

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 8, 1986. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Gerald Hyland; John F. Ribble, III; Mary Thonen; and Paul Hammack. John DiGiulian, Vice-Chairman was absent from this hearing.

001

Chairman Smith opened the meeting at 9:15 A.M., and Mrs. Day led the prayer.

Page 1, April 8, 1986, (Tape 1) Scheduled case of:

9:00 A.M. TOWN AND COUNTRY DEVELOPERS - VC 85-D-104, application under Section 18-401 of the Zoning Ordinance to permit subdivision into five lots, proposed Lots 2,3, and 4, each having width of 10 feet (80 ft. minimum lot width required by Sect. 3-306), located at 1203, 1205, and 1207 Balls Hill Road on approximately 1.780 acres of land, zoned R-3, Dranesville District, Tax Map 30-1((1))71, 71A, 71B. (DEFERRED FROM 2/25/86).

Chairman Smith noted that the Board is in receipt of a letter from Mr. John C. Testerman, Counsel for the applicant, requesting that the application be withdrawn.

Mrs. Day so moved; Mr. Hyland seconded, and the motion was unanimously carried.

Page 1, April 8, 1986, (Tape 1) Scheduled case of:

9:10 A.M. THE ENTERPRISE OF NORTHERN VIRGINIA - SPR 81-D-062-2, application under Section 3-303 of the Zoning Ordinance to permit renewal of SP 81-D-062 for a private school of general education, located at 1670 Chain Bridge Road on approximately 4.00018 acres of land, zoned R-3, Dranesville District, Tax Map 30-3((1))54 and 55.

Chairman Smith noted a request to allow this application to be withdrawn. Mr. Hyland so moved; Mr. Ribble seconded, and it was unanimously so ordered.

Page 1, April 8, 1986, (Tape 1) Scheduled case of:

9:20 A.M. JOHN P. DWYER - VC 85-A-116, application under Section 18-401 of the Zoning Ordinance to permit the enclosure of an existing carport 10.55 feet from the side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 7410 Inzer Street on approximately 10,500 square feet, zoned R-3, Annandale District, Tax Map 71-3((4))(35)7.

Lori Greenlief, Staff Coordinator, presented the staff report. John Dwyer presented his justification for the request for variance. He stated that the variance would permit maximum use of the living space at his residence, and would not be of substantial detriment to the adjacent property since enclosure of the carport would not exceed the existing structure line. In response to board questions, Mr. Dwyer confirmed that the space was not to be used as a garage, but as living space in his home, and that he had a separate parking place for his car. Mr. Hammack moved that the Board approve the variance application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-A-116 by JOHN P. DWYER, under Section 18-401 of the Zoning Ordinance to permit the enclosure of an existing carport 10.55 feet from the side lot line, on property located at 7410 Inzer Street, Tax Map Reference 71-3((4))(35)7, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 8, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,500 square feet of land.

002

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

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

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

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

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0; Mrs. Thonen was absent during hearing of this case; and Mr. DiGiulian was absent from this hearing.

Page 2, April 8, 1986, (Tape 1) Scheduled case of:

9:30 A.M. ROBERT P. STRASSHEIM AND CAROLE D. STRASSHEIM - VC 86-C-001, application under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to attached garage to 13.5 feet from the side lot line (15 ft. minimum side yard required by Section 3-207), located at 13606 Mountain View Court on approximately 22,298 square feet, zoned R-2, Centreville District, Tax Map Reference 24-2((3))29.

Lori Greenlief, Staff Coordinator, presented the staff report. Robert Strassheim presented his justification for his and his wife's request for variance. He stated that

the garage will be used only for the purpose of securing vehicles from the elements, and that all current plantings and bushes will be replanted. The addition will be faced in brick and sided as it now appears on the existing garage.

Mrs. Day moved that the variance be granted.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-C-001 by ROBERT P. STRASSHEIM AND CAROLE D. STRASSHEIM, under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to attached garage to 13.5 feet from the side lot line, on property located at 13606 Mountain View Court, Tax Map Reference 24-2((3))29, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 8, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 22,298 square feet of land.

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

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

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

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

1986
3
3
003

004

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. All plantings and bushes disturbed by this construction shall be replanted at a location between the new addition and adjacent Lot 30.
5. The garage will be constructed with materials similar to and compatible with the materials used in the existing structure.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0; Mrs. Thonen and Mr. DiGiulian were absent from this hearing.

Page 4, April 8, 1986, (Tape 1) Scheduled case of:

9:40 A.M. THORSEN CONSTRUCTION COMPANY, INCORPORATED - VC 86-V-002, application under Section 18-401 of the Zoning Ordinance to permit the subdivision into five (5) lots, proposed Lots 2, 3, and 4 each having the width of 6 feet (80 ft. minimum lot width required by Section 3-306), located at 8500 Fort Hunt Road on approximately 1.8757 acres of land, zoned R-3, Mount Vernon District, Tax Map Reference 102-4(1)54.

Lori Greenlief, Staff Coordinator, presented the staff report. James Thorsen, President of Thorsen Construction Company, presented his justification for the variance. Mr. Thorsen described the extraordinary situation of the property: that there is an outlet road that is jointly owned by the company and the Fairfax County School Board. There is a restriction with respect to additional access onto the outlet road due to public street frontage requirements.

The Board discussed several transportation concerns with Mr. Thorsen. Ms. Kelsey stated that the Department of Environmental Management advises that the subdivision ordinance would require Mr. Thorsen to have public street frontage for each of the lots and would also require that he build a pipestem driveway all the way back to Lot 3; the fact that he has an access easement has no relation to the variance application. He can continue to use the access easement for the existing lot so long as there is no subdivision; he cannot subdivide his property without a variance from the Board.

Robert Edward Engle, 1604 Old Stage Road, Alexandria, Virginia, spoke in opposition to the application. He believed the variance would set a precedent to allow greater density development, as the proposed variance would place four homes on 1.14 acres. He also pointed out that the proposed direct access is inconsistent with the Comprehensive Plan, and there is no proposal for a tree preservation plan. Mr. Engle submitted photographs to the Board for the record. Mr. Engle indicated he had six signatures in support of this request for denial, and he was confident that he could obtain many more if needed.

Mr. Thorsen rebutted Mr. Engle's testimony by stating that the traffic has decreased by about 700 trips per day since Fort Hunt was changed to an intermediate school, that the lots to be developed are larger than the ones already developed, and there would be a plan to preserve the trees. In response to Mr. Thorsen's assertion that the transportation report was based upon a 1983 study, Ms. Greenlief confirmed that while it was true that 1983 figures were used, the conclusions took into account the change to the intermediate school. Mr. Thorsen stated that he had discussed his proposal with all affected parties except Mr. Engle, and had expected no opposition.

After discussion between the Board and Mr. Thorsen as to how the matter might best be resolved, Mr. Ryland requested Mr. Thorsen to discuss any revised plan with the adjacent property owners in the surrounding community. Upon suggestion by the BZA, Mr. Thorsen requested that the Board grant a deferral so that he could further discuss his proposal with the civic association.

Mr. Ryland suggested that the meeting be deferred, and the Board agreed by unanimous consent. The hearing was rescheduled for 9:15 P.M., April 22, 1986.

Page 5, April 8, 1986, (Tape 2) Scheduled case of:

9:50 A.M. WILLIS B. KERN - SP 86-P-003, application under Section 8-901 of the Zoning Ordinance for reduction to the minimum yard requirements based on error in building location to permit a maintenance shed to remain 3.1 feet from the side lot line (10 ft. minimum side yard required by Section 3-2007), located at 2168 Evans Court on approximately 9.0655 acres of land, zoned R-20, Providence District, Tax Map Reference 40-1((1))44.

Chairman Smith noted that the notices were not in order and suggested that the hearing be deferred until June 3, 1986 at 9:00 A.M. The Board agreed by unanimous consent.

Page 5, April 8, 1986, (Tape 2) Scheduled case of:

10:00 A.M. KING OF KINGS LUTHERAN CHURCH - SPA 77-C-128-1, application under Section 3-103 of the Zoning Ordinance for removal of existing structure and construction of new church and related facilities, located at 12604 Lee Jackson Memorial Highway on approximately 2.49816 acres of land, zoned R-1, Centreville District, Tax Map 45-2((1))28. (DECISION DEFERRED FROM NOVEMBER 22, 1983 FOR PERIOD OF 60 DAYS TO ALLOW INVESTIGATION OF THE POSSIBILITY OF COUNTY OR STATE ACQUISITION OF PROPERTY; FROM MARCH 27, JUNE 5, SEPTEMBER 11, NOVEMBER 27, 1984; FEBRUARY 12; APRIL 2, and JUNE 4, SEPTEMBER 24, 1985, FEBRUARY 4, 1986 AT THE REQUEST OF THE APPLICANT).

Chairman Smith noted that applicant had requested withdrawal. Mrs. Day moved to withdraw; Mrs. Thonen seconded the motion which was unanimously carried.

