of a letter from I. J. Crickenberger, attorney for the church, requesting a six month extension of the special permit.

Mr. Barnes moved that the Board grant a six month extension. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Mr. Hyland being absent).

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Page 424, July 15, 1980, After Agenda Item

R. J. NIERMEYER: The Board was in receipt of a letter from Mr. R. J. Niermeyer requesting it to withdraw his variance request as he was no longer the owner of the property. The notices had not been in order for the original hearing and the Board had rescheduled the hearing for September 16, 1980 at 10:00 A.M. for notices.

Mr. Barnes moved that the Board allow the withdrawal of the variance application without prejudice. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Mr. Hyland being absent).

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Page 424, July 15, 1980, After Agenda Items

CONGRESSIONAL SCHOOL: The Board was in receipt of a letter from Mr. Royce Spence requesting permission to construct an open-sided shed to be attached to the existing trailer as a minor engineering change. The trailer was used for storage and not for classroom space. It was the consensus of the Board to grant the request as a minor engineering change.

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Page 424, July 15, 1980, After Agenda Items

RECONSIDERATION OF THE BOARD'S MOTION ON THE LAKEVIEW SWIM CLUB: The Board received a memorandum from Carl R. Kelemen, Landscape Architect of the Park Authority, regarding the request of Lakeview Swim Club to extend its deck around the pool. In as much as no one from the club or the Park Authority was present to discuss the matter with the Board, Mr. DiGiulian moved that the Board reconsider its motion and reopen the discussion on the matter. He asked that the Clerk contact members of the Park Authority and the swim club to explain the details regarding the request to the Board at its meeting of July 30, 1980 at 12:30 P.M. Mr. Yaremchuk seconded the motion and it was passed unanimously.

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Page 424, July 15, 1980, After Agenda Items

RESTON RECREATION CENTER: The Board was in receipt of a memorandum from the Planning Commission rescinding its motion to hold a public hearing on the special permit application of Reston Recreation Center. The attorney for the applicant requested the Board to render a decision in the matter immediately.

Chairman Smith inquired of the applicant's attorney, Mr. Light, whether or not the other special permit would be utilized if this use was granted. Mr. Light stated that they would not use the other special permit if this use was granted.

Page 424, July 15, 1980
RESTON RECREATION CENTER

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-C-046 by RESTON RECREATION CENTER under Section 5-503 of the Fairfax County Zoning Ordinance to permit commercial tennis & similar courts and roller skating facility on property located at 1800 Michael Farraday Court, tax map reference 18-3((5))9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

RESOLUTION

420

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WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 1, 1980 and decision on July 15, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. That the present zoning is I-5.
3. That the area of the lot is 4.795 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in I Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of patrons at any one time shall be 313.
8. The hours of operation shall be 24 hours a day.
9. The number of parking spaces shall be 147.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Yaremchuk)(Mr. Hyland being absent).

// There being no further business, the Board adjourned at 12:00 Noon.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on April 20, 1982

APPROVED: April 27, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 22, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk (arriving at 11:15 A.M.); and Gerald Hyland.

The Chairman opened the meeting at 10:45 A.M. and Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case of

10:00 RECONSIDERATION OF LADAN KIAN-POUR, appl. under Sect. 3-303 of the Ord. to
A.M. determine whether adequate access for pickup and delivery of the students for a school of special education (classical ballet-symnastic) can be provided on the site, located 8502 Little River Turnpike, Varsity Park Subd., 59-3((16))19, Providence Dist., R-3, 14,438 sq. ft., S-80-P-037. (Originally granted on June 3, 1980).

The Board was in receipt of a letter from the applicant seeking a withdrawal of the reconsideration request. Mr. Hyland moved that the Board rescind its granting of the special permit S-80-P-037 of June 3, 1980 on the basis that the applicant failed to meet the requirements of the Ordinance as far as the Site Plan. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

With regard to the applicant's request for withdrawal, Mr. DiGiulian moved that the Board allow the withdrawal with prejudice. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

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Page 426, July 22, 1980, Scheduled case of

10:30 JOHN W. LANE, JR., & JACQUELINE LANE, appl. under Sect. 18-401 of the Ord. to
A.M. allow subdivision into 14 lots with proposed lot 14 having width of 12 ft. (min. 100 ft. lot width req. by Sect. 3-206), located 2828 Chain Bridge Rd., 48-1((1))28 & 115, Centreville Dist., R-1 & R-2, 8.95 acres, V-80-C-110.

As the required notices were not in order, the Board deferred the application until August 5, 1980 at 1:00 P.M.

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Page 426, July 22, 1980, Scheduled case of

10:40 ROLLING VALLEY MALL, appl. under Sect. 18-401 of the Ord. to allow shopping
A.M. center sign to height of 26 ft., (20 ft. max. height for free standing sign req. by Sect. 12-206), located N.E. corner of Old Keene Mill Rd., 88-2((1))4A, Springfield Dist., C-6, 19.455 acres, V-80-S-116.

Mr. Bernard Fagelson, an attorney in Alexandria, represented the applicant. He stated that at one time, the shopping center had an existing sign at the western end of the shopping center. The Highway Department relocated the grade and the shopping center sign then became below the level of the road. In addition to the change in the grade of the road, the Highway Department placed a berm between the shopping center and the highway. This made it very difficult for anyone to even know that there was a shopping center there and people would drive on by. Mr. Fagelson stated that Rolling Valley Mall had been very cooperative both with the State and the County of Fairfax. He stated that it had made a substantial contribution to the construction of Old Keene Mill Road. In addition, Rolling Valley made possible the satisfactory location of the parking lot and the bus center for Metro by giving right-of-way across its property at the request of VDH&T. Mr. Fagelson stated that with the change in the grade and the berm, it was impossible for the shopping center to legitimately advertise its stores. Mr. Fagelson stated that even with a 20 ft. sign, it was not enough because of the existing berm.

Mr. Fagelson stated that the real problem was not just the height of the sign but also there was a question of a 45° angle of bulk plane. Mr. Fagelson stated that he was not sure of how that section of the Ordinance worked. Apparently, if the sign was placed where it was shown on the plat, the center might be in violation of that section of the Ordinance. He stated that it might be necessary to come back at a later date for approval of another location of the sign. Mr. Fagelson stated that he was only asking for a variance to the height at this time.

Chairman Smith inquired if the problem was due to the additional height of the sign at this location. Mr. Fagelson responded that there might be a problem even without the additional height. It would depend on the interpretation of the Ordinance by the Zoning Administrator. New plats had to be submitted to show the topography and the berm. Mr. Fagelson stated

that it might be necessary to move the pylon to another location. However, under any circumstances, he stated that they needed the 26 ft. in height for the sign because of the height of the berm and the change in the grade location. Mr. Fagelson stated that the berm itself was about 6 ft. in height.

Mr. Lenn Koneczny of the Zoning Enforcement Division informed the Board that the situation at the shopping center was very unique due to the berm located along Rolling Road. Mr. Koneczny stated that in viewing the sight, the berm did hide the shopping center. He stated that Section 12-305 of the Ordinance allowed the Board to grant a 26 ft. height variance to the center line elevation of the nearest street. Mr. Koneczny stated that in this instance with the berm and the topography of the property, the applicant was subjected to the 45° angle of bulk plane. As an example, Mr. Koneczny stated that if the property was level, for every foot height of sign, it would have to set back a foot from the property line. This property was unique with its topography and Mr. Koneczny stated that it was impossible for him to make a determination as to exactly where the sign could be located in order to meet the 45° angle of bulk plane to the property line as well as involving the height of the sign from the center line of the road. Mr. Koneczny stated that the original plats submitted did not reflect the true topography of the berm.

Chairman Smith inquired whether the proposed location of the sign was in keeping with the required setback of the Ordinance. Mr. Koneczny stated that he was not an engineer and could not truly say without having the full facts of the topography available. Mr. Koneczny stated that the Board had to deal with a number of different circumstances. Under the Ordinance, you had to take the topography from the center line of the street and yet the sign was measured for height from the property line. Mr. Hyland inquired as to which one controlled the situation. Mr. Koneczny stated that the control of the height of the sign was from the center line of the street. The control for the setback to the property line was the angle of bulk plane at the property line. Mr. Koneczny stated that the berms were high.

Chairman Smith inquired of Mr. Fagelson if he would allow the Board to hear the variance and then amend it if additional problems or hardships existed as far as the setback requirement. Mr. Fagelson stated that was the best solution. He stated that the applicant did not want to make any unreasonable requests. They believed that a 26 ft. high sign would solve the problems. Mr. Fagelson stated that people would know that there was shopping center there and would know where the entrance was and would be looking for it. He stated that they would like the privilege to come back for another public hearing.

Mr. DiGiulian inquired if Mr. Fagelson was requesting 26 ft. from the center line of the road or 26 ft. from the base of the sign. Mr. Fagelson stated that as he understood the Ordinance, 26 ft. was permitted from the center line of the road. He stated that they did not have any desire to have the sign 26 ft. from the center line of the road because they would have more than 26 ft. in height with the pylon. At this point, he stated that they would like a total of 26 ft. hoping that they could manage the angle of bulk plane as well and have a sign that was reasonably exposed to the general public. Mr. Fagelson stated that if that didn't work, they might come back and ask to be 26 ft. from the center line of the road and ask to place the sign somewhere else on the shopping center lot.

Chairman Smith inquired of Mr. Koneczny if the sign could be allowed as it related to the center line of the road and then allow the 20 ft. height, whether it would be more than the requested 26 ft. Mr. Koneczny stated that if you measured from the center line of the road, it could be higher than 26 ft. He stated that the Board could grant a height higher than 26 ft. Chairman Smith inquired as to whether the proposed sign could be related to the center line of the road without a variance. Chairman Smith inquired if the height of the road was taken into consideration when someone applied for a sign. Mr. Covington stated that it was determined at ground level. Chairman Smith inquired if the staff could adjust the requirement and was informed by Mr. Covington that only the Board could do alter the height. Mr. Koneczny stated that there were only certain provisions in the Code with respect to signs that the Board had the authority to grant. He stated that there was a question as to whether a setback of a sign could be granted a variance. Chairman Smith stated that was why he was asking the questions because he had a problem with the setback. However, if there was a hardship involved and an unusual circumstance, Chairman Smith felt the Board could grant the setback variance.

Mr. Covington stated that the Board could grant the height variance and leave the location of the sign up to the Zoning Enforcement Division. Chairman Smith inquired if a location could be arranged that would give the applicant the most benefit of a 26 ft. high sign. Mr. Covington stated that the Board was only granting the variance and that the location should be left to the Inspection Division.

Mr. Fagelson stated that the further back the sign was moved, the more of a problem was created. Mr. Fagelson asked the Board to only deal with the variance to the height and allow him to work out the location of the sign with the Zoning Administrator. Mr. Covington stated that the Board had done the same thing for Toys R Us. They had granted a variance to the height of the sign and left the location to be determined by Zoning Enforcement Division. Mr. Fagelson stated that was the best bet.

There was no one else to speak in support of the variance. Mr. George Nelson of 6338 Draco Street. He stated that Draco Street was the road immediately behind Rolling Valley Mall shopping center. Mr. Nelson stated that the biggest point to be made was that they did not believe the height variance was necessary to see the sign from the road. He recognized that the applicant had a problem with the sign in its present location. He also agreed that the applicant had a difficult sighting problem. Mr. Nelson stated that they did not have objections to the proposed location of the sign. He presented the Board with a photograph of the entrance which was the proposed location for the sign. In spite of the downward slope of the shopping center, one was able to see the business with the Anita's sign on it. Mr. Nelson stated that an estimation of that sign height was 15 ft. Mr. Nelson stated that he did not feel a variance for height was necessary at this time. He was concerned about the possibility of Old Keene Mill Road being developed like Rt. 1. Mr. Nelson stated that many of the new shopping centers in the area had comparably low signs. He stated that was more in keeping with what he wanted his community to be.

In response to questions from the Board, Mr. Nelson stated that the topography in the other shopping centers were not like this one. Mr. Hyland stated that the view of the other signs would be different than the one proposed in this instance. Mr. Nelson concurred with Mr. Hyland. Mr. Nelson stated that the sign for Burke Centre appeared to be about 10 ft. high and he stated that there was no way that the applicant for this variance could do with a 10 ft. sign. However, Mr. Nelson stated that he did not believe that the applicant needed a 26 ft. sign. He felt that the 20 ft. allowed by the Ordinance was sufficient.

During rebuttal, Mr. Fagelson stated that Mr. Nelson had made some good points. But basically, he was saying that the sign could be less than 26 ft. Mr. Fagelson stated that the present sign was less than 10 ft. He stated that the Rolling Valley Mall had never tried to have a glaring sign that would make an impact beyond normal commercial use. Mr. Fagelson stated that he did not see the photograph presented by Mr. Nelson but assumed that he had taken it directly across from the street from the entrance. Mr. Fagelson stated that the problem was not with someone looking at the sign from across the street but people driving along Old Keene Mill Road going by the entrance before they had a chance to realize the entrance was there.

Mr. Fagelson stated that if they were given a choice, it would be to relocate the location of the road to bring it down to the level it was before and leave the original sign where it was before. The original sign was rather inconspicuous and almost at ground level. Mr. Fagelson stated that he doubted that it was even 10 ft. high including the pediment. Mr. Fagelson stated that the applicant did have a hardship which was why he was seeking a variance.

Mr. Hyland inquired of Mr. Nelson if he agreed with Mr. Fagelson's statements about the sign in terms of driving down Old Keene Mill Road. Mr. Nelson stated that in terms of the current sign, he agreed with the statements. Mr. Nelson stated that the original sign was located right at the corner of Old Keene Mill Road and Shipplet Boulevard. During the reconstruction of Old Keene Mill Road, they did put an appreciable amount of fill there. Mr. Nelson stated that at this time, the current sign was basically below ground level of the road. He agreed that there was a definite hardship in sighting.

Mr. Hyland inquired if Mr. Nelson agreed that the applicant should be allowed to correct the situation and, if so, in what way. Mr. Nelson stated that the location of the sign was very important. Mr. Nelson stated that it was his personal opinion that the sign should be located up near the road at a minimum setback. The closer to the road the sign was located, the less height was needed. He stated that the terrain was definitely rolling. When the road was redone, the height of the road was increased tremendously. However, Mr. Nelson stated that he did not like to see the very, very tall signs as they were ugly. From an aesthetic standpoint, the lower the sign, the better it was and it presented a better image.

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R E S O L U T I O N

In Application No. V-80-S-116 by ROLLING VALLEY MALL under Section 18-401 of the Zoning Ordinance to allow shopping center sign to height of 26 ft. (20 ft. maximum height for free standing sign required by Sect. 12-206) on property located at N.E. corner of Old Keene Mill Road, tax map reference 88-2((1))4A, 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, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is C-6.
3. The area of the lot is 19.455 acres.
4. That the applicant's property has exceptional topographic problems.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. When the actual height and the location of the sign is determined, revised plats are to be submitted to the Board.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yarenchuk being absent).

Page 429, July 22, 1980, Scheduled case of

10:50 HOMES OIL REALTY COMPANY, INC., appl. under Sect. 18-401 of the
A.M. Ord. to allow construction of vending storage building to 3 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 4-807), located 6241 Richmond Hwy, Penn Daw Subd., 83-3((1))22, Mt. Vernon Dist., C-8 (H.C.) 9, 814 sq. ft., V-80-V-085.

Mr. Allen Dugoff, secretary of the Homes Oil Realty Company, of 7826 Eastern Avenue, N.W., Washington, D.C., stated that the variance was requested as it was difficult to utilize the subject property as a service station with the storage building located on the side. It was difficult for large trucks to turn around with the storage building located at the side so the applicants were proposing to move it to the rear lot line.

Mr. Hyland inquired as to what caused that hardship. Mr. Dugoff stated that at the time of site plan approval, they were required to dedicate for the service road which did not leave any road to develop the property. If they were to construct a canopy, it would not leave much room around the canopy.

In response to questions from the Board, Mr. Dugoff stated that this was an existing service station and they owned it since 1960. At present, there was only one pump island but the applicants wanted to increase it to three. Chairman Smith stated that was one of their problems since they were expanding the facility. He inquired as to what was stored in the storage buildings. Mr. Dugoff responded that they kept air compressors, signs, and janitorial materials for the cleaning of the building.

Mr. Dugoff showed the Board a copy of the plat and pointed out the location of the service station and the kiosk used for the attendant at the pump island. Mr. Dugoff stated that the storage building would be almost back with the McDonald's trash bins which were directly behind the rear lot line.

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 HOMES OIL REALTY COMPANY, INC.
 (continued)

There was no one else to speak in support of the application and no one to speak in opposition.

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Page 430, July 22, 1980
 HOMES OIL REALTY COMPANY, INC.

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-V-085 by HOMES OIL REALTY COMPANY, INC. under Section 18-401 of the Zoning Ordinance to allow construction of a vending/storage building to 3 ft. from rear lot line (20 ft. minimum rear yard required by Sect. 4-807) on property located at 6241 Richmond Highway, tax map reference 83-3((1))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 July 22, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is C-8 (H.C.).
3. The area of the lot is 9,814 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following findings 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Mr. Yaremchuk).

Page 430, July 22, 1980, Scheduled case of

11:00 RICHARD P. GUERRIERI, appl. under Sect. 18-401 of the Ord. to
 A.M. allow 6 ft. high fence in front yard (4 ft. max. hgt. for fence in front yard
 req. by Sect. 10-105), located 3300 Nevius St., 1st Aura Heights Subd.,
 61-2((7))12, Mason Dist., R-3, 17,348 sq. ft., V-80-M-113.

Mr. Michael Guigere, an attorney in Fairfax, represented the applicant. He stated that he was requesting a variance from the Ordinance to permit an existing fence to remain along the property line in an area which would be considered a side yard but in actuality was a front yard. Mr. Guigere stated that he had a problem with the definition of a front yard when combined with a corner lot. The definition under the Ordinance turned it into two front yards and two side yards. Mr. Guerrieri's property was a corner lot. The fence was existing and Mr. Guigere stated it would be an unreasonable hardship on the applicant to have to remain the fence.

Mr. Guigere presented the Board with a letter from eleven property owners who were in support of the variance. Mr. Guigere stated that he was not aware of any opposition to the request. Mr. Guigere stated that the definition of corner lot should be redefined as it would not allow a privacy fence. Mr. Guigere stated that there was no reason to restrict a privacy fence along the side of Mr. Guerrieri's house just because the Ordinance called it a front yard. Mr. Guigere showed the Board photographs of the property.

Chairman Smith stated that this was a general condition with regard to corner lots. He stated that perhaps the Ordinance did need to be changed but the applicant had applied for a variance to a general condition and not a hardship. Mr. Guigere stated that he believed it was a hardship. No one objected to the variance. Mr. Guigere stated that there had been similar cases before the Board. He indicated that Mr. Guerrieri needed a privacy area as he was impacted by noise from both streets.

Mr. DiGiulian inquired if there was a driveway going into the apartments along the fence. Mr. Guerrieri stated that there was a service drive going into the apartments which made his lot a corner lot. Mr. DiGiulian inquired if the fence obstructed the view of the people from the apartments. Mr. Guigere stated that a portion of the fence was in the easement area and they would have it moved. However, he reminded the Board that the location of the fence was not the problem.

Mr. DiGiulian stated that it appeared the fence would obstruct the view of the people from the apartments. Mr. Guigere stated that there was enough distance for sight. Mr. DiGiulian inquired if he had driven out the driveway from the apartments. Mr. Guerrieri stated that he had done so at least 15 to 20 times. It was difficult to see to the right.

Mr. Yaremchuk inquired as to why the fence was constructed. Mr. Guigere stated that Mr. Guerrieri was trying to make reasonable use of his property. No one had objected to the fence. Mr. Yaremchuk stated that he lived in the area and there was a problem with visibility.

Mr. Hyland inquired as to the age of the fence and Chairman Smith asked who installed it. Mr. Guigere stated that Mr. Guerrieri had constructed the fence himself. The fence was one year old. Mr. Hyland stated that the Board in the past had approved similar fences. He asked the Board to give him the benefit of the Board's thoughts as to similar matters that had come before it.

Chairman Smith stated that the Board had denied some variances on fences. He stated that he could not say that the Board had never granted a variance to a 6 ft. high fence at a rear lot line. Mr. Guigere stated that the Board had granted a variance to Mr. Herbert Fisher on Half-Moon Circle who had three front yards. Chairman Smith stated that this was not a similar situation. This was a general condition that any property owner of a corner lot would have. Chairman Smith stated that he had never voted on any variance for a fence if it was a general condition. Chairman Smith stated that he had sympathy for the applicant but there needed to be a change in the Ordinance perhaps and not a request for a variance.

Mr. Guigere stated that if the fence was removed, it would eliminate any area for privacy for Mr. Guerrieri. If the 30 ft. setback was met, it would take away the side yard. Chairman Smith stated that the applicant would still be able to have a fence at this location but he would not be able to leave it at the 6 ft. height. Mr. Guigere stated that a 4 ft. fence would not allow Mr. Guerrieri the use of his yard.

Mr. Covington stated that the Ordinance required a 6 ft. fence to set back 30 ft. from the property line. In addition, as this was a corner lot, the fence could not be higher than 3 1/2 ft. in the setback area. Mr. Hyland stated that the applicant might as well not have a fence in that case. Mr. Guigere stated that was their whole point.