Ms. Kelsey explained that the church is now proposed to be constructed on a nearby site across Lee Jackson Highway from the present location which was proposed to be part of the right-of-way for the Springfield By-Pass. The new property was zoned PDH and a church is a use by right in that zoning district.

Page 5, April 8, 1986, (Tape 2) Scheduled case of:

10:15 A.M. MARY W. ALEXANDER - SP 86-P-002, application under Section 8-901 of the Zoning Ordinance for modification to the limits on the keeping of animals to permit keeping a pony and domestic fowl, located at 2818 Hollywood Road on approximately 36,853 square feet, zoned PDH-12, Providence District, Tax Map Reference 50-1((22))22.

MARY W. ALEXANDER - VC 86-P-030, application under Section 18-401 of the Zoning Ordinance to permit a barn and other structures used for the keeping of livestock, located at 2818 Hollywood Road on approximately 36,853 square feet of land, zoned PDH-12, Providence District, Tax Map 50-1((22))22.

Staff stated that because these two cases were related, they were scheduled to be heard at the same time. Lori Greenlief, the Staff Coordinator, presented the staff report recommending approval in part of the special permit, subject to conditions which include the removal of all domestic fowl from the property. Staff took no position on the variance application. Ms. Greenlief advised that the property was rezoned in 1982 to PDH-12, and subsequently Mrs. Alexander sold part of the property, keeping the 36,853 square feet for her residence. Because the property now consists of less than two acres, Mrs. Alexander was issued notices of violation on July 24, 1984 and again on October 3, 1985 for keeping animals on the property. Mrs. Alexander has applied for modification to these limitations.

Mrs. Alexander presented her testimony in support of her request for modification to permit her to keep her pony and fowl. She stated that she had lived on the property all her life; it was only after the 1982 rezoning and the subsequent rise in property taxes that she felt constrained to sell half the property. Her physician had ordered her to have fresh eggs in her diet to provide calcium, and it would be a financial hardship to buy them.

John Balden, Community of Senior Citizens, spoke in favor of the application, pointing to her need for the eggs and her attachment to the animals over a lifetime.

Emily Whitney, Mrs. Alexander's daughter, also spoke in favor, and advised that her five sons were available to keep the grounds in good order.

5.00

005

Lyle Minton, a neighbor, spoke concerning the application, objecting mainly to the rooster, and the flies. He stated that there was also an unpleasant odor. He said that he and his wife had planned to oppose the request for variance, but after reading the staff report, they realized that the staff was earnestly trying to find a compromise. He stated that with the conditions, he and his wife could support the granting of a variance and the special permit.

Margaret Kimball also spoke, objecting mainly to the pony odor.

After discussion to determine the minimum number chickens that could supply Mrs. Alexander with daily eggs, Mr. Ribble moved for granting of the application with the conditions in the staff report, except that condition number seven would be modified to read that the applicant may not keep any more than 10 chickens on the property at any one time, that the pony may remain on the property, and that the property be cleaned up.

Mrs. Thonen moved to amend the motion to read that not more than 6 laying hens and a pony may be kept on the property, and that the ducks would be excluded.

Mrs. Day seconded this motion to amend; Mr. Ribble accepted the amendment.

The motion unanimously carried to amend the condition to permit not more than 6 laying hens and a pony, exclude the ducks, and require that the property be cleaned up.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-002 by MARY W. ALEXANDER, under Section 8-901 of the Zoning Ordinance to permit keeping a pony and domestic fowl, on property located at 2818 Hollywood Road, Tax Map Reference 50-1((22))22, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 8, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is PDH-12.
3. The area of the lot is 36,853 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-917 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The yard area shall be planted in Turfcote or Bermuda grass. The pony shall be kept in a fenced area along the western edge of the site but may be relocated while the grass is being established in this area.

170
7
007

5. The applicant shall keep the yard well maintained free of animal manure, junk, and debris in compliance with Sect. 10-102 of the Zoning Ordinance.
6. The applicant shall utilize a trench compost system for manure containment or incorporate the manure into her garden as fertilizer.
7. The applicant may keep no more than six (6) laying hens at any one time on the property. The pony may remain on the property. The rooster and the ducks must be removed from the property.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

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

Mr. Hyland seconded the motion to grant the special permit which carried unanimously 6-0; Mr. DiGiulian was absent from this hearing.

Mr. Ribble moved that application VC 86-P-030 be granted with development conditions contained in the March 6, 1986, staff report with the one additional condition that this variance will be limited to the applicant only.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-030 by MARY W. ALEXANDER, under Section 18-401 of the Zoning Ordinance to permit a barn and other structures used for the keeping of livestock, on property located at 2818 Hollywood Road, Tax Map Reference 50-1((22))22, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 8, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is PDH-12.
3. The area of the lot is 36,853 square feet of land.

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

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

008

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific structures shown on the plat included with this application and is not transferable to other land.
2. The applicant shall repair the pony shed to include rehanging the door and painting the exterior.
3. This variance is granted only to the applicant, and when the property changes hands, this variance shall expire.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, six (6) months after the approval date of the variance unless the above conditions have been met, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion carried by a vote of 6-0; Mr. DiGiulian was absent from this hearing.

Page 8, April 8, 1986, (Tape 3) Scheduled case of:

10:40 A.M. MCLEAN BAPTIST CHURCH - SP 85-D-084, application under Section 3-203 of the Zoning Ordinance to permit building additions, and adding and relocating parking spaces and new entrance to an existing church and related facilities, located at 1326 Calder Road on approximately 140,981 square feet, zoned R-2, Dranesville District, Tax Map 30-2(13)10,11,12 & 13.

Lori Greenleaf, Staff Coordinator, presented the staff report. Staff had concerns regarding the impact of a structure of the size proposed on the surrounding residential properties. The applicant has responded to most of staff's suggestions to mitigate this impact by providing additional area for transitional screening and agreeing to provide the plantings recommended which would reduce the impact of the bulk of the building toward the residential area. Consequently, staff recommended approval with the revised conditions which were distributed at the hearing.

John Schell presented his justification for the special permit. He discussed the enhancements planned for the church, pointing out that the major effort is going into parking, to accommodate handicapped members. He stated that no new pews would be added. He further stated that the church agrees to almost all the conditions, and its main concern is to maintain the residential character of the neighborhood.

Mr. Schell outlined the church's response to the conditions: The first six conditions were acceptable. With regard to Condition 10, the parking areas will be planned as shown on the map distributed during the hearing. The church agrees to the evergreen hedge in Condition 11. The church does not want the parking lot abused, so will put up a chain and will keep a maximum of 350 seats. The church has a problem with the transitional screening as it would hide the building, creating almost a tunnel. With respect to widening of Calder and Brawner, the streets are not curbed and guttered, and

009

the church does not want to have to get rid of the Bradford pear trees to do this. Most of the cars go out on Chain Bridge Road, so there is no safety reason for widening Calder or Brawner.

Lilla Richards spoke in support of the permit with some changes to the development conditions. She asserted that if a Brawner St. improvement is attempted, it would destroy the residential nature, and the Brawner St. improvement is not needed. Staff has said it should be brought up to commercial standards, and this is opposite from what the church wants to do.

Ruby Smith, who lives on Calder Road, spoke in opposition and mentioned that Mrs. Horn of 1321 Calder Road also opposes the expansion. She pointed out that the sidewalk is needed. She asked whether or not parking would be allowed on Calder if the special permit is granted. Chairman Smith responded that all parking will have to be on site. She also raised the question as to whether the play area that is now behind the parsonage will remain. John Schell replied that a play area for children, with jungle gyms, etc was planned in another area on site, but that the church would create a grassy area where people can picnic, etc. behind the parsonage to replace the grassy area which will be eliminated by the expanded parking lot.

Mr. Ryland made the following motion and moved that the following revisions be made to the development conditions: 1) Strike first sentence in Condition 7.; 2) Strike second bullet in Condition 9, and insert "The landscaping between the church and the street shall be substantially upgraded at the direction of the Director of the Department of Environmental Management; 3) Condition 11 - Strike "in the vicinity of the parking lot."

Ms. Kelsey stated that the applicant is concerned that DEM will not understand the change in Condition 9 since no landscape plan was submitted for the record. Ms. Kelsey suggested that language be included to indicate what the Board wants the landscaping to do. Mr. Hyland responded that the Board would leave it up to DEM and the applicant.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-D-084 by MCLEAN BAPTIST CHURCH, under Section 3-203 of the Zoning Ordinance to permit building additions, adding and relocating parking spaces and new entrance to an existing church and related facilities, on property located at 1326 Calder Road, Tax Map Reference 30-2((13)),10,11,12, 13, 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 8, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-2.
- 3. The area of the lot is 140,981 square feet of land.