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-80-M-113 by RICHARD P. GUERRIERI under Section 18-401 of the Zoning Ordinance to permit 6 ft. high fence in front yard (4 ft. maximum height for fence in front yard required by Sect. 10-105) on property located at 3300 Nevius Street, tax map reference 61-2((7))12, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 22, 1980; and

WHEREAS, the Board has made the following findings of fact:

R E S O L U T I O N

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 17,348 sq. ft.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Hyland).

Page 432, July 22, 1980, Scheduled case of

11:10 A.M. KENNETH E. & DORIS R. BLACKMAN, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to dwelling to the edge of a floodplain (15 ft. min. setback from edge of floodplain req. by Sect. 2-415), located 3720 Prince William Dr., Mantua Subd., 58-4((15))130, Providence Dist., R-2, 24,207 sq. ft., V-80-P-114.

Mr. Kenneth Blackman of 3720 Prince William Drive informed the Board that he was requesting a variance to construct a garage immediately behind his house with a deck on top with an entrance from the dining room and kitchen. The plans that were submitted required that they go 2 ft. into the floodplain. After talking with Mr. White, Mr. Blackman decided to shorten the length of the garage in order to stay out of the floodplain. He revised the plans and was now requesting permission to build up to the edge of the 100 year floodplain.

In response to questions from the Board, Mr. Blackman stated that the garage would be 28 ft. along the edge of the floodplain. Chairman Smith inquired if the applicant already had a garage in the basement of the house. Mr. Blackman stated that there was a small single stall garage in the basement. He stated that he had owned his property since November 7, 1979.

Chairman Smith inquired if he was aware that he would be restricted from building because of the floodplain. Mr. Blackman stated that he had drawn up his plans in late February or March in order to obtain a permit. He had gone on a business trip and thought that the contractor would start construction in April. When he returned, he was advised that a special exception or a variance was necessary. Mr. Blackman stated that he then proceeded to talk to the people in Flood Control who determined what he needed to do in order to construct a garage. Mr. Blackman stated that he had been advised by Mr. Covington that a variance was the way to proceed in order to obtain a building permit for the garage. Mr. Blackman advised the Board that he was not aware of any restrictions in November when he purchased his property. He became aware of the restrictions in April when he returned from a business trip.

Chairman Smith stated that the Ordinance was perfectly clear and inquired of Mr. Covington as to why Mr. Blackman was seeking a variance. Mr. Covington stated that it was in the Board's purview to grant a variance. Chairman Smith stated that the Ordinance specifically stated that no dwelling shall be located closer than 15 ft. to a floodplain. He asked why the applicant had not applied for a special exception. Mr. Covington stated that the applicant was not building in the floodplain so a special exception was not necessary.

Chairman Smith inquired if there was a report from the drainage department on the requested variance. Mr. Covington reported that he had spoken with Mr. Jack White. Mr. DiGiulian inquired as to what floor elevation was proposed for the addition. Mr. Blackman stated that it would be the same elevation as the main house. Mr. DiGiulian stated that the staff report indicated that it should be 18" above the floodplain. Mr. Yaremchuk stated that this was a request for a garage.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 433, July 22, 1980
 KENNETH E. & DORIS E. BLACKMAN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-P-114 by KENNETH E. & DORIS E. BLACKMAN under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to the edge of a

R E S O L U T I O N

floodplain (15 ft. setback from edge of floodplain required by Sect. 2-415) on property located at 3720 Prince William Drive, tax map reference 58-4((15))130, 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 22, 1980; 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 24,207 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and 50% of the lot is in a floodplain 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:
** 2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Chairman Smith).

Page 433, July 22, 1980, Scheduled case of

11:20 CHARLES SAMPSON & JOHN O. BECK, appl. under Sect. 18-401 of the
A.M. Ord. to allow subdivision into 11 lots with proposed lots 1, 2, 3, 4 & 5 having the width of 10 ft. (100 ft. min. req. by Sect. 3-206), located 6836 Braddock Rd., 71-4((1))29, Annandale Dist., R-2, 5.7 acres, V-80-A-115.

As the required notices were not in order, the Board deferred the application until September 16, 1980 at 10:00 A.M.

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Page 433, July 22, 1980, Scheduled case of

11:30 ALZBETA PEPICHOVA/PEPICOVA SCHOOL OF BALLET, appl. under Sect.
A.M. 3-303 of the Ord. to permit renewal of dance school for maximum of 50 students, located 6817 Dean Drive, Devon Park Subd., 30-4((1))26, Dranesville Dist., R-3, 3 acres, S-80-D-049.

Mr. Allen Minter, Pastor of the Church, represented the applicant. He resided at 1639 Great Falls Street in McLean. Rev. Minter stated that the church would like to see the renewal of the special permit for Mrs. Pepichova as it had been trying to help her and themselves. He stated that the church had been experiencing a lot of vandalism. Since Mrs. Pepichova had been at the church, not even as much as a light bulb was broken. Rev. Minter informed the Board that some of the opposition at the last public hearing was with regard to the traffic. He stated that the traffic had lessened. High school students no longer cut up in the parking lot of the churchyard. Rev. Minter stated that the special permit had been granted for two years which was a good start. However, they did not wish to keep coming back and asked the Board for a permanent special permit.

Mr. DiGiulian inquired if the 6 ft. across the back of the church property had been installed. Rev. Minter stated that it was installed. Mr. Covington reported that Doug Leigh had inspected the property and the fence was there.

In response to questions from the Board, Mrs. Pepichova informed the Board that her hours of operation were 4 P.M. to 6 P.M., Monday through Thursday and 10 A.M. until 1 P.M. on Saturday. During the summer, the hours were 10 A.M. to 12 Noon two times a week and 6 P.M. to 8 P.M., Monday through Thursday. She stated that she did not have any Saturday hours during the summer.

*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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ALZBETA PEPICHOVA/PEPICHOVA
SCHOOL OF BALLET
(continued)

With regard to the term of the special Permit, Chairman Smith inquired as to the length of the lease. Rev. Minter stated that with the previous special permit, Mrs. Pepichova was on a two year lease with the church. He stated that she presently was on a two year lease but the church wanted to extend the lease and would evaluate the time with Mrs. Pepichova. Mr. Hyland inquired if the lease had a renewal provision. Rev. Minter responded that either party could break or renew the lease. He stated that the church did not want to keep coming back to the Board. He stated that the special permit for Mrs. Pepichova had been to the church's benefit. Teenagers no longer parked in the church yard at night.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 434, July 22, 1980
ALZBETA PEPICHOVA/PEPICHOVA
SCHOOL OF BALLET

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-D-049 by ALZBETA PEPICHOVA/PEPICHOVA SCHOOL OF BALLET under Section 3-303 of the Fairfax County Zoning Ordinance to permit renewal of dance school for maximum of 50 students on property located at 6817 Dean Drive, tax map reference 30-4(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 July 22, 1980; 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 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
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 numbers of students shall be 50.
8. The hours of operation shall be: Winter: 4 P.M. to 8 P.M., Monday through Thursday and 10 A.M. to 1 P.M., Saturday. Summer: 10 A.M. to Noon, two mornings a week and 6 P.M. to 8 P.M., Monday through Thursday.
9. Special Permit to run concurrently with the lease. Renewal lease shall be submitted to the Board within 30 days of its effective date in order to keep the permit valid.

RESOLUTION

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0.

Page 435, July 22, 1980, Scheduled case of

11:45 TARA SCHOOL, INC., appl. under Sect. 3-E03 of the Ord. to
A.M. amend S-301-78 for school of general education to permit revised building and
parking design and siting, located 10742 Sunset Hills, C. R. Ball Subd.,
18-3((2))5, Dranesville Dist., R-E, 5 acres, S-80-D-052.

Mr. Richard Miskiel of 14 Greenfield Court in Sterling was an architect representing Tara School. He stated that it was not their intent to change something just for change. Mr. and Mrs. Rogers had obtained a special permit two years ago prior to an architect being involved in the plans. Mr. Miskiel stated that as he became involved in the design and looked at the needs of the school and in trying to blend the school in with the area, it became necessary to modify the design to have a lower building. The new building would be 4 ft. lower in elevation than the previously approved design. Mr. Miskiel stated that he met with Dennis King to review the site plan with the changes to insure that the new building would meet the Code requirements.

Mr. Miskiel stated that they needed some changes in the overall shape of the building. The new building was more narrower and was not as long as before. Safety aspects were considered for the classrooms. A single driveway was proposed for the building. In a meeting with VDHA, a sight problem on Sunset Hills Road was discussed, so the school elected to avoid the double exit. Another change in the building was that it was now situated closer to the property line. There had been a requirement of a 30 car overflow for parking. There was to have been an area of a hard surface play area in the rear yard which the school had previously proposed to be used for overflow parking but because of the Health Department's location of the drain field, the school could not get around to the back for parking. They had tried to get all of the overflow parking in the front which meant they had to move the building closer to the westerly property line.

Mr. Miskiel stated that another question was the original intent of the Board with regard to landscaping and screening on the property. Mr. Miskiel stated that the school had assumed that the landscaping and screening was to be provided at the play areas. The paved parking area was substantially inside the easterly property line and there was a large grassed area there for overflow parking. Mr. Miskiel stated that the area was wooded and the easterly property line was heavily wooded already. Mr. Miskiel stated that on the new site plan, there was no direct screening or landscaping indicated on the plan. Mr. Miskiel stated that if it was required, the concept of overflow parking at this location would be impossible because it would push the paved parking over into the setback area.

Mr. Miskiel stated that they had met with Mr. Oscar Hendrickson and Mr. Jay Lambert to review the project and there was never any exception taken to the plan. Mr. Miskiel stated that they were surprised when they applied for the building permit and there was an objection. He stated that they were requesting a modification to the previous approval to allow the sighting of the building as designed.

Mr. Hyland inquired as to the height of the screening in the overflow parking area and the regular parking area. Mr. Miskiel stated that the natural screening had a lot of brush and undergrowth but estimated the trees to be 30 ft. tall. He stated that the trees were rather large. The area was heavily wooded. Mr. Miskiel stated that if they were to accomplish the landscaping at the overflow parking area which was not paved, it would shift all of the parking down and encroach on the westerly property line. In addition, they would have to take the parking out of the area and try to locate it at the rear of the site. Mr. Miskiel informed the Board that the school was trying to maintain as much of the existing woods at the rear as possible for a play area. He stated that the entire rear portion of the lot would be maintained in a wooded state.

Mr. Miskiel stated that one of the problems was the lay of the land. Initially, Mr. Rogers wanted a walk-out basement in the rear yard of the school. Mr. Miskiel stated that would have required a lot of regrading. They eliminated the basement and decided to have a slab-on building. The original building including the basement would have been 12,000 sq. ft. The new building was only 7,100 sq. ft.

Mr. Yaremchuk inquired if the school was aware of the staff recommendation that the applicant shall provide a barrier as required in Article 13 of the Zoning Ordinance and provide screening in accordance with paragraph 3A of Section 13-109 along the side yard lines. Mr. Yaremchuk inquired if the school could comply with the requirements. Mr. Miskiel stated that the school had a full fence around the rear of the property. It was only at the front portion of the front yard that the school wanted a determination as to the Board's original intent with regard to screening. He stated that if additional

screening was required to continue all the way to the front yard and if a fence barrier was to continue to the front yard, it was impossible to meet the requirement of the 30 overflow parking spaces. Mr. Yaremchuk stated that a fence could be constructed and that would not interfere with the parking. He inquired if there was a house on the adjoining property and was informed by Mr. Miskiel that there was not a house. The next adjoining lot belonged to Mr. and Mrs. Rogers who was several lots down.

Mr. Yaremchuk inquired as to why the staff was requiring screening if there was not a house adjoining the property. Chairman Smith stated that it was required because the adjoining land was zoned residential. Mr. Yaremchuk stated that the staff should use some judgement in this situation. Mr. Yaremchuk stated that the Board could vary the screening requirement. Mr. Covington stated that as long as the adjoining lot was heavily screened there probably would not be a problem. However, there was no way to insure that the adjoining lot would not be denuded at some later time. It was not a part of the special permit. Mr. Yaremchuk inquired as to the distance of the nearest house and was informed it was 450 ft. away. Mr. Covington stated that the adjoining lots were entitled to some sort of screening from the school. Mr. Hyland inquired if the natural screening protected the adjoining property owners and Mr. Miskiel stated that it did. Mr. Miskiel stated that there was natural screening on the school site and on the adjoining lots. Mr. Hyland stated that if the natural screening was retained and made a requirement of the special permit, he did not feel that the Board needed to require any additional screening.

The hours of operation for the proposed school was to be from 7 A.M. until 6 P.M. for a normal school year and until 10 P.M. for school functions. Mr. Rogers stated that the school would operate five days a week and indicated that there would be miscellaneous activities on the weekends. He asked the Board to allow a 7 day a week operation so that the school would not ever be in violation of its permit.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 436, July 22, 1980
TARA SCHOOL, INC.

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-052 by TARA SCHOOL, INC. under Section 3-E03 of the Fairfax County Zoning Ordinance to amend S-301-78 for school of general education to permit revised building and parking design and siting on property located at 10742 Sunset Hills Road, tax map reference 18-3((2))5, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 22, 1980; 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 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 in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering

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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 200.

8. The hours of operation shall be seven days a week from 7 A.M. to 6 P.M. and until 10 P.M. for formal school related activities.

9. The number of parking spaces shall be 25 with 15 overflow parking spaces.

10. A trail is to be provided along Sunset Hills Road. The 100 ft. strip of existing vegetation at the rear of the lot shall remain undisturbed.

11. The Zoning Administrator shall review the use at the end of two years with particular attention to the adequacy of parking. Should it be found that parking is inadequate, the special permit shall be returned to the Board for review of additional parking.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 437, July 22, 1980, Recess

At 12:40 P.M., the Board recessed for lunch. The Board reconvened at 1:25 P.M. to continue with the scheduled agenda.

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Page 437, July 22, 1980, Scheduled case of

12:15 ACCOTINK ACADEMY, appl. under Sect. 3-103 of the Ord. to amend
P.M. S-80-S-039 for a school for handicapped children to permit construction of a free standing building addition, located 8519 Tuttle Rd., Fairfax Park Subd., 79-3((4))30A & 31A, Springfield Dist., R-1, 1.917 acres, S-80-S-054.

Mrs. Elaine McConnell, Director of the Accotink Academy, of 8533 Tuttle Road in Springfield stated that she had been before the Board a month ago for an addition to the school. At that time, they had been unaware that they were going to lose their space in the medical building. Mrs. McConnell stated that the medical building unit was a very special part of the school operation. She stated that it served severely handicapped children who had severe traumas. Mrs. McConnell stated that the school had several psychologists who worked only with the children. She stated that the handicapped students required a more intensive program. The facility at the medical building was good place for the one on one type of program required for the students.

Mrs. McConnell stated that the school needed to make plans for the children who would be coming in the fall. She stated that the children were already assigned to Accotink Academy. In order to accommodate these students, the school proposed to have two redwood Cumberland homes constructed on the site. One would be used as a classroom and the other as a gymnasium. The buildings were 40 x 40 and would be joined by a breezeway.

In response to questions from the Board, Mrs. McConnell stated that the trailer on the property was still used by the therapist. She stated that the school was running out of space. The new buildings would accommodate 20 additional students. The total number of students on the site would be 108.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 437, July 22, 1980
ACCOTINK ACADEMY

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-S-054 by ACCOTINK ACADEMY under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-80-S-039 for school for handicapped children to permit construction of a free standing addition on property located at 8519 Tuttle Road, tax map reference 79-3((4))30A & 31A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

R E S O L U T I O N

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 22, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-1.
3. That the area of the lot is 1.917 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 118.
8. The hours of operation shall be 8 A.M. to 4 P.M.
9. All other requirements of S-80-S-039 not altered by this resolution shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 438, July 22, 1980, Scheduled case of

1:00 A.M. HOWARD A. PETERSON, appl. under Sect. 18-401 of the Ord. to allow construction of addition to existing dwelling to 10 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 9117 Southwick Street, 58-2((8)1, Providence Dist., R-1, 28,464 sq. ft., V-80-P-117.

Mr. Howard A. Peterson of 9117 Southwick Street in Fairfax stated that he needed a variance to expand and modify a garage to accommodate a solar heater system. He stated that originally when his house was constructed in 1956 or 1957, the original intent had been to install a solar house. The only problem had been that they could not get a southern exposure in the roof. Mr. Langhorn had laid down footings in the garage and then had done bankrupt before the system was ever completed. Mr. Peterson informed the Board that he had someone pour concrete over the footings instead tearing them out. That's the way the property had existed since that time.

Mr. Peterson stated that he had tried to comply with the zoning regulations to notify the neighbors of the situation. Mr. Peterson stated that one very important key issue to the request for a solar heating system was that the garage would have to be expanded. He stated that on the western side of his house were very tall trees and the roof was in shade. There was no other place on the property in which to place a large container tank. Mr. Peterson stated that he wanted enough supplied to run his house all winter. He stated that with his proposed system, he could operate his house for 15 days without any sunlight.

Mr. Peterson stated that the area did have heavy rains and that a holding tank of the proposed size he wanted would break to the surface if it was buried underground. He stated that it was very difficult to insulate a tank of this sort when it was in the ground because of the mud. In addition, if any difficulty developed with relation to the tank, it would be easier to work on the tank if it were above ground.

Mr. Peterson stated that with his solar system installed, the garage would appear as it presently existed. The roofline would be the same. In fact, the whole architectural appearance of the house would be the same.

Mr. Peterson stated that by having the garage expanded, it created a problem in that the garage would not meet the requirements of the R-1 zone. The R-1 district required a minimum lot width of 150 ft. Mr. Peterson stated that his lot was substandard because it was less than 150 ft. in width. There were 16 other substandard lots in the subdivision. The lots to the west of Mr. Peterson's property were in the R-2 zoning category.

Chairman Smith inquired as to why Mr. Peterson could not install the holding tank to the rear of the garage. Mr. Peterson stated that his septic field was located in the rear yard which extended across the entire back yard. Chairman Smith stated that it appeared that Mr. Peterson could still meet the setback in the rear yard even with the septic field. Mr. Peterson stated that directly in back of his house were very tall trees and he would have to stay north of them. The majority of the trees were not on his property so he would not be able to move them or even trim them.

There was no one else to speak in support of the application. The Board was in receipt of a letter from Fran Brasey who was in opposition to the variance. She was concerned that Mr. Peterson would use his garage for an auto repair shop.

During rebuttal, Mr. Peterson stated that during the past two years he had not done any repair on automobiles as he was getting too old. With regard to the proper location for his solar system, Mr. Peterson stated that he had a recognizable authority survey his property. He presented the Board with a letter from that authority stating that the proposed location was the only place the system could be installed and be the most efficient. Mr. Peterson stated that it was true he had other land area in which to place the system but it would necessitate moving the trees or the sun. He assured the Board that the holding tank would have the best sound insulation that he could find.

Mr. Hyland inquired as to the slab shown on the plat and how it was presently being used. Mr. Peterson stated that he used the slab to park a 1965 Cadillac that had last year's tags on it. He stated that the slab has existed since 1957. The Cadillac was not operable.

R E S O L U T I O N

In Application No. V-80-P-117 by HOWARD A. PETERSON under Section 18-401 of the Zoning Ordinance to allow construction of addition to existing dwelling to 10 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107) on property located at 9117 Southwick Street, tax map reference 58-2((8))1, 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 22, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 28,464 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property 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.

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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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 440, July 22, 1980, Scheduled case of

1:10 DONALD S. LILLY, appl. under Sect. 18-401 of the Ord. to allow
P.M. construction of garage addition to dwelling to 12 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 9109 Courtley Ct., 58-2((3))11, Providence Dist., R-1, 31,6604 sq. ft., V-80-P-118.

Mr. Donald Lilly of 9109 Courtley Court informed the Board that he had three vehicles. His *stated that his house did not have any storage space. He stated that his lot was very large but it was also very narrow. Mr. Lilly stated that he had a substandard lot. Mr. Lilly stated that the only place he could construct a garage on his property was to the left of the house. The septic field and tank was located in the back yard. The other side of the property had an oil tank and water line so Mr. Lilly would not be able to build a garage as he could not construct a driveway there. Mr. Lilly stated that he was limited in a location for the garage. He had talked to his neighbors and no one had objected to his request for a variance. Mr. Lilly stated that the only neighbor who would have reason to object was Mr. Hall who was in support of the variance.

In response to questions from the Board, Mr. Lilly stated that the garage would be 20 ft. He stated that he was faced with a situation of having to leave a breezeway between the house and the garage. There were two windows which opened into the living room and dining room at the end of the house where the garage was being constructed. Mr. Lilly stated that he had contemplated several designs for a garage and the only one that would save the windows was the breezeway. Mr. Lilly stated that the current side yard that existed on his lot was 38 ft. and the required setback was 20 ft. In order to comply with the setback, he would have to build a 18 ft. garage which would not be sufficient.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 440, July 22, 1980
DONALD S. LILLY

R E S O L U T I O N

In Application No. V-80-P-118 by DONALD S. LILLY under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12 ft. from side lot line (20 ft. min. side yard required by Sect. 3-107) on property located at 9109 Courtley Court, tax map reference 58-2((3))11, 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 22, 1980; 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 31,6604 sq. ft.
4. That the applicant's property is exceptionally irregular in shape being narrow and is a substandard lot and has converging lot lines and has an unusual condition in the location of the septic fields which limits the location of the proposed addition.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

* house was 80 years old. The air conditioner was in the attic. He is

R E S O L U T I O N

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire, one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 441, July 22, 1980, Scheduled case of

1:20 P.M. RICHARD B. PORTER, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to dwelling to 12.3 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 2353 Bedfordshire Ct., Stratton Woods Subd., 25-2((4))88, Centreville Dist., R-2, 23,931 sq. ft., V-80-C-119.

Mr. Richard Porter of 2353 Bedfordshire Avenue in Reston stated that he planned to build an addition for a garage next to the existing garage. He stated that at the present time, the setback that existed was 24.1 ft. to the property line. By building the new structure, it would create a side yard of 12.3 ft. Mr. Porter stated that his garage would border the neighbor's two car garage which had a 25 ft. side yard.

Mr. Porter stated that the basic reason for his request was to provide additional space for one of his two cars. The new garage would be placed next to the existing garage. There was an asphalt pad in front of the existing garage which would be extended. Mr. Porter stated that in order to build the garage, he would not have to disturb any shrubbery or trees. The lot was pie-shaped with the narrow portion towards the front of the property. Most of the other lots in the area had more lot area or the wider part of the pie was towards the back of the lot which enabled them to have two car garages.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 441, July 22, 1980
RICHARD A. PORTER

R E S O L U T I O N

In Application No. V-80-C-119 by RICHARD B. PORTER under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 12.3 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 2353 Bedfordshire Circle, tax map reference 25-2((4))88, 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, 1980; 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 23,931 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including 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.

R E S O L U T I O N

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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

 Page 442, July 22, 1980, Scheduled case of

1:30 P.M. RONALD & ROSALIND S. LEVY, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to dwelling to 25 ft. from street line and 7 ft. from side lot line (30 ft. min. front yard and 10 ft. min. side yard req. by Sect. 3-407), located 8519 Idylwood Rd., Tysons Woods Subd., 39-3((28))129, Providence Dist., R-4, 9,104 sq. ft., V-80-P-120.

Mr. Ronald Levy of 9519 Idylwood Road stated that his house did not have a garage. He informed the Board that most of the other homes in his community had garages. Mr. Levy stated that he was seeking a variance to get closer to the side lot line than allowed by the Ordinance. Mr. Levy stated that this was the only location he could build a garage because the doorway to the house was there. There was an existing concrete slab. The garage would be built in such a way that the slab would not have to be moved or extended. Mr. Levy stated that he proposed to move an existing metal shed next to the garage which would be 7 ft. from the side lot line.

There was no one else to speak in favor of the application and no one to speak in opposition.

 Page 442, July 22, 1980
 RONALD & ROSALIND LEVY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-P-120 by RONALD & ROSALIND LEVY under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 25 ft. from street line & 7 ft. from side lot line (30 ft. minimum front yard and 10 ft. minimum side yard required by Sect. 3-407) on property located at 8519 Idylwood Road, tax map reference 39-2((28))129, 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, public hearing was held by the Board on July 22, 1980; 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 9,104 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 as strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

RESOLUTION

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2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 443, July 22, 1980, Deferred case of

1:40 P.M. VERNE V. WATTAWA, appl. under Sect. 18-401 of the Ord. to allow enclosure of an existing carport within 7.2 ft. of side lot line (8 ft. min. side yard required by Sect. 3-307), on property located 4321 Stream Bed Way, Stoneybrooke Subd., Lee Dist., 92-1((10))8020, R-3(C), 8,814 sq. ft., V-80-L-100. (DEFERRED FROM JULY 1, 1980 FOR NOTICES).

The required notices were in order. Mr. Verne Wattawa informed the Board that he wanted to enclose his existing carport to increase his storage space and to store his vehicles. In response to questions from the Board, Mr. Wattawa stated that he had owned the property since August of 1976. Mr. Wattawa stated that due to the size of his lot and the location of the existing structures on the property, it was impossible to enclose the carport and comply with the setback requirement.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 443, July 22, 1980
VERNE V. WATTAWA

RESOLUTION

In Application NO. V-80-L-100 by VERNE V. WATTAWA under Section 18-401 of the Zoning Ordinance to allow the enclosure of an existing carport within 7.2 ft. of the side lot line (8 ft. minimum side yard required by Sect. 3-307) on property located at 4321 Stream Bed Way, tax map reference 92-1((10))8020, 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 22, 1980 being deferred from July 1, 1980; 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 8,814 sq. ft.
4. That the applicant's property is a small lot and has an unusual condition in the location of the existing buildings on the subject property and would require a variance for construction anywhere 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

1:50 BERRY ASSOCIATES, A VIRGINIA GENERAL PARTNERSHIP, appl. under
 P.M. Sect. 18-401 of the Ord. to allow resubd. into three (3) lots, two (2) of which
 would have a width of 6 ft. (100 ft. min. lot width req. by Sect. 3-206),
 located 9727 Maury Rd., Vertain Park Subd., 69-3((2))8 & outlot A, Annandale
 Dist., R-2, 1,5117 acres, V-80-A-102. (DEFERRED FROM JULY 1, 1980 FOR NOTICES.)

Mr. Russell Rosenberg of 9401 Lee Highway in Fairfax represented the applicant. Chairman Smith asked the that the name of the trustee be included in the variance application and the application was amended to add the name of Mr. Jagdish Berry, Trustee. Mr. Rosenberg stated that the property had been rezoned. At that time, the same development plan as was presently under consideration had been presented to the Board of Supervisors. It was a plan that could not be acted upon by the Board of Supervisors because of the need for a variance. However, there had not been any adverse comments about the plan.

Mr. Rosenberg informed the Board that the subject property was long and narrow and was in excess of 460 ft. in depth. All of the lots would comply with the minimum lot size for the district. The pipestem lots were the only way to develop the property with the R-2 zoning requirements by virtue of the size and shape of the property. Mr. Rosenberg stated that the hardship of the shape of the land was worthy of a variance.

There was no one else to speak in support of the application and no one to speak in opposition.

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Board of Zoning Appeals

JAGDISH BERRY, TRUSTEE & BERRY ASSOCIATES,
 A VIRGINIA GENERAL PARTNERSHIP

R E S O L U T I O N

In Application No. V-80-A-102 by JAGDISH BERRY, TRUSTEE & BERRY ASSOCIATES, A VIRGINIA GENERAL PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow resubdivision into three lots, two of which have a width of 6 ft. (100 ft. minimum lot width required by Sect. 3-206), on property located at 9727 Maury Road, tax map reference 69-3((2))8 & outlot A, 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 the public, a public hearing was held by the Board on July 22, 1980; and deferred from July 1, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 1,5117 acres.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

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2:00 JMH, INC., T/A SLENDER LADY FIGURE SALON, appl. under Sect. 4-603
P.M. of the Ord. to permit health club within shopping center, located 6218 Little
River Turnpike, Mason Dist., 72-4(1)3, C-6, 25.1582 acres, S-80-M-045.
(DEFERRED FROM JULY 1, 1980 FOR NOTICES.)

Mr. Bernard Fagelson, an attorney, represented the applicant. In response to questions from the Board, he stated that he did not have in the file evidence of the corporation of good standing. He informed the Board that the lease was a viable, valid lease. The lease was for five years with a five year option. Mr. Fagelson stated that his clients wished to operate a ladies fitness club. They would have exercise, aerobic dancing, etc. which would result in a more attractive and slender figure. The proposed hours of operation were from 7 A.M. until 9 P.M., Monday through Friday and from 10 A.M. until 5 P.M. on Saturday. Mr. Fagelson stated that if the club operated at full capacity, there would be 200 patrons a day. The club would have five employees with no more than three on duty at any one time. Mr. Fagelson stated that a lot of the patrons would be walk-in or in carpools so there would not be a substantial increase in traffic in the area. Mr. Fagelson stated that the club would be an asset to the area and would have little adverse impact. The club would have athletic equipment, a sauna, etc. However, there would be no mixing of the sexes. Mr. Fagelson stated that the club would be housed in the Virginia Plaza Shopping Center and there would be adequate parking.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 445, July 22, 1980
JMH, INC. T/A SLENDER LADY
FIGURE SALON

Board of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-M-045 by JMH, INC. T/A SLENDER LADY FIGURE SALON under Section 4-603 of the Fairfax County Zoning Ordinance to permit health club within a shopping center on property located at 6218 Little River Turnpike, tax map reference 72-4(1)3, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on July 22, 1980; and deferred from July 1, 1980; 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 25.1582 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of 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

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 5 to 0.

Page 446, July 22, 1980, After Agenda Items

LAKEVIEW SWIM CLUB: The Board was in receipt of a request from the Lakeview Swim Club to allow an addition to the pool deck. There was a letter from the Park Authority, the adjoining property owner, stating that they had no objection to the addition to the deck. Accordingly, Mr. DiGiulian moved that the Board approve the addition to the pool deck as a minor engineering change. Mr. Barnes seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

// There being no further business, the Board adjourned at 2:40 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 April 20, 1982

APPROVED: April 27, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, July 29, 1980. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Gerald Hyland. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 8:15 P.M. led with a prayer by Mr. Covington.

Chairman Smith announced that the scheduled special permit application for the Salvation Army would not be heard as the staff had discovered the need for a variance. He announced that the application would be rescheduled later in the meeting. He further stated that the scheduled applications for the Proctor Hatseil School and the Pleasant Valley Preschool would not be heard either.

The Chairman called the scheduled 8 o'clock case of

8:00 WESTGATE CHILD CENTER CORPORATION, appl. under Sect. 3-203 of
P.M. the Ord. to permit child care center, located 1205 Dolley Madison Blvd., Salona Village Subd., 30-2((32))6, Dranesville Dist., R-2, 176,755 sq. ft., S-80-D-051.

Mrs. Patti Samaha of 6088 8th Place in Arlington represented the applicant. She stated that she was the Director and also a Board Member of the Westgate Child Center Corporation, a nonprofit, tax exempt corporation. Mrs. Samaha stated that there was a great need for child care in Fairfax County. The center was currently in operation and wished to move from its McLean Office Building to the Trinity Methodist Church. The hours of operation would be from 7:30 A.M. until 6:00 P.M. and the center hoped to accommodate 75 children. She stated that they would continue to maintain a ratio of one staff person for every eight children. Mrs. Samaha stated that the Westgate Child Center Corp. would be providing a much needed service in the McLean community. She stated that Dolley Madison Highway was already heavily travelled so there would not be an impact on traffic.

Mr. Charles Butt of 977 Spencer Road in McLean spoke in support of the application. He stated that he was a member of the church. With regard to the parking, Mr. Butt indicated that the church had several hundred parking spaces. He stated that the church had examined this child care proposal very carefully. There was a great need for this type of facility. Mr. Hyland inquired if Mr. Butt was the official spokesman for the church. Mr. Butt replied that he was representing his wife.

Mrs. Andrea Ash, a Board Member of the Westgate Child Center Corporation, also spoke in support of the application. She presented the Board with three letters in support of the application. They were from Mrs. Ralph Soderquist in McLean, Mrs. Youngblood and Mrs. JoAnna M. Hoyt who represented the church. Mrs. Ash stated that it was their hope that the application would be acted on favorably.

In response to questions from the Board, Mrs. Samaha stated that the staff was comprised of one director, six teachers with child care education and three aides who follow through with the lesson plans for the day. She stated that they had a total of 10 staff, all women.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 447, July 29, 1980 Board of Zoning Appeals
WESTGATE CHILD CENTER CORPORATION

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-D-051 by WESTGATE CHILD CENTER CORPORATION under Section 3-203 of the Fairfax County Zoning Ordinance to permit child care center on property located at 1205 Dolley Madison Boulevard, tax map reference 30-2((32))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 29, 1980; 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 176,755 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

R E S O L U T I O N

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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 75.
8. The hours of operation shall be 7:30 A.M. to 6:00 P.M., Monday through Friday.
9. This permit is granted for a period of three (3) years.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

 Page 448, July 29, 1980, Scheduled case of

8:15 P.M. THE SALVATION ARMY, appl. under Sect. 3-103 of the Ord. to amend existing special permit for church and related facilities and child care center to permit addition to existing building, located 4915 Ox Road, 68-1(1)11, Annandale Dist., R-1, 5.00544 acres, S-80-A-050.

Chairman Smith stated that the special permit application would have to be deferred because of an engineering error. The Board deferred the application for a period not to exceed 90 days. Chairman Smith stated that the property should be reposted at the time of the next hearing.

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Page 448, July 29, 1980, Scheduled case of

8:30 P.M. CLAUDE A. & BETTY J. WHEELER T/A PROCTOR HATSELL PRIVATE SCHOOL, INC., appl. under Sect. 18-401 of the Ord. to allow child care center use within residential buildings which are 26 ft. from front lot lines (30 ft. min. front yard req. by Sect. 3-407; compliance with bulk regulations by special permit use req. by Sect. 8-303), located 5945 N. Kings Hwy, Fair Haven Subd., 83-3(9)(6)12 & 27, Mt. Vernon Dist., R-4, 12,526 sq. ft., V-80-V-112.

&
 8:30 P.M. PROCTOR HATSELL PRIVATE SCHOOL, INC., appl. under Sect. 8-305 of the Ord. to permit child care center per Sect. 8-301, located 5945 N. Kings Highway, Fairhaven Subd., 83-3(9)(6)12 & 27, Mt. Vernon Dist., R-4, 12,525 sq. ft., S-80-V-041. (DEFERRED FROM JUNE 24, 1980 SO APPLICANT COULD FILE A VARIANCE).

As there was a problem with the legal advertising of the above scheduled cases, the Board deferred the applications until a special meeting, Friday Night, September 12, 1980 at 8:15 P.M.

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Page 448, July 29, 1980, Scheduled case of

8:45 P.M. PLEASANT VALLEY PRESCHOOL, appl. under Sect. 3-303 of the Ord. to permit renewal of S-121-76 to permit continuation of existing nursery school, located 4616 Stringfellow Rd., 45-3(1)11, Springfield Dist., R-3, 1.52 acres, S-80-S-053.

Page 449, July 29, 1980
PLEASANT VALLEY PRESCHOOL
(continued)

As there was a problem with the legal advertising of the special permit application, the Board deferred the case until a special meeting for Friday Night, September 12, 1980 at 8:00 P.M.

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Page 449, July 29, 1980, After Agenda Items

MR. & MRS. ERIC WARD: Mr. Art Walsh informed the Board that he represented the Wards in a petition of certiorari filed by their next door neighbors who owned the vacant lot adjoining the Wards. The case was presently in litigation. Mr. Walsh stated that he had worked out a possible settlement with the County Attorney's Office but there was one technicality that needed the BZA's clarification. The original variance filed was to allow an addition to an existing dwelling 10.7 ft. from the side lot line.

After discussion of the matter, Mr. Hyland moved that the Board go on record as expressing its intent regarding V-80-D-050 to make it clear that the Board approved the addition of a bedroom over the existing structure to 10.7 ft. from the side lot line. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

//

Page 449, July 29, 1980, After Agenda Items

ALBERT JARRATT: The Board was in receipt of the revised hold harmless agreement presented by Mr. Gary Davis, the attorney representing Mr. Albert Jarratt regarding the radio tower/antenna. After review of the document, the Board stated that it appeared to be sufficient but asked the Clerk to forward it to the County Attorney's Office for review.

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Page 449, July 29, 1980, After Agenda Items

OLD KEENE MILL SWIM CLUB, INC: The Board was in receipt of a letter from the Old Keen Mill Swim Club, Inc. requesting permission to extend the hours of operation for tennis until 10 P.M. year round. It was the consensus of the Board that the club would need to file an amendment to its special permit. The Clerk was directed to so inform the applicant and to provide the necessary forms.

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Page 449, July 29, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for its meeting of July 17, 1979 which had been distributed the previous week. Mr. Barnes moved that the Minutes be approved as amended. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

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Page 449, July 29, 1980, After Agenda Items

DAVID R. VANOVER: The Board was in receipt of a request from Zoning Enforcement for a determination regarding the parking of automobiles at 3302 Glen Carlyn Road associated with a special permit for a home professional (journalism) office. Apparently, the applicant was parking vehicles in the street as well as in the designated parking area.

It was the consensus of the Board that the matter be referred to the Zoning Administrator for possible revocation of the special permit. The Chairman asked that should revocation become necessary, that the applicant be advised of his appeal rights.

// There being no further business, the Board adjourned at 9:05 P.M.

By Sandra L. Hicks Sandra L. Hicks, Clerk to the Board of Zoning Appeals
Daniel Smith DANIEL SMITH, CHAIRMAN

Submitted to the Board on April 27, 1982 APPROVED: May 4, 1982 Date

A Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Wednesday, July 30, 1980. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Gerald Hyland. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 10:20 A.M. and Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case of

10:00 GEORGE M. & OLIVE M. FITZWATER, appl. under Sect. 18-401 of the A.M. Ord. to allow subdivision into 3 lots, 2 of which would have width of 6 ft. each (70 ft. min. lot width req. by Sect. 3-406), located 2358 Great Falls St., Daniels Subd., 40-4(1)28, Dranesville Dist., R-4, 1.0023 acres, V-80-D-121.

As the required notices were not in order, the Board deferred the variance until Tuesday, September 16, 1980 at 10:10 A.M.

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Page 450, July 30, 1980, Scheduled case of

10:15 JULIUS S. JAYROE, appl. under Sect. 18-406 of the Ord. to allow A.M. a covered porch to remain in the rear yard 14.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 9116 Home Guard Dr., Signal Hill Subd., 78-2((16))455, Springfield Dist., R-3(C), 8,970 sq. ft., V-80-S-122.

Mrs. Jayroe of 9116 Home Guard Drive in Burke apologized to the Board for building the porch without a building permit. She stated that the area behind her house was small and shallow and was irregular in shape. In addition there was an area of poor drainage which stayed soggy most of the time. Mrs. Jayroe stated that her back yard had no value to her without a porch. Mrs. Jayroe stated that the addition required a variance. She had checked with her neighbors and they were in support of the variance. Mrs. Jayroe stated that the materials for the porch were the same as all other porches in the area.

In response to questions from the Board, Mrs. Jayroe stated that Mr. Lyle Williams built the porch. She stated that he was licensed. Mr. Williams had told her a permit was not needed since the porch would not be covered. Later, when the porch was finished, Mrs. Jayroe had decided to cover half of the porch. She stated that she was not informed by Mr. Williams that a building permit was necessary. Chairman Smith stated that a building permit was necessary to construct a deck. He inquired if Mr. Williams was a contractor and was informed by the applicant that he was not.

Mr. Covington stated that the applicant had a very shallow lot. He stated that if the Board looked at the tax map, they would see that this was the most shallow lot on the street.

In further response to questions from the Board, Mrs. Jayroe stated that she was originally from Texas but had moved to Virginia from Venezuela. She was not aware that a building permit was necessary to construct the deck. Chairman Smith stated that there were zoning regulations even in cities in Texas. Mr. Covington stated that Mr. and Mrs. Jayroe were military people and moved around a lot.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 450, July 30, 1980 Board of Zoning Appeals
JULIUS S. JAYROE

R E S O L U T I O N

WHEREAS, Application No. V-80-S-122 by JULIUS S. JAYROE under Section 18-406 of the Fairfax County Zoning Ordinance to allow a covered porch to remain in the rear yard 14.8 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307) on property located at 9116 Home Guard Drive, tax map reference 78-2((16))455, 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 July 30, 1980; and

WHEREAS, the Board has made the following findings of fact:

THAT noncompliance 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.

R E S O L U T I O N

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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:

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 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 451, July 30, 1980, Scheduled case of

10:20 WILLIAM E. PURCELL, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of addition to dwelling to 23.5 ft. from rear property line
(25 ft. min. rear yard req. by Sect. 3-307), located 5413 Earps Corner Place,
Middleridge Subd., 68-3((5))214, Annandale Dist., R-3(C), 126,844 sq. ft.,
V-80-A-124.

Mr. Steve Humlinker of 2004 Mayflower Drive in Woodbridge represented the applicant. Mr. Hyland inquired as to who Mr. Humlinker was and his relation to the applicant. Mr. Humlinker stated that he was asking for permission to construct a solar roof on Mr. Purcell's property. He stated that he was the salesman for Solar Rooms, Inc. in Yorkshire, at 7210 Old Centreville Road, on Rt. 28 in Prince William County. Mr. Purcell was in the audience. Mr. Humlinker stated that they were asking for a 1½ ft. variance for a 9.7'x16.4' solar collector. He stated that the lot was unusually shaped. It had a long storm sewer easement through the lot. All of the contiguous property owners had been contacted and no one objected to it. The collector would be a double pane glass structure which would create a vacuum and provide a jacket. It would trap heat in the air space between the pool of water and the floor space which would be released during the non-sun hours.

In response to questions from the Board, Mr. Humlinker stated that the water was much like a spa. Chairman Smith inquired if the collector had a function in the summer months. Mr. Humlinker stated that it could be used for starting plants. The solar collector was very much like a greenhouse and was an all glass structure.

Chairman Smith stated that the Zoning Administrator should try to work out some kind of an Ordinance to allow the construction of solar rooms at a certain distance from the lot lines without having to get a variance. He stated that the County should try to bend over backwards without a lot of red tape. Mr. Covington stated that the Ordinance did have special provisions for stairways and chimneys.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 451, July 30, 1980
WILLIAM E. PURCELL

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-A-124 by WILLIAM E. PURCELL under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 23.5 ft. from rear property line (25 ft. minimum rear yard req. by Sect. 3-307) on property located at 5413 Earps Corner Place, tax map reference 68-3((5))214, 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 30, 1980; 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 126,844 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including shallow and has converging lot lines.