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

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

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

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

- 10
010
3. A copy of this Special Permit and the Non-residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
 4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
 5. The southern-most entrance on Calder Road shall be closed.
 6. An internal travel aisle connection shall be provided on the east side of the existing parking lot to connect the two parking bays.
 7. Calder Road shall be improved from the existing sidewalk, curb and gutter in a southern direction to the intersection of Calder Road and Brawner Street. These improvements shall match those existing on Calder Road.
 8. There shall be no parking associated with this use on Calder Road.
 9. Transitional Screening shall be provided as follows:
 - o The Transitional Screening requirement shall be waived along the eastern property line from its intersection with the northern property line to a point 75 feet southward along the eastern property line.
 - o The landscaping between the church and Calder Road shall be substantially upgraded at the discretion of the Director of the Department of Environmental Management.
 10. The parking areas shall be planted in accordance with the provisions set forth in Sect. 13-106 of the Zoning Ordinance.
 11. An evergreen hedge, a minimum of four (4) feet in height, shall be provided along the northern lot line and along the northern side of the proposed new entrance driveway in the area immediately across from the drop off lane.
 12. The Mother's Day Out Program shall be limited to twenty-five (25) children.
 13. A play area shall be provided for the Mother's Day Out Program.
 14. There shall be a maximum of 350 seats in the sanctuary with a corresponding minimum of 88 parking spaces and a maximum of 112 parking spaces.

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 6-0; Mr. DiGiulian was absent from this hearing.

Page 10, April 8, 1986, (Tape 3) Scheduled case of:

10:55 A.M. WEST*GROUP, INC., AGENT FOR THE APPLICANT, WESTPARK ASSOCIATES -A 86-D-001, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's decision denying density credit for certain dedicated public rights-of-way, Dranesville District, Tax Map 29-2(15)pt. A4 and 29-4((7))A3.

A representative for West*Group, Inc. who was present for the hearing requested the Board to defer the case until next week. Hearing date was set for April 15, 1986 at 9:00 A.M. by unanimous approval of the Board.

011

Page 11, April 8, 1986, (Tape 3) After Agenda Item #1:

ARCHITECTURAL REVIEW BOARD REVIEW REQUIREMENT

Earlier in the meeting Mr. Hammack stated that in his review of the Architectural Review Board proposal, he noticed that there is a requirement for applications to go to the Architectural Review Board, and he wondered whether this would create any problems with respect to the 90 day time frame. Ms. Kelsey responded that this is already the case for certain historical items, and there have been no problems with this process.

Page 11, April 8, 1986, (Tape 3) After Agenda Item #2:

AUTHORITY TO REVOKE SPECIAL PERMIT

Earlier in the meeting Mr. Hyland brought up the issue of who should interpret the special conditions attached to a grant by the BZA. Ms. Kelsey advised that the Board had voted that these type of interpretations be made by the Zoning Administrator. The current process is that the Zoning Administrator receives the request, it goes to the Staff Coordinator, and then back to the Zoning Administrator with the findings and a recommendation. If the Zoning Administrator agrees, a letter is prepared, with a copy to the BZA. Mrs. Kelsey further explained that before the staff comes up with its recommendations, it studies the staff report and the minutes, if appropriate, to see whether or not the issue was discussed at the public hearing. If the issue is clear, then an interpretation is made accordingly. If it is a major change, a new application is required.

Mr. Hyland stated that he felt that the present process calls for Zoning Enforcement to have as a main objective seeing that the conditions of the Special Permit are enforced, whereas in cases of wanton disregard perhaps there should be a provision for the Board to take a second look. The Board should be able to go back and reconsider the permit, even if the permittee is willing to clear up the violation after a lengthy disregard of the condition.

Ms. Jane Gwinn, Zoning Administrator, joined the meeting to respond to Mr. Hyland's concerns. She advised that there was a Supreme Court decision which says that the Zoning Administrator has the authority to revoke a Special Permit, not the BZA. There is no expressed statutory provision for revocation, but the Zoning Administrator has authority to revoke under its general authority for zoning enforcement. The Zoning Administrator seeks to gain compliance, and in most cases can do so. The Ordinance does provide that any revocation done by the Zoning Administrator would provide for an appeal process to the BZA.

In response to Chairman's Smith query regarding an inspection policy, Ms. Gwinn responded that while she would like to have an inspection program which provides for annual inspection of all special permit uses, this is not possible due to lack of staff. Ms. Gwinn stated that when the BZA conditions a permit to require extensions by the Zoning Administrator, then an inspection is done before an extension is granted, and the Zoning Administrator would follow up to be sure this is done. Ms. Gwinn also stated that some improvements have been made; for example, a tickler file is set up once a permit is approved, to assure that conditions are implemented within the 18-month period.

Chairman Smith stated that perhaps there should be better follow-up on a special permit to see if there is compliance. Mrs. Thonen stated her agreement with Mr. Hyland that there should be a way to hold a reconsideration hearing on any application.

Page 11, April 8, 1986, (Tape 3) After Agenda Item #3, Action #1:

APPROVAL OF MINUTES OF 12/17/85 AND 1/14/86

Mr. Hyland moved to accept the minutes; Mrs. Thonen seconded the motion which passed unanimously.

Page 11, April 8, 1986, (Tape 3) After Agenda Item #4, Action #2:

WALDMAN AND SATRE, VC 85-P-112

Jane Kelsey, Chief of the Board of Zoning Appeals Support Staff, mentioned that the Board was in receipt of a memorandum from Mr. Naughton requesting that the Board set aside its decision of March 25, 1986 in the Waldman and Satre case. Chairman Smith requested that the Board pass a resolution stating that it could not set aside its decision because of lack of authority to do so. Mr. Ribble made the motion to deny Mr. Naughton's request. Mrs. Thonen seconded the motion which passed unanimously. Mrs. Thonen requested that the staff advise Mr. Naughton why the Board made this decision and let him know that he can appeal the Board's decision.

Page 12, April 8, 1986, (Tape 3) After Agenda Item #5, Action #3:

REQUEST FOR ADDITIONAL TIME, SIKH FOUNDATION OF VIRGINIA
SPECIAL PERMIT APPLICATION, SP 83-S-098

Mr. Hyland moved to grant the request. Mr. Ribble seconded the motion, and it passed unanimously. The expiration date for this additional time shall be June 20, 1986.

Page 12, April 8, 1986, (Tape 4) After Agenda Item #6, Action #4:

RECONSIDERATION OF GARY H. RUDD, SP 85-V-076

This application was heard 3/25/86. Mr. Hyland stated that he had moved to allow use of the temporary building located 6 feet from the front property line until such time as it was replaced with another building that would meet the requirements. A question has arisen as to whether the Board's action is legal or sustainable. The intent of the motion was to allow the applicant some time to replace it with another building. Chairman Smith stated that his intent was the same as Mr. Hyland's. There was no hazard involved as far as was known, and the building was substantial. Mr. Rudd indicated he was getting approval of a septic for a permanent building. The Board gave approval for two years on a temporary basis for a temporary construction shed. Ms. Gwinn stated that it was not appropriate to approve this type of special permit on the basis of time.

Mr. Hyland moved to reconsider the application. Mr. Ribble seconded the motion which passed 4-1 with Chairman Smith voting NAY. Mr. Hammack and Mr. DiGiulian were not present for this vote. The reconsideration was set for June 10 at 10:00 A.M.

Page 12, April 8, 1986, (Tape 4) After Agenda Item #7:

DAVID C. BUCKIS, SP 83-C-041-1

Mrs. Thonen stated that Supervisor Davis was requesting reconsideration of SP 83-C-041-1. It was the BZA's position that Mr. Buckis would need to file a new application and at the same time request an out-of-turn hearing.

Mrs. Thonen moved that the hearing be adjourned; Mr. Hyland seconded the motion which carried unanimously. The hearing was adjourned at 1:40 P.M. without break.


Jane C. Kelsey for Pat Tinker,
Acting Clerk, Board of Zoning Appeals


Daniel Smith, Chairman
Board of Zoning Appeals

Date Submitted _____

Date Approved _____

013

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 15, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Ann Day; Gerald Hyland; John F. Ribble, III; Mary Thonen; and Paul Hammack.

Chairman Smith opened the meeting at 9:15 A.M., and Mrs. Day led the prayer.

Page 13 April 15, 1986, (Tape 1) Scheduled case of:

9:00 A.M. UNITED ARTISTS COMMUNICATIONS, INCORPORATED - A 86-P-002, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that appellant's freestanding sign must be removed within thirty (30) days of receipt of official notice, located at 12025 Lee Jackson Memorial Highway, Providence District, Tax Map Reference 46-3((8))16.

Chairman Smith inquired if there was anyone present in the room interested in the case of United Artists Communications, Inc. He noted that this case had been withdrawn and inquired as to its status. Ms. Gwinn, the Zoning Administrator, responded to Chairman Smith's request for status by stating that the applicant had requested withdrawal, as they had appealed the Circuit Court decision and expect to hear within two weeks whether the Supreme Court will accept their appeal. The sign is still up.

Page 13 April 15, 1986, (Tape 1) Scheduled case of:

9:00 A.M. WEST*GROUP, INC., AGENT FOR THE APPLICANT, WESTPARK ASSOCIATES, A 86-D-001, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's decision denying density credit for certain dedicated public rights-of-way, Dranesville District, Tax Map 29-2((15))pt. A4 and 29-4((7))A3.