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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 452, July 30, 1980, Scheduled case of

10:30 A.M. GERALD WALDMAN, appl. under Sect. 18-401 of the Ord. to allow subdivision into 6 lots with proposed lot 6 having a width of 20 ft. (100 ft. min. lot width req. by Sect. 3-206), located 4839 Powell Rd., Vertain Park Subd., 69-3((2))31, Annandale, R-2, 3.0019 acres, V-80-A-125.

Mr. Gerald Waldman of 4719 Trotting Lane in Annandale informed the Board that he was the owner of three acres of ground on the northeast corner of Powell Road. He stated that the property had been rezoned to an R-2 category. The property ran to the west which was also zoned R-2. Mr. Waldman stated that the basis for the variance request was because of the extreme depth of the property. The existing house made it difficult to make use of the property under the minimum density requirement. Mr. Waldman stated that he felt the approval of the pipestem would allow him a reasonable and equitable use of the property. The lots would average 1/2 acre. In the R-2 category, the lots could average as little as 15,000 sq. ft. but Mr. Waldman stated that his lots were a full 1/2 acre in size.

In response to questions from the Board, Mr. Waldman stated that at the time of rezoning the Board of Supervisors had reviewed the subdivision plat and were aware of the need for a variance. He stated that the Board of Supervisors had approved everything in the rezoning but the variance. They were aware that the variance would be necessary for a pipestem lot. Mr. Waldman stated that one of the conditions had been that Audrey Moore had wanted to see the site plan before final approval from DEM.

Mr. Covington stated that the land records from the computer indicated that there were only 2.9 acres. Mr. Waldman informed the Board that the application was correct in that there was more than three acres. He stated that he had purchased an additional 1,000 sq. ft. prior to the rezoning. Chairman Smith inquired if the 1,000 sq. ft. had been included in the rezoning application and was informed it had been. Chairman Smith asked how the difference could be reconciled. Mr. Covington stated that the computer indicated 2.9 acres but apparently the land records had not been brought up to date yet. Mr. Waldman stated that the plat showed the additional deed. He stated that he would have six full 1/2 acre lots.

Mr. Hyland inquired as to the justification for the variance. Mr. Waldman stated that his property measured 450 ft. in depth. He stated that he was asking for minimum density which was two dwelling units per acre in an area that had three dwelling units per acre. Mr. Waldman stated that he needed a pipestem in order to get the sixth lot. He stated that his property did not have enough frontage for all six lots and he was requesting a variance for the pipestem. Chairman Smith stated that the applicant could get five lots and still have reasonable use of the property. Mr. Waldman stated that the development was planned for two dwelling units per acre. He stated that he had asked for the minimum in the rezoning. He felt that he was asking for a reasonable use of the property in as much as the other lots in the area were less than 15,000 sq. ft. in area.

Mr. Covington suggested that the BZA have the Board of Supervisors approve the subdivision layout particularly since Ms. Moore had asked that it come back. Mr. Waldman asked that the minutes of the rezoning be examined. He stated that the Board of Supervisors had wanted to see it back only because of the storm water problems.

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-80-A-125 by GERALD WALDMAN under Section 18-401 of the Zoning Ordinance to allow a subdivision into six lots with proposed lot 6 having a width of 20 ft. (100 ft. minimum required by Sect. 3-206) on property located at 4839 Powell Road, tax map reference 69-3((2))31, 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 30, 1980; 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 3.0019 acres.
4. That the applicant's property is exceptionally irregular in shape.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 453, July 30, 1980, Scheduled case of

10:40 JOHN A. NIEMI, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of carport addition to dwelling to 10.6 ft. from side lot line (15 ft. min. side yard for open carport req. by Sect. 3-107 & 2-412), located 11501 Leehigh Dr., Kiehl's Garden Subd., 56-4((2))16, Springfield Dist., R-1, 21,904 sq. ft., V-80-S-123.

The Board was in receipt of a letter from Mr. Niemi dated July 14, 1980 asking for withdrawal of the variance application. Mr. Yaremchuk moved that the Board allow the withdrawal without prejudice. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

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Page 453, July 30, 1980, Scheduled case of

10:50 ROBERT G. & DELORIS FINCH PAJER, appl. under Sect. 18-401 of
A.M. the Ord. to allow 6 ft. high fence to remain in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-105), located 6599 Braddock Rd., Clearfield Subd., 71-4((1))49 & 71-4((6))A1, Mason Dist., R-2, 0.57 acres, V-80-M-126.

Mr. Robert Pajer of 6599 Braddock Road represented himself. For information regarding the testimony, please refer to the verbatim transcript on file in the Clerk's Office.

Page 453, July 30, 1980

Board of Zoning Appeals

ROBERT G. & DELORIS FINCH PAJER

RESOLUTION

In Application No. V-80-M-126 by ROBERT G. & DELORIS FINCH PAJER under Section 18-401 of the Zoning Ordinance to allow 6 ft. high fence to remain in front yard (4 ft. maximum height for fence in front yard required by Sect. 10-105) on property located at 6599 Braddock Road, tax map reference 71-4((1))49 & 71-4((6))A1, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 30, 1980; 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 0.57 acres.
4. That the applicant has not furnished information that the property is irregular in shape.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 454, July 30, 1980, Scheduled case of

11:00 PHILIP D. & KATHERINE P. SPIESS, appl. under Sect. 18-401 of the
A.M. Ord. to allow enclosure of existing carport to 11.1 ft. from side lot line (12
ft. min. side yard req. by Sect. 3-307), located 7415 Long Pine Dr.,
80-1((2))(72)4, Annandale Dist., R-3, 15,155 sq. ft., V-80-A-129.

Mr. Philip D. Speiss of 7415 Long Pine Drive informed the Board that he was the owner of the property having purchased it two years ago. At that time, it was his understanding that th side yard restriction was only 8 ft. Mr. Speiss stated that when he went to enclose the carport, he found out that the side yard had changed to 12 ft.

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-80-A-129 by PHILIP D. & KATHERINE P. SPIESS under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to 11.1 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 7415 Long Pine Drive, tax map reference 80-1((2))(72)4, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 30, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 15,155 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

R E S O L U T I O N

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 455, July 30, 1980, Recess

At 12:00 Noon, the Board recessed for lunch and reconvened at 12:30 P.M. to continue with the scheduled agenda.

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Page 455, July 30, 1980, Scheduled case of

11:10 A.M. ARTHUR P. & MARY C. ISMAY, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to dwelling to 15.5 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 1169 Chain Bridge Rd., Ballantrae Farms Subd., 31-1((2))39B, Dranesville Dist., R-1, 1.4637 acres, V-80-D-128.

Mr. Arthur P. Ismay of 1169 Chain Bridge Road in McLean stated that he was requesting a variance of 4½ ft. from the side boundary of his property to allow the expansion of a garage and to provide additional bedrooms in the dwelling. He stated that he had examined the building with an architect and it was decided that the proposed location was the most logical location. Mr. Ismay stated that there already was a storage area on the side of the garage which was used as a utility area and for the storage of wood and for the parking of a car. He stated that this area was covered in gravel.

Mr. Ismay stated that it would be a hardship if he had to build the addition at another location. Mr. Ismay stated that he had a fence which would have to be moved if he built elsewhere. In addition, he stated that he had a well and a septic field on the property. On the other side of his house, land had already been taken when Dolley Madison highway was cut through. Mr. Ismay stated that had been done prior to his purchase of the property. Mr. Ismay stated that he would need a variance in order to build an addition on that side of his house. Mr. Ismay stated that he also wished to preserve the trees on his property. He stated that if he chose any other location, it would disturb the use of his house and occupancy of it during construction.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 455, July 30, 1980
ARTHUR P. & MARY C. ISMAY

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-D-128 by ARTHUR P. & MARY C. ISMAY under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 15.5 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107) on property located at 1169 Chain Bridge Road, tax map reference 31-1((2))39B, 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 30, 1980; and

WHEREAS, the Board has made the following findings of fact:

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 1.4637 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property as well as the location of the septic fields and the water well which make it difficult to place the addition anywhere on the property other than as shown.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

 Page 456, July 30, 1980, Scheduled case of

11:30 BURKE CENTRE DAY SCHOOL, INC., appl. under Sect. 5-303 of the
 A.M. Ord. to permit child care center, located Oak Leather Drive & Burke Centre
 Parkway, 77-4(1)5, Springfield Dist., I-3, 1.25 acres, S-80-5-056.

Mr. Robert Lawrence, an attorney in Fairfax, represented Mrs. Frances Bathelder, owner of the Burke Centre Day School. Mr. Lawrence thanked the Board for granting an out-of-turn to Mrs. Bathelder. Mr. Lawrence stated that the subject property had been downzoned to an I-3 category by the Board of Supervisors four months ago. It was done in order to provide a transitional area between the industrial area and the residential property. At the time of the public hearing, it was proposed to the Planning Commission staff and the Board of Supervisors that the property would be used for a day care center. They had approved the concept of a day care center on March 31, 1980. Mr. Lawrence stated that the property was undeveloped and a new building would be constructed for use as a day care center.

Mr. Lawrence informed the BZA that the staff report had indicated that this use would have less traffic than the I-5 zoning it originally had been. It was the conclusion of the staff that the rezoning would be desirable because of the less intense use adjacent to the residential community. The two uses proposed had been a church or a day care center.

Mr. Lawrence stated that Mrs. Bathelder has operated other day care centers with success. He stated that this would be a new project involving a substantial investment and was subject to site plan control. Mr. Lawrence stated that everything would be governed by site plan. The proposed cost of construction was \$700,000. Mr. Lawrence stated that the reason he mentioned cost was because it would be impossible to obtain financing if there was a time limit on the special permit. Chairman Smith stated that the normal procedure of the Board was not to limit day care uses for any set length if it was located in a commercial or industrial area. Mr. Lawrence stated that Mrs. Bathelder was going to purchase the land.

In response to questions from the Board, Mr. Lawrence stated that there would be a maximum of 160 children at any one time. The hours of operation would be 6:30 A.M. to 6:30 P.M., Monday through Saturday. The ages would be infant through ten years.

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

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-S-056 by BURKE CENTRE DAY SCHOOL, INC. under Section 5-303 of the Fairfax County Zoning Ordinance to permit child care center on property located at Oake Leather Drive, tax map reference 77-4((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 July 30, 1980; 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-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 in the application and is not transferable to other land.
- 2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
- 5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
- 7. The number of children shall be 160, ages infant to 10 years.
- 8. The hours of operation shall be 6:30 A.M. to 6:30 P.M., Monday through Saturday.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 457, July 30, 1980, Scheduled case of

11:45 A.M. MONTESSORI SCHOOL OF NORTHERN VIRGINIA, appl. under Sect. 3-203 of the Ord. to amend S-576-67 for school of general education to change age range for students to ages 3-12, located 6820 Pacific Lane, Braddock Hills Subd., 71-2((8))93B, Annandale Dist., R-2, 120,767 sq. ft., S-80-A-057.

Mrs. Sunny Lappenbush of 6480 Overlook Drive in Alexandria stated that she was a member of the Board of Directors for the school. Mrs. Lappenbush stated that the change in the age range of the students was the only one anticipated by the school at this time. The school wanted to change the mix of the students. The present permit allowed ages of 3 to 9 and the school now wished the ages to be from 3 to 12. She stated that the total number of students would remain the same, which was 115. The permit had originally been granted in 1964.

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

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Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-A-057 by MONTESSORI SCHOOL OF NORTHERN VIRGINIA under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-576-67 for school of general education to change age range for students to ages three to twelve on property located at 6820 Pacific Lane, tax map reference 71-2((8))93B, 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 30, 1980; 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 120,767 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 in R Districts as contained in Section 8-006 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute a violation of the conditions of this Special Permit.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property 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 150; ages three to twelve.
8. All other limitations set forth in S-576-67 not changed by this resolution shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 458, July 30, 1980, Scheduled case of

12:00 TRUSTEES OF IMMANUEL BAPTIST CHURCH, appl. under Sect. 3-203 of
NOON the Ord. to permit construction and operation of church and related activities, located 5209 & 5213 Backlick Rd., 71-4((1))36 & 37, Annandale Dist., R-2, 7.3293 acres, S-80-A-058.

Mr. Robert Gunning of 9240 Christen Lane represented the church. He stated that the church had been before the Board on August 2, 1978 to add an addition to the church building on its current property on Braddock Road. The church had about 3.5 acres of property. After the building was designed, it was determined that the church would not have the space it would need over the next five years. So, on October 7, 1979, the church voted to buy 7 acres of ground Backlick and Braddock Road. Mr. Gunning stated that the church purchased the property and was now requesting permission to build a new church complex. The church proposed to move its congregation to the new location. Mr. Gunning stated that the church would have about 8 employees. The church office would operate from 9 A.M. until 4:30 P.M. The Sunday service would be the major activity of the church. Sunday service would be from 9:45 A.M. to 12:15 P.M. and from 5 P.M. to 9 P.M. Mr. Gunning stated that the church proposed to serve 600 to 800 people at any

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TRUSTEES OF IMMANUEL BAPTIST CHURCH
(continued)

sunday morning. The building was designed to seat 1,000 people. The parking would accommodate 252 cars. He stated that more parking would be provided as the congregation grew.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 459, July 30, 1980 Board of Zoning Appeals
TRUSTEES OF IMMANUEL BAPTIST CHURCH

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-A-058 by TRUSTEES OF IMMANUEL BAPTIST CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance to permit construction and operation of church and related activities on property located at 5209 & 5213 Braddock Road, tax map reference 71-4(1)36 & 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 July 30, 1980; 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 7.3293 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 in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional use, 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 1,000.
8. The hours of operation shall be normal church activities.
9. The number of parking spaces shall be 252.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Barnes and Mr. DiGulian being absent).

Page 460, July 30, 1980, Scheduled case of

12:10 P.M. FRANCIS H. & MARCIE FAREED CRAIGHILL, appl. under Sect. 18-401 of the Ord. to allow construction of a fence exceeding 7 ft. in height around tennis court and 5 ft. from side lot line (20 ft. min. setback for such fence req. by Sect. 10-105 and 3-107), located 1350 Ballantrae Lane, Ballantrae Subd., 31-1((2))258, Dranesville Dist., R-1, 1.725 acres, V-80-D-127.

Page 460, July 30, 1980
FRANCIS H. & MARCIE FAREED CRAIGHILL
(continued)

As the required notices were not in order, the Board deferred the variance until September 9, 1980 at 10:50 A.M.

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Page 460, July 30, 1980, Scheduled case of

12:15 P.M. MICHAEL NADANYI, appl. under Sect. 18-404 of the Ord. to allow three lots with width of 10 ft. (150 ft. min. lot width required by Sect. 3-106), located West Ox Road, 35-4((1))14, Centreville Dist., R-1, 15.0 acres, V-80-C-095. (DEFERRED FROM JULY 1, 1980 FOR ADDITIONAL TESTIMONY & DECISION).

The variance was again deferred until September 16, 1980 at 10:20 A.M. at the request of the applicant.

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Page 460, July 30, 1980, After Agenda Items

ST. LUKES ROMAN CATHOLIC CHURCH: At the request of a Site Review Engineer of the County, the Board reviewed the architectural drawings of ST. Lukes Roman Catholic Church. There was a question because of a difference in the height of a tower than what had originally been presented to the BZA. After review of the drawings, Mr. Yaremchuk moved that the Board approve the increase in height as a minor engineering change. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

// There being no further business, the Board adjourned at 1:15 P.M.

By Sandra L. Hicks Sandra L. Hicks, Clerk to the Board of Zoning Appeals
Daniel Smith DANIEL SMITH, CHAIRMAN

Submitted to the Board on April 27, 1982 APPROVED: May 4, 1982 Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, August 5, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk (arriving at 9:55 A.M.); and Gerald Hyland.

The Chairman opened the meeting at 9:35 A.M. and Mr. Barnes led the prayer.

EXECUTIVE SESSION: Mr. DiGiulian moved that the Board convene into an Executive Session to discuss legal matters. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 (Mr. Yaremchuk having not yet arrived).

At 10:20 A.M., the Board reconvened to continue with the scheduled agenda.

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Page 461, August 5, 1980, Scheduled case of

10:00 A.M. E. N. KOULIZAKIS & MATTHEW J. VLISSIDES, appl. under Sect. 18-406 of the Ord. to allow an existing 8 ft. high fence to remain with barb-wire on top in front, side and rear yards on an R-3 zoned lot contrary to Sect. 10-105 of the Zoning Ordinance, located 3524 Williams Lane, 61-2((1))107, Mason Dist., R-3, 46,901 sq. ft., V-80-M-101.

Mr. Pournolas was the agent representing Mr. Koulizakis and Mr. Vlissides. He stated that this was a variance request under two sections of the Code. It was to allow a fence that had been in existence for over 15 years to remain in place. The property was zoned residential. Mr. Pournolas stated that they were asking for a variance to the height and the setback. The fence was located along the property line. It had two strands of barb-wire on top which was not permitted for any lot of less than two acres. Mr. Pournolas stated that the fence had been in existence for 15 years. He stated that they had not been able to find out who had installed the fence. Mr. Pournolas stated that they believed it had been the Navy when they occupied the office building that backed up to the subject property. Mr. Pournolas stated that this property backed up to commercial property. At business, it was a U-Haul business. Mr. Pournolas stated that if the fence were taken down, the U-Haul business would overtake the property belonging to Mr. Koulizakis and Mr. Vlissides. Mr. Pournolas showed the Board some photographs of the subject property.

In response to questions from the Board, Mr. Pournolas stated that the residential property was vacant at the present time. Mr. Koulizakis and Mr. Vlissides had owned the property for 1 1/2 years. Mr. Covington informed the Board that the applicants wanted to preserve the fence in order to keep trash from being dumped on their property. Mr. Pournolas stated that the property to the south was also residential property. There was a house there. Mr. Pournolas stated that the subject property had been used a long time ago in connection with the office building.

Chairman Smith stated that if the government had been using the property, the fence and barb-wire had been allowed. However, all of that had changed with the change in ownership of the property. Chairman Smith stated that unless the zoning permitted, the applicants would not be able to keep the barb-wire on a permanent basis. He stated that he did not see how the Board had the authority to grant a permanent variance since it was not permitted in the district. Mr. Pournolas stated that there were a lot of junk cars being repaired on Williams Lane. In addition, there was a trailer repair shop. Chairman Smith stated that a 4 ft. fence would keep junk cars from being repaired on the property.

Mr. DiGiulian inquired if the applicants had any plans to develop the property and was informed not at the present time. Mr. Pournolas stated that the property was vacant. The Master Plan called for R-3 zoning and that was what it was zoned. Mr. Barnes stated that if the property was developed, the fence would have to come down. Mr. Hyland inquired if there was any reason to continue the barb-wire around the top of the fence. Mr. Pournolas stated that it was there. Mr. Covington informed the Board that barb-wire was permitted for security reasons but not in a residential area.

Mr. Yaremchuk stated that the applicant had two problems. One was the 8 ft. fence and the other was the barb-wire on top of it. He stated that the Board could not approve the barb-wire even if it wanted to since it was not allowed in the residential area. Mr. Yaremchuk stated that he had no problem with the variance to the height. Mr. Covington stated that the applicant was requesting a waiver of the barb-wire and the application had been accepted by the staff. Mr. Pournolas stated that the barb-wire would be allowed if they did not have the 8 ft. fence. Mr. Covington stated that if the applicants had a special permit for a pool, the barb-wire would be allowed for security reasons. Mr. Covington stated that the applicants were between a rock and hard place. If they removed the fence, their property would be overrun with trash which was also a violation. Mr. Covington informed the Board that they could grant the variance in part.

Page 462, August 5, 1980
 E. N. KOULIZAKIS & MATTHEW J. VLISSIDES
 (continued)

Mr. Hyland stated that he did not believe the Board could vary the barb-wire fence and Chairman Smith agreed. Mr. Covington stated that the applicants did not have anything on the property to secure but the 8 ft. fence would prevent the dumping. Chairman Smith stated that the property was residentially zoned and that the height should be limited to a temporary variance.

Mr. Hyland inquired if the applicants would be satisfied if they were required to remove the barb-wire but allowed to keep the fence at 8 ft. Mr. Pournolas stated that the applicants would have to bear the expense of taking down the wire. Mr. Hyland stated that was better than cutting the fence down to 4 ft. Chairman Smith stated that he believed there should be some provision as far as the height of the fence to limit it until such time as the property was developed. He stated he felt that way because the property adjoined residential property. He indicated that he had no problem with allowing the fence on a temporary basis to alleviate the dumping problem.

Mr. Pournolas asked the Board to review whether his clients needed a setback variance. Chairman Smith stated that there was no problem with the setback if the Board allowed the height.

There was no one else to speak in support of the application and no one to speak in opposition.

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Board of Zoning Appeals

E. N. KOULIZAKIS & MATTHEW J. VLISSIDES

R E S O L U T I O N

In Application No. V-80-M-101 by E. N. KOULIZAKIS & MATTHEW J. VLISSIDES under Section 18-406 of the Zoning Ordinance to allow an existing 8 ft. high fence to remain with barb-wire on top in front, side & rear yards on property located at 3524 Williams Lane, tax map reference 61-2((1))107, 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 5, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicants.
2. The present zoning is R-3.
3. The area of the lot is 46,901 sq. ft.
4. That the applicant's property has an unusual condition in the development and use of the surrounding property and that the fence existed for approximately 15 years.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use 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 at such time as the property is developed.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 2 (Messrs. Smith & Hyland).

Mr. Hyland had asked that the motion be amended to have the barb wire removed. He asked that Mr. DiGiulian exclude the provision in his motion that would allow the barb-wire to remain. Mr. Hyland's motion to amend failed for lack of a second and the Board voted on the main motion as shown above.