Charles Smith, 1600 Anderson Road, McLean 22102, spoke on behalf of Westpark Associates and West*Group. He affirmed that West*Group was going forward on its appeal for two parcels and dropping the third, which is the small triangle on Park Run and Westpark. Mr. Smith stated that in September 1977, the Board of Supervisors approved Westpark's application for rezoning to I-P which included the land to the center line of Jones Branch Drive. In addition, there were proffers to provide road improvements, and there was a Generalized Development Plan (GDP). Between 1979 and 1981 there were three dedications of right-of-way on Jones Branch Drive and Park Run, done in accordance with a Public Improvement (PI) plan. In addition, there were proffers to provide road improvements, and there was a Generalized Development Plan (GDP). Mr. Smith stated that West*Group is seeking to recapture density that was lost at the time of the dedications. Specifically, Mr. Smith stated that West*Group is asking the BZA to rule that West*Group has had the density credits all along.

Charles Smith stated that Section 2-308, Paragraph 5D provides three methods, of which two are stated:

1. County Board approval;
2. Site Plan Approval in accordance with an approved site development plan.

Mr. Smith stated that it is West*Group's position that the PI plans constituted a site development plan. He further stated that at the time that the County was urging West*Group to make the road improvements far in advance of their plans, West*Group asked what instrument could be used, and the County advised using the PI plan. The County did not object to the site plan form at the time.

Charles Smith stated that the appellant is asking the BZA to rule on two legal grounds:

1. The form of the deeds of dedication: West*Group maintains that the deeds of record are deeds of easement, and therefore the County has the right to the road, but the fee Section 2-308 could be the basis for BZA ruling that since this was done for the purposes of the site plan, the density credits were preserved. The disadvantage of this method was that it may set a precedent.
2. Cihlar (Ruck, attorney) Case. This case was relied upon by the Zoning Administrator to deny West*Group's appeal. This case involved dedication of a service road, and the applicant did not need the density. Some years later, the applicant did need the density and he asserted his claim that the density credits were embedded in the road bed. In this case, the denial was based not so much upon the fact that he had not requested it (which he had not) but that he had not used it in the first development. In other words, in the Cihlar case,

014

the owner had one "bite of the apple;" in the first development he cause use it; if he didn't use it, he lost it. West*Group maintains that they have not yet had the first "bite of the apple." The applicant stated that they had never tendered a site application for the purposes of developing the property. Rather, the applicant stated that they tendered a phase of the development, at the urging of the County, at no benefit to the applicant. The applicant stated that a BZA ruling, citing the Cihlar case, would correct the injustice; rule in accordance with law; and confine the decision to the instant case.

After further questions from the Board concerning the background, the applicant reiterated that West*Group was asking the BZA to rule that Section 2-308, Par. 5D is applicable to this case, and to find that the PI plan was an approved phase of the site plan process, as that statute is intended. Mr. Smith summarized by saying that West*Group is asking that the BZA rule that the deeds of dedication were deeds of easement, or, alternatively, that the PI submission and subsequent dedications were approved phases of the site plan process as contemplated by Section 2-308, Par. 5D.

Ms. Gwinn advised that in the staff report for the 1977 rezoning, it was stated that there was a schedule for development. The Zoning Administrator's position is that the appellant was planning to put the roads in. Ms. Gwinn further advised that the land area dedicated was part of the I-P District, and that provisions regarding density credit were a part of the Ordinance in 1972. There was a limitation in that District which limited the amount of density according to the amount of land area. In response to the Board's questions, Ms. Gwinn affirmed that if an applicant came in today they would not get the density credits if they did not request it. She further advised that the site plan is approved in accordance with proffer conditions.

Ms. Gwinn responded to an earlier question from the Board by advising that if the applicant had wanted to get credits prior to the dedication of the roads, they could have sought Board of Supervisors' approval. If they are submitting this at the same time they are developing the property, it will show on the site plan. This will note that so many acres are dedicated. The appellants contend that the PI plan constituted a site plan, but the problem is that the plan did not address density credit.

In response to the Board's question regarding the definition of the "PI Plan" in the Ordinance, Ms. Gwinn advised that this is not addressed in the Zoning Ordinance, but it may be addressed in the Public Facilities Manual.

Karen Harwood, Assistant County Attorney, joined the discussion. She responded to the Board's questions regarding the deeds of dedication by stating that copies of the deeds are not in possession of the Zoning Administrator, but the deeds of plat are available. She advised that the plat for Park Run Drive shows that the area deeded for public use is 1.836 acres. The claim of density credits would have to have been noted at the time by the Department of Environmental Management.

Ms. Harwood stated that the appellant had just now submitted a copy of the deed, and she noted the use of word "dedication," as opposed to "conveyance". She suggested that research might be done to determine whether this would preserve fee to the owner.

Mr. Hyland asked whether a developer would be entitled to density credits upon submission of a site plan if the deed in fact did not convey the feet to the underlying property. Ms. Harwood stated that if the deed did not convey, and if DEM approved it, then because it would still be part of the lot, it was possible that this would be the case. Ms. Harwood added that the County Attorney would have to rule on the impact of these deeds, and to do research to determine whether a decision could be made on this basis; for example, the bonding documents would have to be researched to see whether the land had to be conveyed.

Chairman Smith stated that it was important that time be given for study of this factor.

The appellant was given two minutes rebuttal time. He stated that there was an issue as to whether or not the appellant had the opportunity to preserve the density at the time of dedication. The Zoning Administrator relied on the language of the former Code in describing the nature of the density credits, and that under the Code at time of rezoning, the appellant was not losing anything. However, under the Code of 1979, the appellant lost the opportunity. This is an issue of waiver. The appellant maintains that there has been a site plan, whether or not it would meet all the Ordinance requirements. If the County accepted something less than the full site plan, then the County, in effect, waived the requirements. He requested that the BZA rule at this public hearing, using Section 2-308 rather than delay for County Attorney to research the conveyance issue. He stated that this would limit the decision to the instant case.

Mr. Hyland, stating that the question of whether or not the fee remained with the developer should be resolved before a vote is taken, moved that the case be deferred.

Mr. DiGiulian seconded the motion, and it carried 6-1, with Mr. Ribble voting against.

015

The hearing was rescheduled for May 13, 1986, at 11:15 A.M. The appellant agreed to the date, and reiterated his request that the BZA rule on the Section 2-308 issue at this hearing, pointing out his contention that the County Attorney's research on the easement issue is a separate matter.

Chairman Smith declared the public hearing was closed.

Ms. Gwinn advised the Board that she would research the definition of "PI Plan."

Page 15, April 15, 1986, (Tape) Scheduled case of:

9:15 A.M. HAROLD DAVID DELLINGER - VC 85-P-109, application under Sect. 18-401 of the Zoning Ordinance to permit construction of 11.29 foot high detached garage, 2.0 feet from rear and 2.8 feet from side lot lines (11.29 ft. minimum rear yard and 12 ft. minimum side yard required by Sects. 3-307 and 10-104), located at 8111 Bright Meadows Lane on approximately 12,165 square feet, zoned R-3, Providence District, Tax Map 39-4((18))10.

In response to Chairman Smith's request for status, Ms. Kelsey, advised that the applicant's agent had been out of the country and had not returned. Staff had contacted him in an attempt to determine if June 3, 1986 would be an agreeable date, but had not yet received a response. Since a deferral must be to a date certain, staff is suggesting June 3, 1986 at 9:00 A.M.

Mrs. Thonen moved for deferral to June 3, 1986 at 9:00 A.M.

Mrs. Day seconded the motion, and it was carried by a vote of 7-0.

Page 15, April 15, 1986, (Tape) Scheduled case of:

9:25 A.M. LAWRENCE KOK-MING LI - VC 85-D-115, application under Sect. 18-401 of the Zoning Ordinance to permit subdivision into four (4) lots, proposed corner Lot 1 having the width of 200 feet along one street line (225 ft. min. lot width for corner lot req. by Sect. 3-E06), located at 420 Springvale Road on approximately 8.4966 acres of land, zoned R-E, Dranesville District, Tax Map 7-2((1))14.

Kevin Guinaw, Staff Coordinator, presented the staff report. He advised that the applicant was originally proposing to provide access by an ingress/egress easement along the property's northern border. DEM is requiring the applicant to provide a 50 ft. right-of-way and to construct a public street through the property. The 50 ft. right-of-way uses 50 ft. of the existing 250 ft. lot, a variance to the 225 ft. minimum lot width is necessary to permit development. Neither the Office of Transportation or the Department of Environmental Management has any objections to this application. Mr. Guinaw noted that dedication of the road to be constructed through the property would be of benefit to the public.

Mr. Carl Lacey, 6861 Elm Street, McLean, Attorney for Mr. Li, presented the applicant's justification for the variance. He pointed out that the unusual shape of the parcel in question and the County's requirement for the 50 ft. right-of-way have caused the need for the variance, and that strict application of the Ordinance would render Mr. Li's parcel and possibly the parcel to the rear (owned by others) unable to develop to the current zoning limits. Mr. Lacey presented a development plan, which Chairman Smith accepted for the record.

Mr. Hammack moved to approve the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-115 by LAWRENCE KOK-MING LI, under Section 18-401 of the Zoning Ordinance to permit subdivision into four (4) lots, proposed corner Lot 1 having the width of 200 feet along one street line, on property located at 420 Springvale Road, Tax Map Reference 7-2((1))14. Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 15, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 8.4966 acres of land.

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

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

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

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

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

1. This variance is approved for the subdivision of one lot into four (4) lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The subdivision of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code, and the applicable requirements of the Public Facilities Manual.
4. Dedication of right-of-way for future road improvements shall be forty-five (45) feet from centerline of Springvale Road as shown on the plat. Temporary grading and construction easements for future possible improvements to Springvale Road shall be provided at the time of subdivision plan review.
5. Dedication and construction of proposed Springvale Forest Court shall be provided as shown on the plat.

016

Page 17, April 15, 1986, (Tape), (VC 85-D-115, Lawrence Kok-Ming Li, Continued from Page 15)

6. The applicant shall work with the County Arborist to determine the boundaries for tree clearance before approval of a building permit or undertaking any site clearance or construction activity. Existing trees shall be preserved except where removal is necessary to accommodate construction.
7. Adequate sight distance shall be provided at the property's entrance (Springvale Forest Court) in accordance with VDH&T standards.

Mr. Hyland seconded the motion.

The motion carried by a vote of 6-0. Mr. Ribble being absent from the hearing.

9:35 A.M. JAMES GASPARIS - VC 86-L-003, application under Sect. 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to 11.18 feet from the side lot line and 15.61 ft. from the rear lot line (15 ft. minimum side yard & 25 ft. minimum rear yard required by Section 3-207); and to allow an existing open deck to remain 1.17 feet from the side lot line (10 feet minimum side yard required by Section 3-207 and 2-412), located at 6006 Beech Tree Drive on approximately 17,897 square feet, zoned R-2, Lee District, Tax Map 82-4(915)1. (DEFERRED FROM 4-15-86).

In response to Chairman Smith's request for status, Mrs. Kelsey advised that the applicant was found to have an existing deck that will require a variance approval; therefore, he will need to either amend his application or submit a separate one. He has been so advised, and staff is awaiting resubmission of the appropriate applications. A hearing will be scheduled at that time. The Board unanimously agreed to a rescheduling of this application.

Page 17, April 15, 1986, (Tape 3), Scheduled case of:

W. MICHAEL BOLLEN - VC 86-V-004, application under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to the existing dwelling to 3.2 feet from the side lot line such that side yards total 12.5 feet (8 ft. minimum, 20 ft. total minimum side yard required by Sect. 6-106 and 3-307), located at 8284 Morning Dew Court on approximately 7,200 square feet of land, zoned PDH-3, Mount Vernon District, Tax Map Reference 98-3((3))1694.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Mr. Bollen presented his justification, noting that his request for variance was to permit he and his wife to make needed improvements to their home. He stated that the variance is required due to the narrow nature of his lot and the location of his house on the lot.

Mrs. Thonen moved that the application be approved.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-V-004 by W. MICHAEL BOLLEN, under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to the existing dwelling to 3.2 feet from the side lot line such that side yards total 12.5 feet, on property located at 8284 Morning Dew Court, Tax Map Reference 98-3((3))1694. Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 15, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is PDH-3.
3. The area of the lot is 7,200 square feet of land.

017

018

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

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

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

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

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 6-0; Mr. Ribble was absent from this hearing.

//

Page 18, April 15, 1986, (Tape 2), Scheduled case of:

9:55 A.M. RICHARD H. RAYMOND - VC 86-P-009, application under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to 14.2 feet from the side lot line (20 ft. minimum side yard req. by Sect. 3-107), located at 2950 Fairhill Road on approximately 12,000 square feet of land, zoned R-1, Providence District, Tax Map 49-3((6))69.

Kevin Guinaw, Staff Coordinator, presented the staff report. Mr. Raymond presented his justification for the variance. He noted that he and his wife desired to add a family room to the back of their house that will be 14.2 feet from the side lot line, and the minimum is 20 feet. Mr. Raymond showed a diagram which illustrated the proposed addition. He stated that if they were to try to build the addition without a variance, it would result in an awkward arrangement that would block views from rooms in both the upper and lower part of the house, and would also necessitate the removal of an old maple tree that they wanted to preserve. Mr. Raymond further stated that many houses in the neighborhood have 60 ft. wide lots and are closer than 20 ft. to side lot lines. He concluded by saying that improvements to the siding of the house and the roof are part of the overall plan, which will enhance the appearance of the house.

Mr. DiGiulian moved that the application be approved.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-009 by RICHARD H. RAYMOND, under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to 14.2 feet from the side lot line, on property located at 2950 Fairhill Road, Tax Map Reference 49-3((6))69. 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 8.4966 acres of land.

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

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

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

020

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

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 6-0. Mr. Ribble was absent from the hearing.

10:05 A.M. ACCOTINK UNITARIAN UNIVERSALIST CHURCH - SP 85-S-083, application under Section 3-103 of the Zoning Ordinance to permit a church and related facilities, located at 10125 Pohick Road on approximately 10.87 acres of land, zoned R-1, Springfield District, Tax Map 87-2((1))26.

Kevin Guinaw, Staff Coordinator, advised that the applicant had verbally asked for deferral for two weeks to allow time for refinement of an engineering proposal. Mr. Jim Simpson, present for the hearing, came forward to indicate he did not oppose deferral of the hearing and was in support of the application.

Mr. DiGiulian moved to defer the hearing.

Mr. Hyland seconded the motion.

The motion carried by a vote of 6-0; Mr. Ribble was absent from this hearing.

Page 20, April 15, 1986, (Tape 2), Scheduled case of:

10:20 A.M. MR. AND MRS. EDWARD F. LESKO - SP 85-L-085, application under Section 8-901 of the Zoning Ordinance to permit modification to minimum yard requirements based on error in building location to allow 11.5 ft. high shed to remain 3 ft. from the rear lot line (11.5 ft. minimum rear yard required by Section 10-104), located at 4206 Shannon Hill Road on approximately 18,820 square feet, zoned R-3, Lee District, Tax Map 82-3((25))27.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that the noncompliance had been done in good faith, and with the addition of screening required by the development conditions, the reduction to the minimum yard requirement would not be detrimental to the use and enjoyment of other property in the immediate vicinity. Staff recommends approval.

The applicant submitted a letter, Exhibit 1, and a plat, Exhibit 2 to the Board, and these were accepted for the record.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Day moved that the application be approved with the conditions described in the staff report dated April 3, 1986; Mr. Hammack seconded. Mr. Hyland moved to amend the application to eliminate condition 2 of the staff report dated April 3, 1986. The maker of the motion and the seconder agreed to the amendment. The motion was amended to the following:

Page, 21, April 15, 1986, (Tape 2), (Mr. and Mrs. Edward F. Lesko, SP 85-L-085, continued from Page 20)

WHEREAS, Application No. SP 85-L-085 by MR. AND MRS. EDWARD F. LESKO under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 11.5 ft. high shed to remain 3 ft. from the rear lot line, on property located at 4206 Shannon Hill Road, tax map reference 82-3((25))27, 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, 1986; and,

WHEREAS, the Board made the following findings of fact:

1. The Board has determined that:
 - A. The error exceeds ten (10) percent of the measurement involved, and in the staff report dated April 2, 1986, and stated that the applicant agrees with these modifications.
 - B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, the immediate vicinity, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

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

1. That the granting of this special permit 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 special permit will not create an unsafe condition with respect to both other proposals 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 special permit is approved for the location and the specific addition shown on the plat submitted with this application and is not transferable to any other land.

The motion passed by a vote 5-1. Mr. Ribble was absent from this hearing.

10:35 A.M. COSTAIN, INCORPORATED - SP 86-C-001, application under Section 3-503 of the Zoning Ordinance to permit a community swimming pool and tennis courts, located at Chantilly, Virginia on approximately 4.0 acres of land, zoned R-5, Centreville District, Tax Map Reference 34-4((10))P & R.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that with the implementation of the Development Conditions, the proposed use should not adversely impact the surrounding area. The applicant is providing 49 parking spaces, where 43 are required. Transitional screening is required. There is no objection to waiver of barrier requirements since the pool will be fenced in. The Office of Transportation has found no major problems. Mr. Guinaw described modifications to Development Conditions #19 and #6 contained in the staff report dated April 2, 1986, and stated that the applicant agrees with these modifications.