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Page 463, August 5, 1980, Scheduled case of

10:10 DOSIA B. DUNHAM, appl. under Sect. 18-401 of the Ord. to allow construction of
A.M. dwelling to 16 ft. from street line (30 ft. min. front yard req. by Sect. 3-307),
located 6412 10th Street, New Alexandria Subd., 83-4((2))(39)30-32, Mt. Vernon
Dist., R-3, 10,500 sq. ft., V-80-V-086.

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As the matter related to a Planning Commission hearing, the Board directed the Clerk to reschedule the variance in accordance with the P.C. Hearing. Chairman Smith directed the Board to allow the Clerk to select a date. Mr. Hyland moved that the variance be deferred and Mr. Barnes seconded the motion. The motion passed by a vote of 5 to 0.

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Page 463, August 5, 1980, Scheduled case of

10:20 CARL E. & JURATE MACIUNAS LANDWEHR, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of a garage addition to dwelling to 2.7 ft. from side lot line (15
ft. min. side yard req. by Sect. 3-207), located 1923 Kenbar Court, Kenbarger
Subd., 41-1((24))20A, Dranesville Dist., R-2, 20,141 sq. ft., V-80-D-136.

Mr. Carl Landwehr of 1923 Kenbar Court stated that he was seeking a variance because of the special conditions of the buildings that were outlined in his written statement. The reasons outlined were that the existing carport was attached to the left of the house. There was a steep slope on the right hand side of the house and if construction went there, a variance would also be necessary. The rear yard was also steeply sloped. If the driveway were extended, it would be impossible to drive the car. If construction were on the front, it would be unsightly. Mr. Landwehr informed the Board that his property was irregularly shaped. In addition, he believed that the enclosed garage would remove the clutter from public view. The only logical place to construct the garage was at the proposed location. The proposed extension would allow room for the parking of a boat and trailer to stored inside. It would also accommodate trash cans and bicycles.

Mr. Landwehr stated that the proposed addition would be in harmony with the existing house. Although the garage would next to the lot line, Mr. Landwehr stated that his neighbor's driveway was on that side of the property. In response to questions from the Board, Mr. Landwehr stated that he had owned the property since June 28, 1979. He informed the Board that a variance had been granted ten years ago for the construction of the carport. The existing carport was 12 ft. wide. The length of the carport was 26 ft.

Chairman Smith inquired as to why the applicant had not just applied to enclose the existing carport. Mr. Landwehr stated that he had a boat and trailer which he wanted to keep under roof as well. He stated that was the reason for the request for an extension. There would be a door to the left of that. The existing driveway was already the double width.

Mr. Barnes inquired if there was a door in the present carport and was informed that was a free standing closet. Mr. Landwehr stated that he had talked to all of his neighbors and no one objected.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 463, August 5, 1980
CARL E. & JURATE M. LANDWEHR

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-D-136 by CARL E. & JURATE M. LANDWEHR under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to 2.7 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 1923 Kenbar Court, tax map reference 41-1((24))20A, 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 5, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 20,141 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an exceptional topographic problems.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

R E S O L U T I O N

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THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

 Page 464, August 5, 1980, Scheduled case of

10:50 ENGLANDBORO CIVIC ASSOCIATION, appl. under Sect. 18-301 of the Ord. to appeal
 A.M. decision of Zoning Administrator in approving Group Residential Facility
 permit for the subject property located at 6435 Columbia Pike, Englandboro
 Subd., 61-3(3)9, Mason Dist., R-2, 18,220 sq. ft., A-80-M-007.

Mr. Ian O'Flaherty, an attorney in Vienna, represented the applicants. Chairman Smith asked for an agreement to only discuss the appealable items, the safety factors and the general health and welfare. Chairman Smith stated that the use was permitted under certain conditions. He asked the attorney to speak only to the appealable items. Mr. O'Flaherty informed the Chairman that he understood his position but would not agree with it. Mr. Hyland inquired if Mr. O'Flaherty intended to cover other areas. Mr. O'Flaherty stated that he presumed that if he spoke about other issues, he would be wasting everyone's time. He agreed to limit himself to the issues outlined by the Chairman.

Mr. Yates, the Zoning Administrator, informed the Board that he had presented a position paper which set forth the position of the appellant as well as his position. Mr. Yates stated that this was an appeal for a group residential facility located at 6435 Columbia Pike. The Ordinance in question was paragraph 3 of Section 2-502. Mr. Yates stated that the subject property was located at 6435 Columbia Pike in Englandboro Subdivision which was zoned R-2. Mr. Yates stated that on May 13, 1980, he had approved a group residential facility permit based upon a favorable recommendation from the Group Residential Committee. He stated that paragraph 3-C of the Ordinance requires permission from the Zoning Administrator to approve a group residential facility and that was based upon a determination that the protection, safety and welfare of the residents were addressed. In addition, Mr. Yates had to determine whether it promoted proportionate distribution throughout the County.

Mr. Yates stated that in his memo dated July 1, 1980, he had responded to the Englandboro Civic Association. Mr. Yates informed the Board that he would be less than candid if he did not inform them that this site had a traffic safety concern. Mr. Yates stated that he had placed seven specific conditions on the granting of the group facility permit. He was convinced that these conditions, if strictly adhered to, would alleviate the traffic problem. Mr. Yates stated that the subject property was planned and zoned for single family detached dwelling units for residential use. Mr. Yates stated that the property could adequately accommodate the residential use and he had approved the facility in accordance with provisions of paragraph 3-C, Section 2-502 of the Ordinance.

In response to questions from the Board, Mr. Yates stated that the staff findings in regard to traffic accidents in the general location of the subject property had determined that the last accident was in 1976. On page 3 of the staff report, Mr. Yates noted that the staff had checked with the Police Department and from May 1979 to May 1980, the area had only one citation issued for excessive speed. The Police Department had no record of any traffic accidents during that time. Mr. Yates stated that the County would continue to monitor and examine the traffic situation at the location. He stated that had been one of the conditions in the issuance and approval of the permit. Mr. Hyland inquired as to what would occur if the staff determined that the traffic safety was a real issue. Mr. Yates replied that one of the conditions set forth, no. 7, had been his intent that at the end of the six month review, that a second public meeting be conducted on the group residential facility, and to take whatever steps would be appropriate as a consequence of the findings of that meeting.

There was no one else to speak in support of the Zoning Administrator's position in the appeal.

Mr. Ian O'Flaherty showed the Board the general area in question. He stated that Downing Street and Oxford Street made up Englandoro subdivision. It consisted of 40 homes. He stated that Englandoro was geographically cut off by other roads from other neighborhoods. The property under appeal was not adequately shown on the map according to Mr. O'Flaherty. Mr. O'Flaherty stated that he travelled Downing Street both in the morning and evening. The Mason Governmental Center was located there. Mr. O'Flaherty stated that about 40 police cars also travelled the road. There was a curve in the road greater than was shown on the map. Mr. O'Flaherty stated that it was a blind spot. The lot was heavily wooded. Mr. O'Flaherty stated that the house set below the grade level of the road. The front yard sloped from Columbia Pike down to the front of the house. Mr. O'Flaherty stated that the 5 inch curb in front of the house was supposed to stop cars. However, the history had been that cars hit the curb and were launched into the yards of approximately three homes. Mr. O'Flaherty informed the Board that on one occasion, Mr. Fisher had a vehicle come apart and scatter all over his front yard. In response to questions from Mr. Hyland, Mr. O'Flaherty stated that accident had occurred in 1967. Chairman Smith inquired if that had been before Columbia Pike had been improved at that location. Mr. O'Flaherty stated that the accident had occurred during the time the road was being improved.

Mr. O'Flaherty stated that this part of the road was on a downgrade. He stated that no police officer could stop anyone along there which was why there were very few instances of arrest at that location. He stated that they wait until the road widens out and it's out of the curve area before they stop anyone. Mr. O'Flaherty stated that people speed on the curve and it appears that the vehicles have been launched from a rocket the way they travel the road.

Dealing with a safety aspect, Mr. O'Flaherty stated that the Zoning Administrator had recognized that there was a danger since he had imposed certain restrictions on the property. There were seven restrictions and six of them related to how the property could be used. Mr. O'Flaherty stated that the home housed children from 12 to 17 years who did not come from the most stable, disciplined or structured environment. Mr. O'Flaherty stated that the individuals would not be able to live by the rules. He stated that his experience had been that they do not live by the rules. He stated that a youngsters had been in the front yard pretending to hitchhike. When a car stopped, he would laugh them off. Mr. O'Flaherty stated that other residents of the home wandered along Columbia Pike which had no sidewalk. Mr. O'Flaherty stated that Mr. Fisher could give the Board the dates of times of these events as he lived adjacent to the subject facility and had witnessed these events. Mr. Fisher informed the Board that there had been two instances as recently as Sunday around noon. In response to questions from the Board, Mr. Fisher stated that he had seen the youngsters before. They had walked down the driveway of the facility and gone into the back of the facility.

With regard to the structure of the home, Mr. O'Flaherty stated that there was one supervisor on the premises around the clock, supposedly. Mr. O'Flaherty stated that observations were very simple. He stated that a handful of the children wander around the property pretty much on their own. Mr. O'Flaherty stated that it was difficult to keep track of 7 or 8 well disciplined individuals for a day much less a group of young, undisciplined individuals who had no real reason to abide by stringent rules. Mr. O'Flaherty stated that he could not believe they would abide by the rules with regard to the outside of the property as they had not at this point. He stated that the staff could not spend all of its time evaluating the home and following them around.

Mr. O'Flaherty stated that the driveway to the facility sloped up towards Columbia Pike. The individuals were transported and Mr. O'Flaherty was concerned that a fatal accident would soon occur because of the poor visibility. He stated that the site was poorly chosen for any reason. Mr. O'Flaherty stated that the homes on Columbia Pike turn over with a great frequency because of the traffic condition on Columbia Pike. Mr. O'Flaherty stated that they were rental units because no one wanted to live there. There was a danger getting in and out of the driveway once a day let along many times a day. Mr. O'Flaherty stated that the property could not be policed adequately.

Mr. Yaremchuk inquired of Mr. O'Flaherty where the facility should be located if this was a poor location. Mr. O'Flaherty replied that he would not locate it at this location. He was not certain as to where it should be located. Mr. Yaremchuk inquired of Mr. O'Flaherty as to why he felt this was a poor location. Mr. O'Flaherty stated that he would never buy that property to live in it and would never live in that property. He stated that he would not drive out of the driveway once. He stated that if he had to go to that house, he would park on one of the other streets and try to walk down to the house without getting killed along the street. Mr. O'Flaherty stated that the occupants were fortunate because they could turn around in the back of the property and drive out onto Columbia Pike. He stated that it would be impossible to back out onto the street.

Mr. Yaremchuk stated that a group home facility should be near a shopping center on a major thoroughfare like Columbia Pike. From a standpoint of land use, Mr. Yaremchuk stated that this was good location for the home. He stated that it was better than having the facility deep inside a subdivision. Mr. O'Flaherty disagreed with Mr. Yaremchuk and stated that it was a very poor location.

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Mr. Barnes inquired if Mr. O'Flaherty had any photographs to support his claim of the bad conditions of the road, etc. Mr. O'Flaherty stated that the pictures had been submitted at previous meetings. Chairman Smith stated that the accidents referred to had all occurred when Columbia Pike was under construction. Mr. O'Flaherty stated that at least three fatal accidents had occurred during the past decade. Chairman Smith stated that there had been a year of record in which no accidents had occurred. Columbia Pike had been improved. This was a major thoroughfare and there would be accidents on it. From a land use point of view, Chairman Smith stated that this was an ideal location for the group home facility as it would have less impact if any being located on the major thoroughfare.

Mr. O'Flaherty was concerned about the possibility of having a bus stop in front of the house on Columbia Pike. He stated that the staff was working with the school officials to get a bus stop at this location. Chairman Smith stated that a school bus could stop anywhere on a major road in the State of Virginia.

Mr. Yaremchuk made a observation that there was not any speeding in this area as reported earlier. He stated that at the curve, there was a light and at the other curve was the governmental center with the Police station. The speed limit was 45 miles an hour. Mr. O'Flaherty stated that every night he comes home, people pass by him when he goes 45 m.p.h. Mr. Yaremchuk stated that there was a school there and when it was in session, the speed limit was only 25 m.p.h. Mr. Yaremchuk stated that this was one of the most safest segments of a major thoroughfare in Fairfax County because of the lights, etc. Mr. O'Flaherty stated that he had lived in the area for nine years and held a different opinion of the situation.

Mr. Hyland inquired if one of the problems the citizens had was the questions of controlling the residents of the home. Mr. O'Flaherty stated that Mr. Yates had approved the facility based on the criteria that there would be careful supervision as to where the residents were on the property and how they left the property. Mr. O'Flaherty stated that was not done. He stated that Mr. Yates expected strict compliance with the guidelines. Mr. Hyland inquired if that factor was corrected and supervision of the residents was increased so as to control the youngsters on the property, whether it would alleviate some of the objections or whether they would still stand on the basis of safety. Mr. O'Flaherty stated that the property was still unsafe.

Mr. Hyland inquired of Mr. Yates as to whether the testimony presented would warrant an investigation of the situation by the staff. Mr. Hyland stated that it would but indicated Mr. Charlie Robertson, a supervisor of the facility, was present to speak on the issue. Chairman Smith stated that the youngsters of the facility should have the same rights as any other youngster in Fairfax County.

Mr. Fisher informed the Board that he had lived in the Englandboro subdivision since 1965. He was aware of one car being totally destroyed in which one person was killed and another who subsequently died as a result of the accident. A telephone pole had been broken in half. The wires were down in the yard. Mr. Fisher stated that the car engine was two yards away from the wreck. Mr. Fisher stated that the house at 4000 Oxford Street had three trees which were gone as a result of a car accident. Mr. Fisher stated that on another occasion, a car had gone into the driveway of 4000 Oxford Street barely missing the grandmother and a child of that address. Mr. Fisher stated that had been in 1968.

With respect to adherence of the rules, Mr. Fisher stated that there had been instances he had observed where a youngster stood in the front yard waving. Mr. Fisher stated that he had observed the youngsters coming up Columbia Pike or standing on the corner on the other side of Oxford Street. Mr. Fisher stated that the facility was not fully utilized as there was not eight individuals there. He stated that he had not seen more than four. He stated that he had not monitored it that much. Chairman Smith stated that he had visited the site the day before and there were eight youngsters at that time. He stated that the youngsters appeared to be between the ages of 13 to 18.

Mr. Fisher stated that the youngsters should follow the rules. Chairman Smith inquired if the youngsters were doing anything disorderly at the time they were observed in the front yard or along the highway. Mr. Fisher stated that one individual had been slowing down traffic on Columbia Pike. Mr. Fisher stated that he did not want to make anything out of the situation more than what it was. Mr. Yaremchuk inquired if any of the youngsters went into anyone's yards and caused a problem. Mr. Fisher stated that to his knowledge, they did not. Mr. Yaremchuk stated that in a sense, the youngsters were orderly. It appeared that the citizens were concerned with the traffic situation. Mr. Fisher stated that there was noise in the yard. On one occasion, it had been very loud and very noisy. Mr. Yaremchuk inquired if the noise went beyond 8 o'clock in the evening and Mr. Fisher responded that it did not. Mr. Yaremchuk inquired if there was any late night activity with cars coming and going out of the facility. Mr. Fisher stated that he had not observed any late night activity. He stated that whenever he got up though, all of the lights were on at the facility. Mr. Fisher stated that he had observed other things as far as the usage. One window was punched out in the garage. A front screen had been pushed out. The air conditioner ran full tilt. The back door was open most of the time. The back door screen was gone.

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Mr. Yaremchuk inquired if the zoning inspector went out to check the property to determine whether it was in good sound condition. Mr. Yates stated that the zoning inspector did not inspect the property. Mr. Yates stated that the state had to inspect them on a regular basis because there were federal and state funds involved. Mr. Yaremchuk inquired if the staff had the authority to go in and check out the facility and was informed by Mr. Yates that they did. Mr. Yaremchuk suggested that Mr. Yates send someone periodically to see that the windows were not knocked out and kept in good shape.

The next speaker was John Biers, Vice-Chairman of the Group Residential Facilities Commission. He stated that he was present at the time the public meeting was held in discussion of the establishment of this home. He stated that he had received a copy of the Englandboro statement. Mr. Biers stated that he was concerned about the statement of a constant speed of high speed traffic day and night, a dangerous intersection and of intense and continuous traffic and the constant roar of traffic noise and the difficulty of ingress and egress. Mr. Biers stated that after the public meeting was held, he drove to that location and drove into the driveway to see how bad it was and to see how much traffic there was. Mr. Biers stated that there was very little traffic the evening he was there. He stated that he drove his car down to the back of the house and turned around. He was able to turn around without any difficulty. Then he decided to back the car out to see how difficult it was to get back on Columbia Pike. Mr. Biers stated that he had to wait awhile until there was a break in traffic but he was able to back the car out into the traffic without any undue delay. Mr. Biers stated that he felt that was not a fair judgement so he revisited the site the following Saturday afternoon. He stated that he did exactly the same things. Mr. Biers stated that he had to wait a little longer than before in order to back his car out into traffic but he was able to do it. Mr. Biers stated that he also parked his car and walked along the pathway of Columbia Pike to see how difficult it was. Mr. Biers stated that he was startled by some of the cars coming at him as he was not used to walking that close to cars. Mr. Biers stated that the path was pretty well beaten so apparently people walk along there continuously. He stated that he was not sure how safe or unsafe it would be for young people. Mr. Biers stated that the safety of the children in the group home was not endangered significantly by the traffic conditions that prevailed around the house.

Mr. Yaremchuk inquired if the youngsters in the area walked to school or were bussed. Mr. O'Flaherty stated that the youngsters were bussed. The bus stop was down at the far end of Downing Street. The youngsters walked down to the bus stop. Mr. Yaremchuk inquired as to who had beaten down the path. He stated that people must walk to the shopping center from the subdivision. Mr. O'Flaherty stated that very few people from Englandboro walked to the shopping center. It was not a desirable place to walk because there were not any sidewalks. Mr. O'Flaherty stated that the path was full of poison ivy.

The next speaker was Mrs. Mildred Critchlow of 4041 Oxford Street. She stated that it was her understanding that the children would be bussed from the house down to the where they caught the bus for school. She stated that they were not supposed to walk through the area. Mrs. Critchlow stated that she had that in writing but had not brought the letter with her. Chairman Smith stated that had been one of the conditions of the Zoning Administrator. Mr. Hyland inquired if that was one of the conditions, why was it not being met. Mr. Yates stated that it was the first condition. Staff was required to transport all children attending public schools to the appropriate bus pickup location. He stated that coordination had taken place with the School Board to arrange for the fall term to have the bus stop in front of the facility. Mr. Yates stated that the condition had not been violated to his knowledge because school was not in session.

There was no one else to speak on the subject appeal. Chairman Smith closed the public hearing. Mr. DiGiulian moved that the Board uphold the decision of the Zoning Administrator as the question of safety was taken care of with certain conditions outlined by the Zoning Administrator. Mr. Barnes seconded the motion and it passed unanimously by a vote of 5 to 0.

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Page 467, August 5, 1980, Scheduled case of

11:00 MRS. JOHN D. BLUNT, appl. under Sect. 18-401 of the Ord. to allow subdivision into
A.M. 2 lots one of which would have width of 20.21 ft. and the other a width of 62.68
ft. (80 ft. min. lot width req. by Sect. 3-306), located 2818 Bass Ct., Nine Oaks
Subd., 102-3((7))2, Mt. Vernon Dist., R-3, 48,348 sq. ft., V-80-V-135.

As the required notices were not in order, the Board deferred the variance until September 23, 1980 at 10:00 A.M.

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Page 468, August 5, 1980, Scheduled case of

11:10 BURMAN BUILDING CORP., appl. under Sect. 18-401 of the Ord. to allow subd. into
A.M. 26 lots with proposed corner lot 26 having width of 95 ft. (105 ft. min. lot
width req. by Sect. 3-307), located 7210 Hooes Rd., Fair Vernon Subd., 90-1((4))
3 & 4, Springfield Dist., R-3, 9.87144 acres, V-80-S-134.

As the required notices were not in order, the Board deferred the variance until Tuesday, September 23, 1980 at 10:10 A.M.

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Page 468, August 5, 1980, Scheduled case of

11:20 WILLARD E. & ELISABETH RISDON, appl. under Sect. 18-401 of the Ord. to allow
A.M. construction of addition to dwelling to 12.3 ft. from side lot line such that
total side yard would be 30.4 ft. (12 ft. min. and 40 ft. total min. side yard
req. by Sect. 3-107), located 12343 Folkstone Dr., Folkstone Subd., 35-2((2))5,
Centreville Dist., R-1(C), 23,749 sq. ft., V-80-C-131.

Mr. Willard Risdon informed the Board that his house had been placed on the back of the lot. He stated that he had been encourage by his neighbors to add a room onto his house. Mr. Risdon stated that the addition would enhance the property and the community in general. Mr. Risdon stated that he wanted a library and a den. Mr. Risdon stated that he would use the same materials as the house. The addition would match the garage which was on the opposition end of thehouse.