Mr. John Cahill, Attorney representing Costain, Inc., 4084 University Drive, presented the applicant's justification for the special permit. He stated that the matter was discussed with the Homeowner's Association on two occasions, and they stated that they would like an additional fence to be put in around the tot pool area. In response to the Board's questions relative to the height of the fence, Mr. Cahill said that the exact height had not been determined, but typically they are between four and five feet in height.

Mrs. Kelsey advised that since Development Condition #2 speaks to that which is exactly shown on the plat, if the Board agrees to the building of the fence, a Development Condition should be added which will allow a fence around the tot pool. The applicant stated agreement with this suggested condition.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-001 by GOSTAIN, INCORPORATED, under Section 3-503 of the Zoning Ordinance to permit a community swimming pool and tennis courts, on property located at Chantilly, Tax Map Reference 34-4((10))P & R, 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 15, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-5.
3. The area of the lot is 4.0 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 3-503 and 8-015 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only. However, upon conveyance of the parcels to the Armfield Farms Homeowners Association, this approval will transfer to the association. This approval is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of employees shall be ten (10).
6. The maximum number of family memberships shall be 500.
7. There shall be forty-nine (49) parking spaces provided.
8. After-hour parties for the swimming pool shall be governed by the following:
 - o Limited to six (6) per season.
 - o Limited to Friday, Saturday and pre-holiday evenings.
 - o Shall not extend beyond 12:00 midnight.
 - o A written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.

022

- 023
- o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
9. If lights are provided for tennis courts, pool and parking lot, they shall be in accordance with the following:
 - o The combined height of the light standards and fixtures shall not exceed twenty-two (22) feet for the tennis courts, and twelve (12) feet for the pool and parking lot.
 - o The lights shall be a low-intensity design which focuses the light directly onto the facility.
 - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.
 - o There shall be an automatic cut-off device installed to control tennis court lights.
 10. The hours of operation for the pool shall be from 8:00 A.M. to 8:00 P.M. Swim team practice and swimming lessons shall be held between 8:00 A.M. and 11:00 A.M. The hours of operation for tennis courts shall be from 8:00 A.M. to 10:00 P.M.
 11. Swim meets shall be conducted between hours of 9:00 A.M. and 9:00 P.M.
 12. The use of loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code and shall not be waived.
 13. Transitional Screening 1 shall be provided along all lot lines. The barrier requirement shall be waived.
 14. Interior parking lot landscaping shall be provided.
 15. Dedication of right-of-way for future road improvements shall be forty-five (45) feet from centerline of Lees Corner Road, as shown on the plat. Temporary grading and construction easements shall be provided for future road improvements on Lees Corner Road.
 16. Stormwater management measures shall be provided as deemed appropriate by the Director, DEM.
 17. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations, so that pool waters can be adequately treated before being released into the storm sewer system.
 18. Construction of the entrance ingress/egress shall be provided in accordance with VDH&T standards.
 19. Trails and corresponding easements shall be provided in conformance with Article 17 of the Zoning Ordinance and the Countywide Trails Plan, as determined by the Director, Department of Environmental Management.
 20. Applicant shall be permitted to fence the area around the tot swimming pool. The site plan shall be amended to show that change.

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-0. Mr. DiGiulian and Mr. Ribble were absent from this hearing.

Page 24., April 15 1986, (Tape 2)

024
Unscheduled DAVID C. BUCKIS, SP 86-C-021, application under Section 3-104 of the Zoning Ordinance to permit home professional dental office, located at 3238 West Ox Road on approximately 2.199 acres of land, zoned R-1, Centreville District, Tax Map 35-A((1))35.

Mrs. Kelsey advised that she had received a request for an Out-of-Turn Hearing for this case. The Board discussed the possible impact to Mr. Buckis or the public if the normal hearing schedule was adhered to.

Mr. Hyland, stating his belief that there would be little or no impact, moved that the request be denied, and that normal hearing schedule be kept. Mrs. Day seconded the motion, and it carried 5-0; Mr. Ribble and Mr. DiGiulian were absent from this hearing. The BZA conveyed its belief that the violation would be held in abeyance until the BZA decided the application as long as there was no public health or safety issue.

There being no further business, the Board adjourned at 12:15 P.M.

Mary Ellen Simmons
Mary Ellen Simmons, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 22, 1986. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Gerald Hyland; Mary Thonen; and Paul Hammack. John DiGiulian, Vice-Chairman and John F. Ribble, III were absent from this meeting.

Chairman Smith opened the public hearing at 8:07 P.M., and Mrs. Day led the prayer.

Page 25, April 22, 1986. (Tape 1) Scheduled case of:

8:00 P.M. ARNOLD C & RUTH L LONG - VC 85-D-117, application under Section 18-401 of the Zoning Ordinance to permit a shed to remain in the minimum front yard adjacent to a pipestem driveway (No accessory structure permitted in a minimum front yard by Sect. 10-104), located at 9312 Arnon Chapel Road on approximately 41,471 square feet, zoned R-E, Dranesville District, Tax Map 8-4((2))2 .

Marilyn Anderson, Staff Coordinator presented the Staff Report. This request is for a 3.2 foot variance which would allow a shed to remain in the front yard contiguous to a pipestem driveway and 21.8 feet from the pavement.

In response to a question from Mr. Hyland, Mrs. Anderson stated that the pipestem driveway was constructed in 1970 and that the shed had been determined to have been built sometime between 1980 and 1982.

Douglas Lacy, agent for the applicants, gave the justification for the variance request. He stated that the shed was a permanent structure of quality construction bolted to a poured concrete slab, that great expense would be incurred by the Longs if they were required to move the shed, and that the shed was landscaped well and was harmonious with the surrounding neighborhood and community. He further noted that the pipestem driveway served four other homes in addition to the Long home, and only one of these other home owners objected to the placement of the shed. Mr. Lacy presented two letters from neighbors in support of the Long's application, one which stated that the Riverside Meadows Community Association decided to render no opinion on the placement of the shed. Mr. Lacy stated it was his opinion that the one letter submitted in opposition to the shed, written on the community association letterhead, was really a statement of personal opinion from the one objecting homeowner and did not reflect the views of the association.

Chairman Smith told Mr. Lacy that he would have to address the standards governing the granting of a variance, because it was on these standards that the Board would have to make its evaluation. Mrs. Day stated that the request seemed to be right in line with numbers 7, 8, and 9. Mr. Lacy reviewed the standards and stated that the property had been acquired in good faith; at the time Long's purchased the property in November 1983, they believed that all structures on it were in compliance with Fairfax County codes and ordinances. It was not until June 1986 that they were advised that the shed was in violation of the setbacks. He stated that removal of the shed would cause a hardship for the Longs. There was further discussion about the quality of the shed, its placement among some trees, and the landscaping which provided good screening. Also, Mr. Lacy pointed out that the placement of the shed caused no site distance problem for people using the pipestem driveway.

Mr. Hammack inquired if another variance would be required at a later time if the blacktop on the pipe stem driveway were to be increased at a later date as Mr. Junker, the writer of the letter of objection, had indicated that it would be. Further discussion indicated that there were no certainties that the driveway would be widened and that it was unlikely that the Longs would have to request another variance.

Chairman Smith called for additional speakers in support or in opposition to the request and hearing no reply, he closed the public hearing.

Mr. Hammack moved that the Board grant the variance based on the testimony showing that the applicants had satisfied the nine standards for a variance. The photographs submitted indicated that the shed presented no sight distance problem and therefore no traffic hazard. Mr. Hammack noted the shed was of quality construction, the lack of opposition from neighbors, and that to deny the request would result in denying the owners of reasonable use of their property.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-117 by ARNOLD C. & RUTH L. LONG, under Section 18-401 of the Zoning Ordinance to permit a shed to remain in the minimum front yard adjacent to a pipestem driveway, on property located at 9312 Arnon Chapel Road, Tax Map Reference 8-4((2))2, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

026

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 41,471 square feet of land.

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

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

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

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

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

1. This variance is approved for the location of the shed indicated on the plat submitted with this application and is not transferable to other structures on the same land.

Mrs. Thonen seconded the motion which passed by a vote of 4-1. Chairman Smith voted NAY, and Mr. Ribble and Mr. DiGiulian were absent from this hearing.

Page 27, April 22, 1986, (Tape 1) Scheduled case of:

8:15 P.M. PAUL KELLY - A 85-P-004, application under Section 18-301 of the Zoning Ordinance to appeal the decision of the Zoning Administrator's approval and issuance of a Group Residential Facility Permit 22-P-85 to the Fairfax-Falls Church Community Services Board permitting the establishment of a Group Residential Facility at 2816 Chain Bridge Road, zoned R-2, Providence District, Tax Map Reference 47-2((26))9.

Chairman inquired if the Zoning Administrator had an opening statement. Jane Gwinn, Zoning Administrator, replied that her position was adequately set forth in her memorandum to the BZA dated April 15. She stated that Mr. John Beyers who is the chairman of the Group Residential Facilities Commission, Mr. Ed. Dwyer who is the Providence representative on the Group Residential Facility Commission, and Pam Stein from the Fairfax-Falls Church Community Services Board were present to answer any questions.