In response to questions from the Board, Mr. Risdon stated that he had owned the property for three years. The zoning was cluster. Mr. Risdon stated that his lot was rectangular and had septic fields going through it to the adjoining property. Mr. Barnes commented that the lots were very narrow.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 468, August 5, 1980

Board of Zoning Appeals

WILLARD E. & ELISABETH RISDON

R E S O L U T I O N

In Application No. V-80-C-131 by WILLARD E. & ELISABETH RISDON under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12.3 ft. from side lot line such that total side yard would be 30.4 ft. (12 ft. min. & 40 ft. total min. side yard required by Sect. 3-107) on property located at 12343 Folkstone Drive, tax map reference 35-2((2))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 August 5, 1980; 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 23,749 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has converging lot lines and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

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R E S O L U T I O N

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 469, August 5, 1980, Scheduled case of

11:30 JANE E. NAPIER, appl. under Sect. 18-401 of the Ord. to allow construction of
A.M. carport addition to dwelling to 5 ft. from side lot line (10 ft. min. side yard
req. by Sect. 3-207 & 2-412), located 3235 Woodland Lane, 110-2((4))33, Woodland
Park Subd., Mt. Vernon Dist., R-2, 29,787 sq. ft., V-80-V-130.

Ms. Jane E. Napier of 3235 Woodland Lane informed the Board that she had very limited lot area. The contractor had placed her house at an angle on the lot. The whole rear of the lot was treed. The sides of the lot were also treed. Ms. Napier stated that she was reluctant to cut down the trees. Ms. Napier stated that this was a very old neighborhood and not a tract home. Mr. Barnes examined the photographs of the property and stated that it was a nice setting. Mr. Hyland stated that he lived in the area also and was prejudice.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 469, August 5, 1980
JANE E. NAPIER

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-V-130 by JANE E. NAPIER under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 5 ft. from side lot line (10 ft. min. side yard required by Sect. 3-207 & 2-412) on property located at 3235 Woodland Lane, tax map reference 110-2((4))33, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 5, 1980; 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 29,787 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 469, August 5, 1980, Board Recess & Executive Session

At 11:55 A.M., Mr. Yaremchuk moved that the Board convene into an Executive Session. Mr. DiGiulian seconded the motion. The purpose of the Executive Session was to discuss legal pending legal matters. The vote on the motion passed unanimously. Chairman Smith announced that the Board would take its lunch break during the Executive Session.

At 12:45 P.M., the Board reconvened into public session to continue with the scheduled agenda.

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Page 470, August 5, 1980, Scheduled case of

11:40 BROYHILL ENTERPRISES, INC., appl. under Sect. 18-301 of the Ord. to appeal
A.M. decision of Zoning Administrator that appellants' activities on the subject
property are in violation of the Zoning Ordinance, located 11300 Vale Road,
36-4((1))29, Centreville Dist., R-1, 97 acres, A-80-C-008.

Mr. Mark Dair of 4084 University Drive and Mr. Grayson Hanes were the attorneys representing the applicant. Mr. Philip G. Yates, the Zoning Administrator, defended his position during the appeal. For testimony received at the public hearing, please refer to the verbatim transcript on file in the Clerk's Office.

At the conclusion of the public hearing, Mr. Hyland moved that the Board uphold the decision of the Zoning Administrator. Mr. Barnes seconded the motion and it passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

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Page 470, August 5, 1980, Scheduled case of

12:10 LAWRENCE W. DUGGEN, appl. under Sect. 18-401 of the Ord. to allow construction of
P.M. a carport addition to 2.3 ft. from side lot line such that total side yard would
be 11 ft. (5 ft. min. & 15 ft. total min. side yard req. by Sect. 3-307 & 2-412),
located 1905 Sword Lane, Stratford-on-the-Potomac, Section IV, 111-1((14))535,
Mt. Vernon Dist., R-3(C), 8,400 sq. ft., V-80-V-132.

Mr. Lawrence W. Duggen of 1905 Sword Lane in Alexandria informed the Board that his house and the carport slab were in place prior to the adoption of the current Zoning Ordinance. Mr. Duggen stated that other houses in his area had constructed carports in the same general area. Mr. Duggen stated that there was no other place on his property to construct the carport as his lot was very narrow. He stated that the structure would be in keeping with the architectural features of the house and community. Mr. Duggen stated that the sun reflected on the slab which increased the inside temperatures of the house. He stated by constructing a carport, he would alleviate that problem.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 470, August 5, 1980
LAWRENCE W. DUGGEN

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-V-132 by LAWRENCE W. DUGGEN under Section 18-401 of the Zoning Ordinance to allow construction of a carport addition to 2.3 ft. from side lot line such that total side yard would be 11 ft. (5 ft. minimum & 15 ft. total minimum side yard required by Sect. 3-307 & 2-412) on property located at 1905 Sword Lane, tax map reference 111-1((14)) 535, 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 5, 1980; 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 8,400 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

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R E S O L U T I O N

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 471, August 5, 1980, Scheduled case of

12:20 JOHN M. & NELLIE MARGOSIAN, appl. under Sect. 18-401 of the Ord. to allow con-
P.M. struction of addition to dwelling to 8 ft. from side lot line (12 ft. min. side
yard req. by Sect. 3-307), located 6020 Larkspur Dr., Maple Grove Estates Subd.,
81-3((14))30, Lee Dist., R-3, 10,764 sq. ft., V-80-L-133.

Mr. John Margosian of 6020 Larkspur Drive informed the Board that he had failed to notify the Elkins family of the public hearing in accordance with the criteria outlined in the instructions. However, he submitted a request from Mr. and Mrs. Elkins seeking a waiver of the notice requirement so the public hearing could take place. Chairman Smith stated that the Board would accept the waiver statement from the Elkins family and asked Mr. Margosian to present the justification for the variance.

Mr. Margosian informed the Board that he and his wife had resided at the property since 1967. They had chosen it for their permanent home. Mr. Margosian stated that he had worked in the real estate field until 1976. Since that time, his activities had been limited which left him more retired than he would like to be. Mr. Margosian stated that he needed more room in and around his home. He stated that he had always to have garage space in his home. He stated that he had allowed 17 years to go by without that benefit. In 1978, Mr. Margosian stated that he had heart surgery. He stated that in 1978, the Zoning Ordinance would have allowed the side yard he was now requesting. Mr. Margosian stated that he would prefer to have a double garage.

Mr. Margosian stated that another consideration for the Board was that his home was a split level and with the terrain, it was difficult to add a structure to it and permit ingress and egress to it without going to a different level. Mr. Margosian stated that he had had to allow for a stairway along the side of the existing house which took up 3½ ft. in width. He stated that if he was forced to meet the setback, the structure would only be 11½ ft. wide which was inadequate.

In addition, Mr. Margosian stated that for years he had to store garden equipment outdoors. Over the years, he had developed a hobby of woodworking. He stated that he had a lot of equipment but he did not have the space to handle the lumber for his projects. For those reasons, he stated that he found it necessary to ask for a variance of 4 ft. for the construction of his garage. Mr. Margosian stated that in the 17 years he had owned the property, he had maintained his property as one of the very best in the neighborhood.

Mr. Margosian stated that the neighborhood had other homes in the area with closed garages in the neighborhood of 8 ft. He stated that there were several on Larkspur Drive and two on Maryland Drive, specifically 6107 and 6110 Maryland Drive.

Mr. Yaremchuk inquired as to the hardship of the property. Mr. Margosian stated that he was limited by the side yard and would only be allowed a structure of not more than 11½ in width. Mr. Margosian stated that he wanted a garage to have access from the interior of his home. Mr. Margosian stated that terrain restricted construction. Mr. Barnes stated that the property was narrow as it was only 80 ft. wide. Mr. Hyland stated that the location of the existing building was also a hardship to the applicant.

There was no one else to speak in support of the application. The following persons spoke in opposition to the variance. Mr. David Agazarian of 6018 Larkspur Drive, lot 29, stated that his property was adjacent to Mr. Margosian's property on the right side. Mr. Agazarian stated that his property would be the one most impacted by the variance. For aesthetics reasons, Mr. Agazarian asked the Board to deny the variance as it would place the garage 20 ft. from the side of his house and decrease light and air. Mr. Agazarian stated that he was concerned about the impact on the neighborhood. He stated that he did not see any unusual hardship that was unique or distinguishable from the rest of the neighborhood. Mr. Agazarian stated that the rules governing the BZA stated that they must ascertain an unusual condition which was not generally applicable to the land or buildings. Mr. Agazarian stated that if this variance were granted, there would not be any basis to distinguish anyone else request for a variance. Mr. Agazarian stated that all of the property in the neighborhood were similar size. All were rectangular. He stated that Mr. Margosian had more land in his lot than most people. In response to questions from the Board, Mr. Agazarian stated that his lot was 80 ft. in width. He presented the Board with a copy of his plat. Mr. Agazarian stated that only 24 ft. existed between his house and Mr. Margosian's house. If the variance were granted, Mr. Margosian would be allowed to build to 20 ft. Mr. Agazarian stated that the 24 ft. was sufficient and would still allow Mr. Margosian room to construct a garage. He stated that the garage could be extended in length as Mr. Margosian had a level back yard. Mr. Agazarian stated that other neighbors in the area had built to the back of their homes in order not to impact on the area.

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Mr. Greg Houser of 6014 Larkspur Drive was the next speaker in opposition to the variance. He stated that he had lived in the area for 21 months. He stated that when he selected his property, one thing that had impressed him was the space between homes. Mr. Houser stated his objection to the requested variance was that if Mr. Margosian built to within 8 ft. of the property line and then someone else also built to 8 ft., that it would only leave 16 ft. between the homes which would create a packed look. Mr. Houser stated that Mr. Margosian's lot would allow for construction in the rear of the home rather than having to apply for a variance. Mr. Houser stated that he had constructed his garage to the rear so as not to infringe on anyone. Mr. Houser stated that he wanted the area to remain with the nice spacing between houses. Mr. Houser stated that when he constructed his garage in the rear, he had not experienced any undue construction problems. Mr. Houser stated that Mr. Margosian wanted to have a stairwell down to his basement from the concrete slab. Mr. Houser stated that would be a violation of the building code as Mr. Margosian would have to stay 4 ft. from the stairwell and would be required to have a means of ventilation to take out the fumes from the car which seeked the lowest portion of the floor. Mr. Houser stated that even if the variance were granted, he had a question as to whether Mr. Margosian would be allowed to build the garage.

The next speaker in opposition was Mr. George Beck of 6016 Larkspur Drive. He stated that his reasons for opposing the variance were basically the same as Mr. Houser's. From a construction standpoint if the variance were allowed, it would place everybody closer together. Mr. Beck stated that spacing was very important. He stated that he had thought about buying a home in other areas but the spacing was terrible.

The Board was in receipt of a petition in opposition to the requested variance. Chairman Smith stated that two of the signatures on the petition had been speakers at the public hearing.

During rebuttal, Mr. Margosian stated that with regard to depriving people of light and air, the granting of the variance would allow 116 sq. ft. of additional ground. He stated that the lot was 10,000 sq. ft. Mr. Margosian stated that the subdivision had three other homes with attached garages like the proposed structure he was seeking. Mr. Margosian stated that the size of the lots were all about 80 ft. in width. They were on a cul-de-sac though. Mr. Margosian stated that if he opted to build a carport, he would be allowed to build to 8 ft. as a matter of right. However, he chose to have a structure to store his property out of the weather and to protect his belongings. Mr. Margosian stated that he was opposed to changing garden areas and trees. If he built a garage to the rear of his house, it would mean removing a patio area and the structure would darken the recreation room. Mr. Margosian stated that it would not be suitable to locate a garage to the rear.

In response to questions from the Board, Mr. Margosian stated that there was no way to construct a garage to the rear without blocking light. He stated that he could not live with an 11 1/2 ft. garage. The opposition had suggested that he lengthen the garage. Mr. Margosian stated that he had already taken it 3 ft. beyond the house. Mr. Margosian stated that he wanted a house that looked well. He stated that he was not out to degrade anyone's property. Mr. Margosian stated that if he built the garage to 8 ft. of the line, it would still be 20 ft. from Mr. Agazarian's house. Mr. Margosian stated that the subdivision already had situations along those lines.

Another thing Mr. Margosian stated that he had checked out was whether the garage could be constructed according to the building code. He stated that he had talked to someone and what he was proposing was in line with the code. In response to questions from the Board, Mr. Margosian stated that there four other attached garages in his neighborhood on lots of 80 ft. Mr. Hyland inquired as to how close they were and Mr. Margosian responded that one was no more than 12 ft. from the line. Another one was a borderline situation and at least two were within the 8 ft. range.

Chairman Smith stated that Mr. Houser's interpretation of the Building Code was correct.

R E S O L U T I O N

In Application No. V-80-L-133 by JOHN M. & NELLIE MARGOSIAN under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 6020 Larkspur Drive, tax map reference 81-3((14))30, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following following proper notice to the public, a public hearing was held by the Board on August 5, 1980; and

R E S O L U T I O N

WHEREAS, the Board had 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 10,764 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. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Hyland).

Page 473, August 5, 1980, Scheduled case of

12:30 P.M. co HARRY G. CHACONAS, appl. under Sect. 18-401 of the Ord. to allow construction of porch addition to dwelling to 13.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located 1400 Chopin St., Towlston Meadows Subd., 19-4((18))47, Dranesville Dist. R-2(C), 10,747 sq. ft., V-80-A-139.

Mr. Harry G. Chaconas of 1400 Chopin Street informed the Board that his lot was on a cul-de-sac and was a pie-shaped lot. The house had been placed far back from the street which limited sight distance. Mr. Chaconas stated that Fairfax County had put an easement through the side yard. Because of that, Mr. Chaconas stated that he was forced to the rear which was only 25 ft. He stated that he would like to construct a 20'x12' porch which would be 13.8 ft. from the rear lot line.

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-80-A-139 by HARRY G. CHACONAS under Section 18-401 of the Zoning Ordinance to allow construction of porch addition to dwelling to 13.8 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-207) on property located at 1400 Chopin Street, tax map reference 19-4((18))47, 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 5, 1980; 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 10,747 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that there is a 25 ft. water line easement extending across the right 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.

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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 474, August 5, 1980, Scheduled case of

12:40 P.M. FREDERICK H. & EILEEN R. KOESTER, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 26.2 ft. from street line (30 ft. min. front yard req. by Sect. 3-307), located 7601 Gaylord Dr., Annandale Terrace Subd., 71-1((15))52, Annandale Dist., R-4, 9,681 sq. ft., V-80-A-138.

Ms. Eileen Koester of 7601 Gaylord Drive informed the Board that she lived on a corner lot. She stated that they proposed to construct a 12'x22' addition to be used as a family room. The addition would be added to the side of the house. She stated that the house was situated so that they could not be alone. Ms. Koester stated that she wanted the family room in order to have a little privacy. She stated that her home was at an angle. The back of the house was correct but the front of the home was off by about 3.8 ft. Ms. Koester stated that she wished the variance would be granted as the addition would be very beautiful like the rest of the house.

There was no one else to speak in support of the variance and no one to speak in opposition.

Page 474, August 5, 1980

Board of Zoning Appeals

FREDERICK H. & EILEEN R. KOESTER

R E S O L U T I O N

In Application No. V-80-A-138 by FREDERICK H. & EILEEN R. KOESTER under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 26.2 ft. from street line (30 ft. minimum front yard req. by Sect. 3-407) on property located at 7601 Gaylord Drive, tax map reference 71-1((15))52, 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 5, 1980; 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 9,681 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

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R E S O L U T I O N

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 475, August 5, 1980, Scheduled case of

12:50 P.M. STEPHAN J. CORRIE, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 2 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307 & 10-105), located 8016 Hatteras Lane, Ravensworth Farm Subd., 79-2((3))(22)10, Annandale Dist., R-3, 10,800 sq. ft., V-80-A-137.

Mr. Stephan J. Corrie informed the Board that he was the owner and occupant of 8016 Hatteras Lane. He proposed to build a garage 2 ft. from the side lot line. Mr. Corrie stated that there was an embankment 7 ft. high behind his house. Mr. Corrie stated that he needed space in his house. He had a one floor slab rambler. In response to questions from the Board, Mr. Corrie stated that his neighbor's house was 15 ft. from the lot line. Chairman Smith inquired as to why the applicant could not move the garage over but of the side yard requirements. Mr. Corrie stated that if he did that, he would have a garage in the middle of his yard. Mr. Corrie stated that the garage would be behind his neighbor's house and would not obstruct anyone's view. Mr. Corrie stated that his neighbor did not object to the garage. He stated that there was an embankment 17 ft. behind his house which was 7 ft. high. Chairman Smith stated that the garage could still be constructed out of the setback area. Mr. Corrie stated that he would have to cut down the bank and would not be able to make the turn into the garage if he built according to the setback requirements.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 475, August 5, 1980
STEPHAN J. CORRIE

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-A-137 by STEPHAN J. CORRIE under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 2 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307 & 10-105) on property located at 8016 Hatteras Lane, tax map reference 79-2((3))(22)10, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 5, 1980; 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 10,800 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance 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 one year from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 476, August 5, 1980, Scheduled case of

1:00 JOHN W. LANE, JR. & JACQUELINE LANE, appl. under Sect. 18-401 of
P.M. the Ord. to allow subdivision into 14 lots with proposed lot 14
having width of 12 ft. (100 ft. min. lot width req. by Sect.
3-206), located 2828 Chain Bridge Rd., 48-1((1))28 and 115,
Centreville Dist., R-1 & R-2, 8.95 acres, V-80-C-110.

Mr. Grayson Hanes of 4084 University Drive in Fairfax represented the applicants. He stated that they were seeking a 14 lot subdivision with one lot having a width of 12 ft. The subdivision was comprised of two separate parcels. One parcel was owned between the Lanes and the other parcel was owned by Mr. Phillips. Mr. Hanes stated that the Lanes requested and had a development plan approved by the County. At that time, the Transportation Division requested that they cut the property served with an access from Rt. 123 to the west of the property. Mr. Hanes stated that there was an easement back to the existing house of Mr. and Mrs. Lane. They wanted to retain that R-1 zoning. The rest of the property was zoned R-2. The development plan was approved and the Lanes went to settlement on the 13 lots. Then they ran into snag that all properties in a subdivision must have frontage on a publicly dedicated road. Mr. Hanes stated that the problem with that was that Mr. Lane never did have frontage on Rt. 123 so he never had properly dedicated frontage. Mr. and Mrs. Lane resided on the property in the existing house. Mr. Hanes stated that there was no desire for the Lanes to have their driveway through the 50 ft. right-of-way. Mr. Hanes stated that they had to include the property that was rezoned with Mr. Lane's property and he did not comply with the Subdivision Ordinance because he did not have public street frontage.

In response to questions from the Board, Mr. Hanes stated that Mr. Lane had never had public street frontage. Chairman Smith stated that the Lanes property had not changed any and he could not understand the necessity for a variance. Mr. Covington stated that the whole parcel had been resubdivided. It was explained in the staff report. Chairman Smith stated that there was not any change in the lot width. Mr. Covington stated that what used to be two lots was now going to be 14 lots. Chairman Smith stated that the lot still had the same frontage as before.

Mr. Hanes informed the Board that in order to comply with the Board of Supervisors, they had to take a street out to the cul-de-sac. Lot 14 needed a variance for lot width. Mr. Hanes stated that the street would be the cul-de-sac. He stated that if they did not get the variance, it would deprive the landowner of the reasonable use of the land.

There was no one else to speak in support of the application. Mr. Charles Shalestock spoke in opposition. He stated that he was presently hospitalized at Veterans Hospital but had come to the hearing to defend his situation. He disagreed with Mr. Hanes. He stated that Mr. Hanes had verbally discussed the matter with him. Mr. Shalestock stated that Mr. Hanes had informed him that his client would profit from a denial of the variance. Mr. Shalestock stated that he had purchased his property at 2826 Chain Bridge Road from Mr. Lane. He stated that Mr. Lane originally owned a complete 5 acre tract. He sold one acre to Mr. Shalestock. Mr. Shalestock stated that Mr. Lane was not present to attest to his interest in the matter. Mr. Shalestock did not believe that Mr. Lane's lot was part of the subdivision. He stated that Mr. Lane had access to Chain Bridge Road.

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Chairman Smith advised Mr. Shalestock that Mr. Lane still had the same right of access under the subdivision plan. Mr. Shalestock informed the Board that Mr. Lane had approached him approximately six months before trying to purchase the 50 ft. right-of-way. Mr. Shalestock stated that if they used this for a thoroughfare for the subdivision, that he wanted to do the same thing as Mr. Lane. He stated that the Lanes were circumventing a technicality by applying for a variance. He stated that if the Lanes sold the property and the new owners acquired a right to the subdivision that Mr. Lane was not going to be hurt in any way by the relationship he had presently. Mr. Shalestock stated that he did not believe there was merit for the variance application.

Chairman Smith inquired as to the reason for Mr. Shalestock's objections. Mr. Shalestock stated that there was no reason why someone who acquired the property should use it for access to Chain Bridge Road when he pays taxes on it. Chairman Smith stated that the Lanes saw fit not to use the access even though they still had a right to it. He stated that the Lanes were trying to consolidate the entrances. Chairman Smith stated that it was a safer entrance on the cul-de-sac. Mr. Shalestock stated that the only people requesting the variance were the attorneys for the developer. He did not object to them using the existing driveway but he did not think a variance should be granted because at some future time, it would impact on his peace and tranquility. He stated that he wanted to live in peace with his enighbors.

During rebuttal, Mr. Hanes stated that he had agreed with Mr. Shalestock. He agreed that he really did not understand the necessity for the variance. Mr. Shalestock's fear was the unknown and that at some time there would be a desire to bring an access through his right-of-way for the entrance to the subdivision. Mr. Hanes stated that there was not any road that connected to the 50 ft. right-of-way.

Mr. Shalestock stated that if that was the case, he did not think any parties involved would object to removing the 50 ft. right-of-way from his property. Chairman Smith advised Mr. Shalestock that this was a 14 lot subdivision and that Mr. Lanes' lot was part of the 14 lot subdivision now which is what created the problem.

Page 477, August 5, 1980

Board of Zoning Appeals

JOHN W. LANE, JR. & JACQUELINE LANE

R E S O L U T I O N

In Application No. V-80-C-110 by JOHN W. LANE, JR. & JACQUELINE LANE under Section 18-401 of the Zoning Ordinance to allow subdivision into 14 lots with proposed lot 14 having width of 12 ft. (100 ft. minimum lot width required by Sect. 3-206) on property located at 2828 Chain Bridge Road, tax map reference 48-1((1))28 & 115, 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 5, 1980; 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 & R-2.
3. The area of the lot is 8.95 acres.
4. That the applicant's property has an unusual condition in that it was included in a rezoning application on February 26, 1975 from R-1 to R-2 and as a result of the rezoning and the subdivision plat for 14 lots that the Department of Environmental Management has raised the issue of compliance with the R-1 district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Application

RESOLUTION

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Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

Page 478, August 5, 1980, After Agenda Items

HOLY TRANSFIGURATION GREEK CATHOLIC MELKITE CHURCH: The Board was in receipt of a letter from the Holy Transfiguration Greek Catholic Melkite Church requesting an out-of-turn hearing on their request to construct a new rectory. It was the consensus of the Board to grant the request and the hearing was scheduled for September 12, 1980 at 8:30 P.M.

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Page 478, August 5, 1980, After Agenda Items

SANDRA LAWRENCE & THOMAS PELKOWSKI, D.D.S: The Board was in receipt of a letter from Ms. Sandra Lawrence seeking an out-of-turn hearing on an application for a special permit for a day care center. It was the consensus of the Board to grant the request and the special permit hearing was scheduled for September 16, 1980 at 12:30 P.M.

//

Page 478, August 5, 1980, After Agenda Items

EMIL AND ELAINE SABA: The Board was in receipt of a letter from Mr. Kenneth White, engineer for the applicants, requesting a second extension of the variance V-38-79 granted to Emil and Elaine Saba. Mr. Barnes moved that the Board grant the request and allow a six month extension. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

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Page 478, August 5, 1980, After Agenda Items

WAY OF FAITH CHRISTIAN TRAINING CENTER: The Board was in receipt of a letter from the Way of Faith Christian Training Center seeking approval to allow the continued use of a classroom trailer on the property until the end of the school year in June 81. Mr. Barnes moved that the Board extend the use of the temporary trailer through June of 1981. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

// There being no further business, the Board adjourned at 4:15 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 4/27/82

APPROVED: May 4, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 9, 1980. The following Board Members were present: Daniel Smith, Chairman and John DiGiuliano, Vice Chairman. (Mr. Yaremchuk and Mr. Hyland being absent).

The Chairman opened the meeting at 10:15 A.M. and Mr. Covington led the prayer.

Chairman Smith announced that the Board could not transact any business and would have to reschedule all cases. He informed the audience that one of the Board members, Mr. Barnes, had passed away. Mr. Yaremchuk was ill and in the hospital. Mr. Hyland had been called out of town on an emergency. Chairman Smith stated that the Board would work with each applicant to reschedule the case at the earliest possible time.

10:00 A.M. MACK S. CRIPPEN, appl. under Sect. 18-301 of the Ord. to appeal the decision of the Zoning Administrator's ruling that the Grading Plan submitted, No. 4002-RGP-1, is not permitted in the R-1 District, located south side of Leesburg Pike, 12-4((1))58, Dranesville Dist., R-1, 48.4426 acres, A-80-D-009.

The appeal was rescheduled for Thursday, September 11, 1980 at 10:00 A.M.

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Page 479, September 9, 1980, Scheduled case of

10:30 A.M. HOPE MONTESSORI SCHOOL, LTD., appl. under Sect. 3-403 of the Ord. to amend S-200-73 for school of general education to permit change in hours of operation to 7:30 A.M. to 6:00 P.M., located 4604 Ravensworth Rd., 71-1((1))57A & 62, Annandale Dist., R-4, 2.975 acres, S-80-A-055. (DEFERRED FROM JULY 22, 1980 FOR NOTICES.)

The special permit application was rescheduled for Thursday, September 11, 1980 at 10:30 A.M.

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Page 479, September 9, 1980, Scheduled case of

10:50 A.M. FRANCIS H. & MARCIE FAREED CRAIGHILL, appl. under Sect. 18-401 of the Ord. to allow construction of a fence exceeding 7 ft. in height around tennis court and 5 ft. from side lot line (20 ft. min. setback for such fence req. by Sect. 10-105 and 3-107) located 1350 Ballantrae Lane, Ballantrae Subd., 31-1((2))25B, Dranesville Dist., R-1, 1.725 acres, V-80-D-127. (DEFERRED FROM JULY 30, 1980 FOR NOTICES.)

The variance was rescheduled for Thursday, September 11, 1980 at 10:50 A.M.

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Page 479, September 9, 1980, Scheduled case of

11:00 A.M. STEWART L. & CONSTANCE G. KNEESSI, appl. under Sect. 18-406 of the Ord. to allow stable to remain 35 ft. from side property line (40 ft. setback req. by Sect. 10-105), located 12017 Corral Dr., 86-1((7))10, Colt Valley Farms Subd., Springfield Dist., R-a, 5.1510 acres, V-80-S-140.

The variance was rescheduled for Thursday, September 11, 1980 at 11:00 A.M.

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Page 479, September 9, 1980, Scheduled case of

11:10 A.M. GEORGE ZACHARIAS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 17 ft. from front and to 10 ft. from side lot lines (35 ft. min. front yard & 15 ft. min. side yard req. by Sect. 3-207), located 7736 Tauxemont Rd., Tauxemont Subd., 102-2((8))4, Mt. Vernon Dist., R-2, 20,028 sq. ft., V-80-V-142.

The variance was rescheduled for Thursday, September 11, 1980 at 11:10 A.M.

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Page 479, September 9, 1980, Scheduled case of

11:20 A.M. CHERIE HAMDAN, appl. under Sect. 18-406 of the Ord. to allow a 12'x15' deck to remain 8.4 ft. from rear lot line (14 ft. min. rear yard req. by Sect. 6-106, 5-507 & 2-412), located 9833 Owens Ct., Villa D'Este Subd., 48-3((33))7, Providence Dist., PDH-5, 1,734 sq. ft., V-80-P-141.

The variance was rescheduled for Thursday, September 11, 1980 at 11:20 A.M.

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Page 480, September 9, 1980, Scheduled case of

11:30 A.M. FAIRFAX COUNTY DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT, appl. under Sect. 18-401 of the Ord. to allow construction of additions to community center building to 23 ft. from front property line, 1.5 ft. side & 0.5 ft. from rear lot lines, (30 ft. min. front yard, 10 ft. min. side yard & 25 ft. min. rear yard req. by Sect. 3-407), located 5516 Norton Rd., Cameron Subd., 82-2((1))11, Lee Dist., R-4, .2778 acres, V-80-L-143.

The variance was rescheduled for Thursday, September 11, 1980 at 11:30 A.M.

//

Page 480, September 9, 1980, Scheduled case of

11:45 A.M. ST. LUKE'S UNITED METHODIST CHURCH, appl. under Sect. 3-403 of the Ord. to permit child care center, located 7628 Leesburg Pike, Pimmit Hills Subd., 39-2((1))57A, Dranesville Dist., R-4, 4.0012 acres, S-80-D-059.

The special permit was rescheduled for Thursday, September 11, 1980 at 11:45 A.M.

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Page 480, September 9, 1980, Scheduled case of

NOON MARILYN J. THOMPSON, appl. under Sect. 3-103 of the Ord. to permit veterinary hospital, located 10120 Pohick Rd., 87-2((1))13, Springfield Dist., R-1, 2.0276 acres, S-80-S-060.

The special permit was rescheduled for Thursday, September 11, 1980 at Noon.

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Page 480, September 9, 1980, Scheduled case of

12:15 P.M. FAIRFAX CIRCLE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit education building addition to existing church and related facilities, located 3110 Chichester Lane, 49-3((1))12 & 13, Providence Dist., R-1, 4.586 acres, S-80-P-061.

The special permit was rescheduled for Thursday, September 11, 1980 at 12:15 P.M.

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Page 480, September 9, 1980, Scheduled case of

12:30 P.M. MICHAEL GARY FINE, appl. under Sect. 3-203 of the Ord. to permit home professional (doctor) office, located 12423 Wendell Holmes Rd., Fox Mill Estates Subd., 25-4((7))7, Centreville Dist., R-2(C), 18,646 sq. ft., S-80-C-064.

The special permit application was rescheduled for Thursday, September 11, 1980 at 12:30 P.M.

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Page 480, September 9, 1980, Scheduled case of

12:45 P.M. MARVIS DONOVAN, appl. under Sect. 3-303 of the Ord. to permit nursery school, located 5820 Ridgeford Dr., Burke Station Square Subd., 78-2((1))16A, Springfield Dist., R-3, 1.60 acres, S-80-S-062.

The special permit was rescheduled for Thursday, September 11, 1980 at 12:45 P.M.

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1:00 P.M. R. F. CRIST, appl. under Sect. 18-401 of the Ord. to allow cluster of subd. into 7 lots such that lot 1 would have an area of 10,158 sq. ft., lot 2: 10,759 sq. ft., lot 3: 10,954 sq. ft., lot 4: 10,821 sq. ft., lot 5: 10,805 sq. ft., lot 6; 11,994 sq. ft., lot 7: 11,351 sq. ft., located Druid Hill Rd., 28-4((1))46, Centreville Dist., R-2, 8.6362 acres, V-80-C-011. (DEFERRED FROM MARCH 4 AND MARCH 11, 1980 PENDING RESULTS FROM REZONING APPLICATION):

The variance was rescheduled for Thursday, September 11, 1980 at 1:00 P.M.

// There being no further business, the Board adjourned at 1:10 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on 4/27/82

APPROVED: May 4, 1982
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, September 11, 1980. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman and Gerald Hyland. (Mr. Yaremchuk was absent).

The Chairman opened the meeting at 11:20 A.M. He announced that this was a special meeting rescheduled from Tuesday, September 9, 1980 because of a lack of a quorum.

Chairman Smith announced that since the last Board meeting in August, the very productive life of one of the Board Members had come to an end on August 29, 1980. Mr. Barnes had served on the Board of Zoning Appeals for more than 22 years. He was born, raised, lived and died all within a few blocks of the Board Room. Chairman Smith stated that Mr. Barnes was loved and loved life. He lived the life of a Virginia Gentleman. Chairman Smith stated that we all would miss him very much.

The Chairman asked for a moment of silent prayer in memory of Mr. Barnes. Following the silent prayer, Mr. Covington led the meeting in prayer.

Chairman Smith called the scheduled 10 o'clock case of:

10:00 A.M. MACK S. CRIPPEN, appl. under Sect. 18-301 of the Ord. to appeal the decision of the Zoning Administrator's ruling that the Grading Plan submitted, No. 4002-RGP-1, is not permitted in the R-1 District, located south side of Leesburg Pike, 12-4((1))58, Dranesville Dist., R-1, 48.4426 acres, A-80-D-009.

As the required notices were not in order, the appeal was deferred until Tuesday, September 16, 1980 at 1:00 P.M.

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10:30 A.M. HOPE MONTESSORI SCHOOL, LTD., appl. under Sect. 3-403 of the Ord. to amend S-200-73 for school of general education to permit change in hours of operation to 7:30 A.M. to 6:00 P.M., located 4604 Ravensworth Rd., 71-1((1))57A & 62, Annandale Dist., R-4, 2.975 acres, S-80-A-055. (DEFERRED FROM JULY 22, 1980 FOR NOTICES).

Mrs. Martha Hammack of 7704 Suraci Court in Annandale informed the Board that they were operating a school with an enrollment of 82 students between the ages of 2 - 7. She stated that they were asking to operate from 7:30 A.M. to 6:00 P.M. in order to have an extended day care program. She informed the Board that the extended day care would only be for children enrolled in the school.

In response to questions from the Board, Mrs. Hammack stated that there were 82 students. The only change being requested was the hours of operation.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 481, September 11, 1980
HOPE MONTESSORI SCHOOL, LTD.

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application S-80-S-055 by HOPE MONTESSORI SCHOOL, LTD. under Section 3-403 of the Fairfax County Zoning Ordinance to amend S-200-73 for school of general education to permit change in hours of operation to 7:30 A.M. to 6:00 P.M. on property located at 4604 Ravensworth Road, tax map reference 71-1((1))57A & 62, 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 September 11, 1980; deferred from September 9, 1980 for lack of a quorum; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. That the present zoning is R-4.
3. That the area of the lot is 2.975 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

R E S O L U T I O N

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 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. The number of students shall be 82, ages 2½ to 7 years.
8. The hours of operation shall be 7:30 A.M. to 6:00 P.M., Monday through Friday.
9. All other requirements of the previous use permit not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 482, September 11, 1980, Scheduled case of

10:50 FRANCIS H. & MARCIE FAREED CRAIGHILL, appl. under Sect. 18-401 of the Ord. to
A.M. allow construction of a fence exceeding 7 ft. in height around tennis court
and 5 ft. from side lot line (20 ft. min. setback for such fence req. by Sect.
10-105 and 3-107), located 1350 Ballantrae Lane, Ballantrae Subd., 31-1((2))25B,
Dranesville Dist., R-1, 1.725 acres, V-80-D-127. (DEFERRED FROM JULY 30, 1980
FOR NOTICES).

Mr. Chip Paciulli of Nokesville, Virginia represented the applicants. He stated that the request involved a tract of land which was very steep. It was covered by floodplain and only a small portion of the lot was usable. The applicants proposed to construct a fence around a tennis court and to have retaining wall. In response to questions from the Board, Mr. Paciulli stated that this was the only flat place for the construction of the tennis court. The retaining wall would be 8 ft. tall and would be located 18 ft. from the southern boundary line. The Craighills had contacted all contiguous neighbors and no one objected to the variance. Mr. DiGiulian noted that the floodplain ran through the front of the property. Chairman Smith inquired if it was necessary for the 8 ft. retaining wall. Mr. Paciulli stated that the retaining wall would be 26 ft. long. It would start out at the 8 ft. height and gradually be reduced to ground level.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 482, September 11, 1980

Board of Zoning Appeals

FRANCIS H. & MARCIE FAREED CRAIGHILL

R E S O L U T I O N

In Application No. V-80-D-127 by FRANCIS H. & MARCIE FAREED CRAIGHILL under Section 18-401 of the Zoning Ordinance to allow construction of a fence exceeding 7 ft. in height around tennis court & 5 ft. from side lot line (20 ft. minimum setback for such fence required by Section 10-105 & 3-107) on property located at 1350 Ballantrae Lane, tax map reference 31-1((2))25B, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-Laws of the Fairfax County Board of Zoning Appeals; and

R E S O L U T I O N

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1980; deferred from September 9, 1980 for lack of a quorum; 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 1.725 acres.
4. That the applicant's property has exceptional topographic problems and has a floodplain on 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 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 to 0 (Mr. Yaremchuk being absent).

Page 483, September 11, 1980, Scheduled case of

11:00 STEWART L. & CONSTANCE G. KNEESSI, appl. under Sect. 18-406 of the Ord. to allow
A.M. stable to remain 35 ft. from side property line (40 ft. setback req. by Sect. 10-105), located 12017 Corral Dr., 86-1((7))10, Colt Valley Farms Subd., Springfield Dist., R-1, 5.1510 acres, V-80-S-140.

Mr. Stewart L. Kneessi of 12017 Corral Drive stated that he was requesting a variance under the mistake section of the Ordinance based on an error in the location of the building. Mr. Kneessi stated that his stable was located 4.9 ft. closer to the lot line than allowed by the Ordinance. Mr. Kneessi stated that the stable was constructed 35.3 ft. from the side lot line and the Ordinance required it to be a minimum of 40 ft. Mr. Kneessi stated that his problem was that originally the side line had been interpreted as a rear lot line. Later the line was reinterpreted to be a side line. The Ordinance allows construction of a stable 25 ft. from the rear lot line. Mr. Kneessi stated that he believed the variance was justified. He stated that non-compliance was determined after approval of the building permit. Mr. Kneessi stated that the stable would not be detrimental to the use and enjoyment of the neighbors. There was not any other structure or living area located close to the stable. Chairman Smith inquired if Mr. Kneessi had been aware of the misinterpretation prior to the construction of the stable and Mr. Kneessi stated that he was not.

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

Mr. Hyland made the following motion:

WHEREAS, Application No. V-80-S-140 by STEWART L. & CONSTANCE G. KNEESSI under Section 18-406 of the Fairfax County Zoning Ordinance to allow stable to remain 35 ft. from side property line (40 ft. setback required by Sect. 10-105) on property located at 12017 Corral Drive, tax map reference 86-1((7))10, 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 September 11, 1980; deferred from September 9, 1980 for lack of a quorum; and

R E S O L U T I O N

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WHEREAS, the Board has made the following findings of fact:

THAT non-compliance was no fault of the applicant; and whereas, there is an unusual condition in the location of the building on the subject property because of a mistake which occurred in terms of an interpretation issued after the building permit was issued as to the side lot lines;

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

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 3 to 0 (Mr. Yaremchuk being absent).

Page 484, September 11, 1980, Scheduled case of

11:10 GEORGE ZACHARIAS, appl. under Sect. 18-401 of the Ord. to allow construction of
 A.M. addition to dwelling to 17 ft. from front and to 10 ft. from side lot lines
 (35 ft. min. front yard & 15 ft. min. side yard req. by Sect. 3-207), located
 7736 Tauxemont Rd., Tauxemont Subd., 102-2((8))4, Mt. Vernon Dist., R-2,
 20,028 sq. ft., V-80-V-142.

Mr. George Zacharias of 7736 Tauxemont Road stated that he was applying for a variance to add a bathroom. He stated that he had notified all of his neighbors. They approved the addition. Mr. Zacharias stated that the way his house was sited on the property, it was all the way up in the north corner of the lot. The proposed location was the only place who could construct a bathroom. He stated that he had already built additions on the other end of the house. In response to questions from the Board, Mr. Zacharias stated that he had owned the property for 25 years. He stated that the addition would enhance the appearance and value of his house.

Chairman Smith stated that it was hard to support the variance as this was a non-conforming situation. The addition would bring the house even closer to the lot lines. Mr. Zacharias stated that the homes in the area were all constructed prior to the Ordinance. Mr. DiGiulian stated that that addition would blend in with the trees and would never even be seen. Chairman Smith stated that his concern was the house was already non-conforming and the applicant was going to add to the non-conformity. Mr. Zacharias stated that the addition would slant away from the lot line but continue on up into the front setback. He stated that he planned to live there and was very proud of his home.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 484, September 11, 1980
 GEORGE ZACHARIAS

Board of Zoning Appeals

R E S O L U T I O N

In Application No. V-80-V-142 GEORGE ZACHARIAS under Section 18-401 of the Zoning Ordinance to allow addition to dwelling to 17 ft. from front and to 10 ft. from side lot lines (35 ft. minimum front yard & 15 ft. minimum side yard required by Sect. 3-207) on property located at 7736 Tauxemont Road, tax map reference 102-2((8))4, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1980; deferred from September 9, 1980 for lack of a quorum; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 20,028 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

R E S O L U T I O N

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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 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 to 0 (Mr. Yaremchuk being absent).

Page 485, September 11, 1980, Scheduled case of

11:20 CHERIE HAMDAN, appl. under Sect. 18-406 of the Ord. to allow a 12'x15' deck to
A.M. remain 8.4 ft. from rear lot line (14 ft. min. rear yard req. by Sect. 6-106;
 5-507 & 2-412), located 9833 Owens Ct., Villa D'Este Subd., 48-3((33))7,
 Providence Dist., PDH-5, 1,734 sq. ft., V-80-P-141.

Ms. Cherie Hamdan of 9833 Owens Court stated that she lived in a townhouse. There was a sliding glass door off of the kitchen. Ms. Hamdan desired to build a deck and had gotten the approval of her homeowners association. Ms. Hamdan stated that the proposed deck would be 12'x15'. She stated that when she had gone to get a building permit, she was informed that because of the rear lot line she could only have a 5'x10' deck. Ms. Hamdan stated that she was seeking a variance in order to have a more reasonable size deck. She had notified all of her neighbors and no one objected. Ms. Hamdan stated that the deck was existing and she wanted to be able to allow it to remain.

In response to questions from the Board, Ms. Hamdan stated that she had contracted with a builder to build the deck. She was not aware that he was not licensed. The builder was not from Fairfax County. He had built other decks Prince William County and had been referred to Ms. Hamdan by an associate she at work.

Mr. Covington stated that if the deck had been built at the time the townhouse was built, it would have been legal. There was no one else to speak in support of the application and no one to speak in opposition.

Page 485, September 11, 1980
CHERIE HAMDAN

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. V-80-P-141 by CHERIE HAMDAN under Section 18-406 of the Fairfax County Zoning Ordinance to allow a 12'x15' deck to remain 8.4 ft. from rear lot line (14 ft. minimum rear yard required by Section 6-106; 5-507 & 2-412) on property located at 9833 Owens Court, tax map reference 48-3((33))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 September 11, 1980; deferred from September 9, 1980 for lack of a quorum; 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.

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.

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:

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. Hyland seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

 Page 486, September 11, 1980, Scheduled case of

11:30 FAIRFAX COUNTY DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT, appl. under Sect.
 A.M. 18-401 of the Ord. to allow construction of additions to community center building to 23 ft. from front property line, 1.5 ft. side & 0.5 ft. from rear lot lines, (30 ft. min. front yard, 10 ft. min. side yard & 25 ft. min. rear yard req. by Sect. 3-407), located 5516 Norton Rd., Cameron Subd., 82-2((1))11, Lee Dist., R-4, .2778 acres, V-80-L-143.

Mr. Don Sotirchos of 6166 Leesburg Pike represented the Fairfax County Department of Housing and Community Development. He stated that they were applying for a variance for the facility known as Burgundy Village Center which was built about 12 years ago. Mr. Sotirchos stated that the facility was very limited in size and did not have the space to serve the community sufficiently. He stated that they were proposing to add a little flexibility to allow space for a small meeting room for community groups. They wanted to make the facility energy efficient. Mr. Sotirchos stated that they would add one office space and one meeting space and one wood deck in the back of the facility for activities of recreation when the weather permitted. Mr. Sotirchos informed the Board that the addition to the existing building would be situated next to the County park. He presented a letter from the Fairfax County Park Authority who had no objection to the addition. Mr. Sotirchos informed the Board that the facility would have three bays which would be used for various purposes such as wedding receptions, small community meetings, kids' programs and special classes. He stated that these bays would not have any openings as they desired to use the existing main hallway and not open up the by to the outside.

In response to questions from the Board, Mr. Sotirchos stated that the County park embraced the community center on one side. There was a residential building along another property line. Mr. DiGiulian inquired as to why the building could not be moved slightly in order to meet the 25 ft. setback from Norton Road. Mr. Sotirchos responded that the building was preengineered. He also stated that they did not want to penetrate the bays. He stated that the proposed location for the addition would allow them to use the existing main entrance which give them more flexibility. Mr. Sotirchos stated that the location of the proposed addition would add a little shadow to the building to break the monotony. Mr. DiGiulian stated that by moving the addition over approximately 2 ft. would still allow an off-set. In addition, a door could be added in the future if it was needed. Mr. Sotirchos stated that the office space was already the minimum size. By squeezing it, it would make it impossible to use it. He stated that if they moved the addition, it would not be in conformance with the existing building space and would not line up with the bays.

There was no one else to speak in support of the application and no one to speak in opposition.

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Board of Zoning Appeals

FAIRFAX COUNTY DEPARTMENT OF
 HOUSING & COMMUNITY DEVELOPMENT

R E S O L U T I O N

In Application No. V-80-L-143 by FAIRFAX COUNTY DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT under Section 18-401 of the Zoning Ordinance to allow construction of additions to community center building to 23 ft. from front property line, 1.5 ft. side & 0.5 ft. from rear lot line, (30 ft. minimum front yard, 10 ft. minimum side yard & 25 ft. minimum rear yard required by Sect. 3-407) on property located at 5516 Norton Road, tax map reference 82-2((1))11, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 1980; deferred from September 9, 1980 for lack of a quorum; and

WHEREAS, the Board has made the following findings inf fact:

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1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is .2778 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire 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. Hyland seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 487, September 11, 1980, Scheduled case of

11:45 ST. LUKE'S UNITED METHODIST CHURCH, appl. under Sect. 3-403 of the Ord. to permit A.M. a child care center, located 7628 Leesburg Pike, Pimmit Hills Subd., 39-2((1))57A, Dranesville Dist., R-4, 4.0012 acres, S-80-D-059.

Ms. Pat Ziegler of 108 Elm Street in Vienna represented the church. She stated that this was a special permit application to allow a day care center for 30 children with a staff of four adults. The hours of operation would be 7:30 A.M. until 6:30 P.M. and the ages of the children were 2½ years through 5 years. She stated that the day care center would provide a religious education for the children. The center would be run by the church.

There was no one else to speak in support of the application and no one to speak in opposition.

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Board of Zoning Appeals

ST. LUKE'S UNITED METHODIST CHURCH

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-D-059 by ST. LUKE'S UNITED METHODIST CHURCH under Section 3-403 of the Fairfax County Zoning Ordinance to permit a child care center on property 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 September 11, 1980; deferred from September 9, 1980 for lack of a quorum; 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 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:

R E S O L U T I O N

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen 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. The number of students shall be 30, ages 2½ to 5 years.
8. The hours of operation shall be 7:00 A.M. to 6:30 P.M., 5 days per week.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 488, September 11, 1980, Scheduled case of

NOON MARILYN J. THOMPSON, appl. under Sect. 3-103 of the Ord. to permit veterinary hospital, located 10120 Pohick Rd., 87-2((1))13, Springfield Dist., R-1, 2.0276 acres, S-80-S-060.

Ms. Marilyn Thompson of Burke informed the Board that she was planning to purchase a home. She stated that she would live there and operate an animal clinic in the basement. The hours of operation would be from 8:00 A.M. until 6:30 P.M. Monday through Friday and from 9:00 A.M. until 5:00 P.M. on Saturday. Ms. Thompson stated that an advantage of the proposal was that she could offer emergency service when needed. There would not be any more than one or two clients at any one time. She stated that she would only need one fulltime employee.

With regard to traffic, Ms. Thompson stated that Pohick Road was already heavily travelled. She stated that she would have six paved parking spaces which were shown on the plat. She stated that her intent was to maintain the residential character of the neighborhood. The entrance to the clinic would be on the east side of the house. The property was surrounded on all boundaries by a dense forest which was a natural barrier. She stated that there were not any residential homes nearby except for the west side. Ms. Thompson stated that everyone appeared to be in support of her application. She stated that she wanted to emphasize quality service and not quantity.

Mr. Paul Glassen of 9624 Burke View Avenue spoke in support of the application. He was glad that Ms. Thompson would be able to provide emergency service. He stated that he had five dogs and found it necessary on many occasions to obtain after hours care. He stated that he had lost an animal because the veterinary was not able to get to the animal.

Dr. Austin spoke in support of the application. He stated that he had been before the Board to set up his own clinic. He stated that he was very much in favor of Ms. Thompson setting up her practice.

There was no one else to speak in support of the application and no one to speak in opposition.

Page 488, September 11, 1980
 MARILYN J. THOMPSON

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-S-060 by MARILYN J. THOMPSON under Section 3-103 of the Fairfax County Zoning Ordinance to permit veterinary hospital on property located at 10120 Pohick Road, tax map reference 87-2((1))13, 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 11, 1980; deferred from September 9, 1980 for lack of a quorum; 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 2.0276 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 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. The maximum number of employees shall be three (3).
8. The hours of operation shall be 8 A.M. to 6:30 P.M., Monday through Friday and 9 A.M. to 12:00 Noon on Saturdays.
9. The number of parking spaces shall be six (6).

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 489, September 11, 1980, Scheduled case of

12:15 FAIRFAX CIRCLE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit
P.M. education building addition to existing church and related facilities, located
3110 Chichester Lane, 49-3((1))12 & 13; Providence Dist., R-1, 4.586 acres,
S-80-P-061.

Mr. Frank Kinsman of Park Road in Alexandria represented the church. He stated that they wished to construct an additional building as an addition to the current sanctuary and educational space. He stated that they had originally planned a large sanctuary as part of the permit but the cost proved to be prohibitive. Mr. Kinsman stated that they were only going to go with the educational space. He stated that they had been given approval from the Board previously for the addition but the permit had expired which was why they were back again. He stated that they were applying for a smaller size building than before because of the cost. Mr. Kinsman stated that the plans had been approved by the County but when they were submitted for the second time, it was discovered that the permit had expired.

There was no one else to speak in support of the application. Mr. John Copeland of 3125 Chichester Lane spoke in opposition. He stated that part of his property was across from the church. He stated that he had opposition to the runoff of water. He stated that ever since he had lived on the property, he had problems with the water. First, it was water running down the street and down his driveway. He stated that he had to put a hump in the driveway to keep the water from coming down the driveway. Now, the water comes down into

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his yard. Mr. Copeland stated that the County or State had put a wall along the side of the street to keep the water in the ditch. After that, however, the church came along and built their church parking lot. Now the water comes down towards the house. Mr. Copeland stated that the pipe under his property was too small to take the water so it would back up into the yard across the street. Mr. Copeland stated that the water from the church parking lot also ran into his yard. Mr. Copeland informed the Board that he had called the Virginia Highway Department and had ended up writing to Richmond which didn't go any good either. He stated that he had contacted his County Supervisor who didn't do anything at all. He called Mr. Broyhill who would never even talk to him. Mr. Copeland stated that he was about to give up until he saw "Action Line" in the Washington Star. They were able to get the Highway Department to take the small pipe out and replace it with an 18" pipe. Mr. Copeland was concerned that if the church added some additional parking, that it might be more water than the new pipe could handle. He stated that some of the water from the church property ran down Arlington Boulevard but the pipe wasn't enough there so it accumulated.

Mr. Copeland stated that if the church did not do something about the water in the front of the property, it would wash out all the yards. He stated that he did not have objection to the building, or the number of buildings they constructed or how they used them. However, he did object to the water.

Mr. Hyland inquired of the applicant as to what the church would do to alleviate the water situation. Mr. Kinsman stated that this was the first time he had been made aware that Mr. Copeland had a problem with the water. Mr. Kinsman stated that the church would do whatever they could about the ponding of water. He did inform the Board that there was no additional parking connected with this addition. Mr. Kinsman further advised the Board that the church had agreed to take care of the storm drainage system for a neighbor on the other side of the church. Mr. Kinsman stated that the majority of the water problem was next to the neighbor's and did not originate from the church property.

Mr. Hyland inquired if the water situation was as Mr. Copeland had described. Mr. Kinsman stated that he would not contest the testimony from Mr. Copeland. Mr. Hyland inquired as to what would solve the problem and whether the water problem was just speculation or fact. Mr. Copeland stated that the additional parking might just be speculation but he indicated that the church did not have enough parking at the present time. People parked out on Chichester Lane. Mr. Copeland stated that the church was going to need more parking. Mr. Hyland stated that there was not any additional parking planned for the facility so it would not create more runoff. Mr. Copeland stated that something was wrong because every time there was a hard rain, the water came off the parking lot of the church property and down through his field. Mr. Copeland stated that if he sold the field and someone built a house there, somebody would really be in trouble. Mr. Hyland inquired as to how the water problem would be prevented. Mr. Copeland stated that the church should have the water run off towards Arlington Boulevard down the slope to the creek. He stated that Arlington Boulevard was 10 to 12 ft. higher than people's property.

Chairman Smith stated that Mr. Copeland had the water problem before the church was even constructed. Mr. Copeland stated that the water problem had been corrected. Then the church was constructed and the water started coming into people's houses. He stated that many times, he had had to dip water out of the basement. Chairman Smith asked that since the 18" pipe was constructed whether there had been a problem. Mr. Copeland stated that the water problem had been corrected but he was concerned that the church would add more parking. Chairman Smith stated that the small addition planned by the church would not create any additional runoff. He stated that the creek had been the problem. Chairman Smith stated that the church building should not have any adverse effect on the neighborhood. There was not any proposal to increase the parking. Even with additional parking, Chairman Smith could not see where it would create a water problem that would be insurmountable. Mr. Copeland stated that he hoped the Chairman was right but he was giving the Board warning. Chairman Smith stated that the church had been constructed when it was allowed by right. The plans did not require dedication by the County at that time. Chairman Smith stated that he was reluctant to support any right-of-way along Chichester Lane. He stated that it was a little late for the staff to ask for dedication.

There was no one else to speak in opposition. Chairman Smith closed the public hearing.

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-P-061 by FAIRFAX CIRCLE BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit education building addition to existing church and related facilities on property located at 3110 Chichester Lane, tax map reference 49-3(1)12 & 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

R E S O L U T I O N

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WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 11, 1980; deferred from September 9, 1980 for lack of a quorum; 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 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 normal church operations.
- 8. The number of parking spaces shall be 70.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 491, September 11, 1980, Scheduled case of Board of Zoning Appeals

12:30 P.M. MICHAEL GARY FINE, appl. under Sect. 3-203 of the Ord. to permit home professional (doctor) office, located 12423 Wendell Holmes Rd., Fox Mill Estates Subd., 25-4((7))7, Centreville Dist., R-2(C), 18,646 sq. ft., S-80-C-064.

Mr. Michael Gary Fine of 12614 Etruscan Drive in Herndon was the applicant. Chairman Smith advised Dr. Fine that the Board had received a memorandum from the Planning Commission asking it to defer the public hearing pending a hearing and recommendation from the Planning Commission. Chairman Smith stated that he supported the request from the Planning Commission and advised Dr. Fine that he would be to his advantage to seek a deferral as it would take a unanimous vote if the hearing were to take place. Dr. Fine stated that he had a loan committant and needed a decision before October 6th. Chairman Smith stated that the Planning Commission hearing was scheduled for October 8th. Mr. Hyland inquired if there was a way to get the Planning Commission to move up its hearing date. Mr. DiGiulian stated that the Planning Commission did not pull the application within 30 days.

Mr. Hyland moved that the Board request the Planning Commission to take action on the application and hold its hearing prior to September 23, 1980 which was the BZA deferral hearing date. Mr. DiGiulian seconded the motion and it passed unanimously.

The hearing was deferred until Tuesday, September 23, 1980 at 11:45 A.M. Chairman Smith asked that everyone involved in the hearing be notified of the new time and date of the hearing.

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12:45 MARVIS DONOVAN, appl. under Sect. 3-303 of the Ord. to permit nursery school,
P.M. located 5820 Ridgeford Dr., Burke Station Square Subd., 78-2((1))16A, Springfield
Dist., R-3, 1.60 acres, S-80-S-062.

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Ms. Marvis Donovan of 9006 Burke Ford Road submitted a letter from the Health Department. She informed the Board that she was seeking a nursery school to be operated in the community swim club. With regard to the lease, Ms. Donovan informed the Board that it would be formalized after the public hearing. She stated that she had room for 52 children. The nursery school would be closed on the 25th of May and would not operate during the swim season. She gave the Board a letter from the swim club which gave her permission to operate a nursery school at the facility.

In response to questions from the Board regarding whether the use would be operated on a year to year basis, Ms. Donovan stated that she was opening on a trial basis to see how the community responded to the nursery school. The pool was surrounded by a pool so the children would not be in danger. The hours of operation would be from 10 A.M. until 2 P.M.

There was no one to speak in support of the application and no one to speak in opposition.

Page 492, September 11, 1980
MARVIS DONOVAN

Board of Zoning Appeals

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-S-062 by MARVIS DONOVAN under Section 3-303 of the Fairfax County Zoning Ordinance to permit nursery school on property located at 5820 Ridgeford Drive, tax map reference 78-2((1))16A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public had a public hearing by the Board of Zoning Appeals held on September 11, 1980; deferred from September 9, 1980 for lack of a quorum; 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 1.60 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 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 prior to 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 17.
8. The hours of operation shall be 10:00 A.M. to 2:00 P.M., two days a week from September 1, 1980 through May 31, 1981.
9. This permit shall be subject to annual renewal in writing at least 30 days prior to the expiration date and provides the Zoning Administrator with a properly executed lease for the renewal period.

RESOLUTION

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Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 493, September 11, 1980, Scheduled case of

1:00 P.M. R. F. CRIST, appl. under Sect. 18-401 of the Ord. to allow cluster of subd. into 7 lots such that lot 1 would have an area of 10,158 sq. ft., lot 2: 10,759 sq. ft., lot 3: 10,954 sq. ft., lot 4: 10,821 sq. ft., lot 5: 10,805 sq. ft., lot 6: 11,994 sq. ft.; lot 7: 11,351 sq. ft., located Druid Hill Rd., 28-4((1))46, Centreville Dist., R-2, 8.6362 acres, V-80-C-011. (DEFERRED FROM MARCH 4 AND MARCH 11, 1980 PENDING RESULTS FROM REZONING APPLICATION).

Chairman Smith asked the Clerk to notify the applicant that the Board had not taken any action on the variance and that it would be withdrawn within 30 days unless the Board heard from the applicant.

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Page 493, September 11, 1980, After Agenda Items

GREAT EQUITATIONS, INC: The Board was in receipt of a letter from Mr. William Donnelly requesting an out-of-turn hearing on the application of Great Equitations to renew their special permit, S-309-76. It was the consensus of the Board to grant the request and the hearing was scheduled for October 21, 1980.

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Page 493, September 11, 1980, After Agenda Items

WAY OF FAITH CHRISTIAN TRAINING CENTER: The Board was in receipt of a letter from Ms. Ellen Blackwell requesting permission to replace an existing 10'x40' temporary classroom trailer with a 10'x60' classroom trailer. Mr. DiGiulian moved that the Board allow the replacement of the trailer with the dimensions as stated in the letter provided it was relocated in the same location. Mr. Hyland seconded the motion and it passed by a vote of 3 to 0.

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Page 493, September 11, 1980, After Agenda Items

LYNDA K. O'BRYAN: The Board was in receipt of a letter from Ms. Lynda K. O'Bryan seeking an out-of-turn hearing on the appeal application regarding the Zoning Administrator's refusal to allow a subdivision of her property under Sect. 2-403 of the Ordinance. It was the consensus of the Board to grant the request and the appeal was scheduled for October 28, 1980.

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Page 493, September 11, 1980, After Agenda Items

WOODROOF FITZHUGH: The Board was in receipt of a letter from Charles Runyon seeking an extension of the special permit S-176-79 granted to Woodroof Fitzhugh. In addition, the letter requested clarification as to the Board's intent when granting the permit as to whether a dustless surface for parking and driving was required. Mr. DiGiulian moved that the Board grant a six month extension of the special permit. In addition he confirmed that the dustless surface was required. Mr. Hyland seconded the motion and it passed by a vote of 3 to 0.

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Page 493, September 11, 1980, After Agenda Items

ST. GEORGE'S UNITED METHODIST CHURCH: The Board was in receipt of a letter from Mr. John T. Hazel seeking an extension of the special permit S-49-79. Mr. Hyland moved that the Board grant the second six month extension. Mr. DiGiulian seconded the motion and it passed by a vote of 3 to 0.

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Page 493, September 11, 1980, After Agenda Items

CATHERINE SHOUSE & WOLF TRAP BARN FOUNDATION, V-80-C-007: The Board was in receipt of a letter from Mr. John Ewing of Paciulli, Simmons & Associates requesting an update of a plat approved by the BZA on February 26, 1980. At the time of the public hearing, a revised plat had been submitted to the Board which was the one approved by the Planning Commission and the Board of Supervisors. The revised plat had not been the one signed by the Chairman at the

time of the variance hearing. Mr. Ewing was asking that the Board rectify and confirm the variance as to the dustless surface parking and not to the driveway. Mr. DiGiulian moved that the revised plat be approved. Mr. Hyland seconded the motion and it passed by a vote of 3 to 0.

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Page 494. September 11, 1980, After Agenda Items

VEPCO: Ox Road and Braddock Substations: The Board was in receipt of a request from Mr. William Donnelly for approval to allow the upgrading of equipment at the Vepco facility at Ox Road and the facility at Braddock Road. Mr. Donnelly presented the Board with a plat outlining the changes marked in yellow. Approval of the changes was being requested as minor engineering changes. The change being requested in the Braddock Road facility was only with regard to adding additional circuits and circuit breakers. No changes were taking place outside of the fenced in area. Mr. DiGiulian moved that the Board approve the changes as minor engineering changes. Mr. Hyland seconded the motion and it passed by a vote of 3 to 0.

With regard to the Ox Road facility, the change being requested was to add a 20' x 70' addition to the easterly portion of the station. Mr. Donnelly stated that the addition was to the control room which would be unmanned. The change would be within the fenced-in area. Mr. Donnelly stated that the change would have negative impact as the station was remote and there was not any residential houses close by. Mr. DiGiulian moved that the Board approve the addition as a minor engineering change. Mr. Hyland seconded the motion and it passed by a vote of 3 to 0.

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Page 494. September 11, 1980, After Agenda Items

MAZAFAR-MAHIN AMIGHI: The Board was in receipt of a request from Dr. Amighi for an extension of his variance to allow a subdivision on his property located at 3434 & 3436 Holly Road. It was the consensus of the Board to allow a six month extension.

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MCLEAN POST VFW: The Board was in receipt of a letter from Hugo Thelan seeking approval of a building change as a minor engineering change. Chairman Smith asked that the matter be deferred until Mr. Yaremchuk returned as he was reluctant to support the request.

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Page 494. September 11, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for July 24, 1979. It was the consensus of the Board to approve the minutes and it passed unanimously.

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Page 494. September 11, 1980, After Agenda Items

ELSIE LEIGH: The Board was in receipt of a letter from Ms. Elsie Leigh seeking an extension of variance V-6-78. Mr. Hyland moved that the Board grant the request and allow the third extension for a period of six months. Mr. DiGiulian seconded the motion and it passed by a vote of 3 to 0.

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Page 494. September 11, 1980, After Agenda Items

PROCTOR HATSELL PRIVATE SCHOOL, INC.: The Board was in receipt of a memorandum regarding S-80-L-076 informing them that the Planning Commission had pulled the special permit application for a hearing on October 2, 1980. The BZA stated that it did not have a problem with the Planning Commission as the BZA hearing was scheduled for October 7, 1980.

// There being no further business, the Board adjourned at 2:50 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 May 4, 1982

APPROVED: May 11, 1982
Date