Helen Kelly of 2818 Glade Vale Way, Vienna, Virginia spoke on behalf of her husband, Paul Kelly, and herself, in justification of the application. She presented photographs of additions to the property in question and comparison sheets she developed which she requested be made part of the record. She based her justification on a statement in the Zoning Ordinance which gives the Zoning Administrator the authority to revoke previously approved group residential facility permit for misrepresentation of any fact associated with the permit. Mrs. Kelly stated that it was her and Mr. Kelly's contention that the Fairfax-Falls Church Community Services Board had misrepresented the facts it presented to the Group Residential Facilities Commission regarding the reasons for relocating the facility to this location. The reasons stated by the Community Services Board for relocating the existing group residence were problems with well water, maintenance needs of the existing facility, and escalating rent. Mrs. Kelly stated that these reasons were not true. Mrs. Kelly also contended that Community Services Board does not adequately perform its functions. In addition, Mrs. Kelly represented that the new landlord at the new facility did not have a good record in the past for operation of similar facilities, and she enumerated in detail examples of his mismanagement. She stated that she had been guaranteed access to Rt. 123 from her property via the driveway at the facility, but that a fence had been erected across the back of the lot at the residence barring access to Rt. 123. Mrs. Kelly summed up her presentation by requesting that the BZA consider the information presented and revoke the permit granted to the group facility under false information.

After discussion by the Board members, the Zoning Administrator, and the appellants, the Board pointed out that any misrepresentations of fact concerning the previous location had no relevance on the decision of the Zoning Administrator in approving the group residential facility at the new location.

Chairman Smith called for other speakers in favor of the appellant. Mr. J. W. Lane, Jr., who lives next to the property which is under discussion, stated that the whole neighborhood was generally confused since they had gone to meeting of the Commission and had been advised by the Commission that the State General Assembly had passed a law which permits this type of home. Chairman Smith responded that the law required the counties to provide this type of facility based on the local Zoning Ordinance. The Commission consists of a group of citizens appointed by the Board of Supervisors of Fairfax County to hear applications based on the County and State Code as it pertains to group homes to provide housing for certain individuals.

Mr. Hammack also explained that the State Statute requires the Counties to provide these facilities based on the local zoning ordinance. While the code and statute anticipate that the Zoning Administrator's decision will put an end to the long process of establishing a group residential facility, they also provide for an appeal of that decision to the Board of Zoning Appeals. The State Statute also provides for appeal to the Circuit Court if a person is not satisfied with the BZA's decision.

Chairman Smith called for further speakers in support of the appellant and hearing no reply, inquired if Ms. Gwinn had a statement.

Mr. Hyland said it would be helpful to have the Commission's position in reference to the allegations that had been made in connection with representations of fact.

John Beyers, Chairman of the Fairfax County Group Residential Facilities Commission stated that he did not know what the Commission's position on the allegations made in this appeal would be. The only information the Commission had prior to this hearing was in the Staff report; and, the alleged misrepresentation of factual data were not included. He stated that his personal opinion was along the lines of the observations made by the BZA. The reasons for moving from one location to another are not relevant to a decision on whether the new residence meets the zoning requirements and protects the health, safety and welfare of the proposed clients which is the Commission's charge.

Ms. Gwinn in response to the concerns presented by the Kellys, stated that the facility would be subject to annual inspections and review by her staff as well as an annual inspection by the State in order to renew the license. The maintenance of the house and

027

028

the upkeep will be reviewed annually, and if any complaints arise, they will be investigated. Mr. Gwinn stated that there were about 20 group residential facilities in the County, of which 15 are operated by the Fairfax-Falls Church Community Services Board, and her office has never had any concern or complaint about the group's operation.

Mrs. Thonen made the motion to deny the Kelly's appeal and uphold the decision of the Zoning Administrator in permitting the establishment of a Group Residential Facility at 2816 Chain Bridge Road.

Mr. Hyland seconded the motion which passed by a vote of 4-1 with Mrs. Day voting NAY; Mr. Ribble and Mr. DiGiulian were absent from this hearing.

Page 28 April 22, 1986, (Tape 2) Scheduled case of:

8:30 P.M. INTERNATIONAL TOWN AND COUNTRY CLUB, INCORPORATED - SPA 82-C-037-2, application under Section 3-103 of the Zoning Ordinance to amend S-82-C-037 for a country club to permit lighting on existing tennis courts to remain and change hours of operation to 9:00 A.M. until 10:45 P.M. daily for seven months a year, located at 13200 Lee Jackson Highway on approximately 240.87 acres of land, zoned R-1, Centreville District, Tax Map Reference 45-1((1)11.

Marilyn Anderson, Staff Coordinator, presented the staff report, which recommended approval of the special permit application based upon approval of the development conditions contained in the staff report. She stated that staff had concerns with the 50 foot high lights at the tennis courts and the glare from these lights on adjacent residential property.

Chairman Smith inquired if the Board members had additional questions for staff. There were no further questions so he called for the applicants' presentation of their case.

George Bagland, President of International Town and Country Club, presented the justification for the application. Mr. Bagland stated that the country club was generally in agreement with the development conditions in the staff report, but they hoped to obtain modification to the condition dealing with the height of the lights. He stated that the club has two sets of tennis courts and that 20 foot high lights would not provide adequate light. Mr. Hyland inquired if the glare on the apartment complex adjacent to the country club property was from the lights at the tennis courts. Mr. Bagland replied that while there may be illumination from their lights, there was no glare.

When Mr. Bagland noted that the portion of Route 50 on which the country club is located is highly commercial with a resulting amount of illumination from other sources, Chairman Smith pointed out that the issue was not light from other properties, but rather the impact of the tennis court lights on the surrounding area. Mr. Bagland stated that the club had installed the lights in good faith and that it had a permit from the County to do so. The lights had been used from August 1985 to October 1985, and during that period the club had received no objections or complaints. Mr. Bagland stated that the club did not want to locate the lights between the two sets of courts for safety reasons, but that it would be willing to shield them. He stated that he thought the club needed a trial period to try shielding the high lights before being made to take them down.

Mrs. Day inquired if there were other facilities in the County with lights of equal height. Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, replied that River Bend Country Club had lights of this height but that they were very far from residential property and were heavily shielded. She stated that the 22 foot height recommendation was the standard used by the staff during the past several years. Experience and illumination testing had shown that this height was the best height in order to control glare. Mrs. Day inquired if the Electrical Permits Department was aware of the height for lights recommended by staff. Ms. Kelsey responded that electrical permits were issued based on electrical plans submitted by the applicant by the Permits Branch of the Department of Environmental Management without knowledge of Zoning Ordinances. Ms. Kelsey pointed out that other clubs play tennis in the evening using lighting provided by lights on 22 foot high poles. Mr. Bagland pointed out that the Zoning Ordinance contained no such height limitations.

Mr. Hyland stated that the main issue seemed to be if there were a problem with off site glare that could not be handled with adequate shielding and deflectors. He further stated that he supported the staff's position of keeping the height of lights down to the 22 feet, particularly if they are located near a residential community. He said that he did not recall if 22 foot lights were used for a four court tennis facility. Ms. Anderson stated that she and Ms. Kelsey made a site inspection and determined a noticeable difference on the front of the apartment buildings across the street when the

029

lights were turned off. She also stated that she had pictures of another country club in the area with a four court tennis facility and 22 foot lights.

Mr. Hyland stated that the issue was how the light was controlled rather than the height of the pole, especially since the poles were already up. Mrs. Thonen inquired if there had been complaints regarding the lights. Ms. Kelsey stated that while there had been no complaints, she had noted the high lights on a site inspection and had advised the club approval was needed for the lights. Mr. Ragland stated the club was not flagrantly ignoring Zoning regulations, but was actively engaged in obtaining the Board's approval of other renovations at the club at the same time it was applying for the electrical permit for the lights. While the club knew it had to go before the Board to get approval for an extension of its canopy, nothing had been mentioned to it in regard to the lights; they did realize that the installation of the lights and their height would be the issue. The club thought the night lighting would not be considered a change of use, but rather a change in the operating hours.

After further discussion the Board deferred this application until July 22, 1986, at 8:00 P.M. in order to allow the country club 90 days to work on shielding the lights or solving the problem in other ways before requiring the removal or lowering them.

Ms. Kelsey requested that the club notify staff when the lights are in operation so that an inspection can be made. Mr. Hyland recommended to Mr. Ragland that the country club advise Mrs. Anderson within 60 days of progress being made toward solution of the lighting issue.

Page 29, April 22, 1986, (Tape 2), Scheduled case of:

8:45 P.M. TRUSTEES OF THE LUTHERAN CHURCH OF THE ABIDING PRESENCE - SPA 84-S-003-1, application under Section 3-103 of the Zoning Ordinance to amend SP 84-S-003 for a church and related facilities to permit the removal of existing driveway, construction of new access from a proposed public street, and reduction of land area, located at 6304 Lee Chapel Road on approximately 3.193 acres of land, zoned R-1, Springfield District, Tax Map 78-3(1)22.

Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Charles Shumate, representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff. Mr. Shumate stated that there is development planned to the rear of this property on lots 12, 23, and part of 22 which necessitates the construction of a new public street to Lee Chapel Road through church property. The developers of that planned community will have to acquire approximately 6,500 square feet of church property to accomplish this and by doing so will traverse the exact path of the existing entrance to the church off Lee Chapel Road. He stated the granting of this special permit amendment request would be in line with a goal of the Comprehensive Plan by providing consolidated access to a public street for many of the users in the area. In conclusion, Mr. Shumate stated that the church agreed with the Development Conditions of the Staff Report.

Chairman Smith called for questions and speakers in favor and in opposition to the request. Hearing no reply, he closed the public hearing.

Mr. Hyland moved that the Board adopt the standard resolution form because the applicant had presented testimony of compliance with the standards for special permit uses.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 84-S-003-1 by TRUSTEES OF THE LUTHERAN CHURCH OF THE ABIDING PRESENCE, under Section 3-103 of the Zoning Ordinance to permit the removal of existing driveway, construction of new access from a proposed public street, and reduction of land area on property located at 6304 Lee Chapel Road, Tax Map Reference 78-3(1)22, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 22, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 3.193 acres of land.

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

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

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
- 5. The seating capacity in the main worship area shall not exceed 248 seats.
- 6. Transitional Screening shall be provided in accordance with the site plan approved with SP 84-S-003 except for the following modifications:
 - o along the lot line adjacent to the proposed public street in the area between the new driveway and Lee Chapel Road, Transitional Screening 1 shall be modified to provide landscape plantings.
 - o along the lot line adjacent to Lee Chapel Road where no plantings are shown on the approved site plan, landscape plantings shall be provided to soften the visual impact of the building and the retention pond from the surrounding residential neighborhoods.

A Landscape Plan showing the amount, type and location of these plantings shall be approved by the County Arborist.
- 7. The Barrier requirements may be waived along all lot lines.
- 8. A minimum of sixty-two (62) and a maximum of sixty-five (65) parking spaces shall be provided.
- 9. Interior parking lot landscaping shall be provided in accordance with Article 13.
- 10. Dedication for public street purposes to forty-five (45) feet from the centerline of Lee Chapel Road shall be provided along the full frontage of the property. Grading and construction easements shall be provided along Lee Chapel Road and along the proposed public street as required by the Director, Department of Environmental Management (DEM).
- 11. A right turn deceleration lane shall be constructed along Lee Chapel Road in accordance with all applicable codes and standards.
- 12. The driveway entrance shall be from the proposed public street as shown on the approved plat.

Page 31; (SPA 84-S-003-1, Trustees of the Lutheran Church of the Abiding Presence, continued from page 30)

- 031
13. The building shall be located no closer than ninety-five (95) feet from the front lot line along Lee Chapel Road that is established after dedication.
 14. A sign shall be permitted in accordance with the provisions of Article 12, Signs.
 15. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.
 16. A trail or sidewalk shall be provided along the frontage of the property as determined by the Director, DEM.
 17. Best Management Practices (BMP's) shall be applied during construction.
 18. The structure shall be acoustically treated as follows:
 - o Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and
 - o Doors and windows shall have a STC of at least 28. If "windows" function as the walls, then they shall have a STC specified for exterior walls.
 - o Adequate measures to seal and caulk between surfaces shall be provided.
 19. Approval of this application shall not be construed as an approval of that portion of the building shown on the plat accompanying SP 84-S-003 as "future expansion".

The above conditions incorporate all applicable conditions of the previous approval.

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

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

Mr. Hammack seconded the motion.

The motion carried unanimously by a vote of 5-0; Mr. Ribble and Mr. DiGiulian were not present for this hearing.

Page 31, April 22, 1986, (Tape 2) Scheduled case of:

9:00 P.M. SUTTON WOODS II LIMITED PARTNERSHIP - SP 86-P-004, application under Section 8-901 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location to allow dwelling to remain 20.8 feet from the rear lot line (25 ft. minimum rear yard required by Sect. 3-407), located at 2722 Sutton Woods Court on approximately 9871 square feet of land, zoned R-4, Providence District, Tax Map Reference 48-1((30))5.

Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval of the application based upon the Development Conditions contained therein. She stated that while the applicant believed that the error made in placing the house too close to the rear lot line was due to a staking error made in the field, staff believes that the error may have occurred on paper during the approval process as there is a discrepancy between the grading plan and the structural plan on the placement of a wall. The house was built in accordance with the structural plan. However, the contiguous lot to the rear of the property is an unbuildable lot and this 4.2 foot error in building location would have no adverse effect on the adjacent property so approval of the application is recommended.

James Frank, attorney for the applicant, spoke in justification of the application. He stated that investigation after the application for the permit had been filed led the applicant to concur with staff as to how the error in building location had been made. The difference between the grading and architectural plans went undetected when the

032

footings were poured and the wall check was only made on paper in the office and not in the field. He stated that he believed that the standards in Section 8-914 are met and that the parcel to the rear of the property is an unbuildable lot and, therefore, the location of the house will not have an adverse impact on adjacent properties.

Chairman Smith called for questions and speakers in favor of or in opposition to the request. There was no reply, and he closed the public hearing.

Mr. Hammack stated that he was going to move that the Board adopt the standard special permit resolution mistake form, because the applicant had presented the testimony that he had met the full criteria, specifically #1 and A through G. Mr. Hammack stated that the main reason that he was going to support the request was that he believed that the error in building location would not be detrimental to the surrounding property. However, he would not want builders to think that he would not be concerned about careless errors made by them in flagrant disregard of the Zoning Ordinance and he stressed that the engineers be instructed to pay close attention to the applicable setbacks.

COUNTY OF FAIRFAX

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 86-P-004 by Sutton Woods II Limited Partnership under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 20.8 feet from the rear lot line, on property located at 2722 Sutton Woods Court, Tax Map Reference 48-1((30))5, 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 22, 1986; and,

WHEREAS, the Board made the following findings of fact:

1. The Board has determined that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

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

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

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

1. This approval is granted for the location of the dwelling indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.
2. An amended Building Permit reflecting the location of the existing dwelling shall be submitted and approved.

3315
033

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

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

Mr. Hyland seconded the motion.

The motion passed by a vote of 5-0; Mr. DiGiulian and Mr. Ribbie were absent from this hearing.

Page 33, April 22, 1986, (Tape 2) Scheduled case of:

9:15 P.M. THORSEN CONSTRUCTION COMPANY, INCORPORATED - VC 86-V-002, application under Section 18-401 of the Zoning Ordinance to permit the subdivision into five (5) lots, proposed Lots 2, 3, and 4 each having the width of 6 feet (80 ft. minimum lot width required by Section 3-306), located at 8500 Fort Hunt Road on approximately 1.8757 acres of land, zoned R-3, Mount Vernon District, Tax Map Reference 102-4((1))54. (DEFERRED FROM APRIL 8, 1986)

Lori Greenlief, Staff Coordinator, presented the Staff Report. As this case had been deferred from the April 8, 1986, public hearing, she reported the modification to the original request. She stated that Mr. Thorsen had presented new plats and that the Development Conditions in the Staff Report had been modified to reflect the changes in the plats. She pointed out that while the new plan for the subdivision of the Thorsen property would cause less trip generation, and a cul-de-sac on the property would not now be needed, the Office of Transportation still had some concerns about the pipestem driveway entrance onto a minor arterial. However, this application does have less impact than a five lot subdivision would have.

Chairman Smith called for further questions. He inquired if there were speakers in support or in opposition to the request. As there was no reply, he closed the public hearing.

Mr. Thorsen stated that he had submitted a letter from Mr. Ingall who had attended the previous hearing. Mr. Ingall's letter states that the changes in Mr. Thorsen's subdivision plan were accepted by all of the neighbors.

Mr. Hyland moved that the Board adopt the standard variance resolution form with the following changes: Condition 1 be changed to read that the subdivision of one lot be into three (3) lots, and Condition 3 be changed to state that only one (1) entrance to lots 1 and 2 shall be allowed from Fort Hunt Road.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-V-002 by Thorsen Construction Company, Incorporated, under Section 18-401 of the Zoning Ordinance to permit the subdivision into five* (5) lots, (three (3) lots were approved) proposed Lots 2, 3, and 4 each having a width of 6 feet (proposed lot 3 having a width of 6 feet), on property located at 8500 Fort Hunt Road, Tax Map Reference 102-4((1))54, 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 1.8757 acres of land.

034

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

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

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

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

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

1. This variance is approved for the subdivision of one lot into three (3) lots as shown on the revised plat submitted at the April 22, 1986 meeting.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. Only one (1) entrance to lots 1 and 2 shall be allowed from Fort Hunt Road. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway.
4. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.
5. Sufficient site distance will be provided to the satisfaction of VDH&T.
6. A tree preservation plan shall be submitted to the County Arborist's office at the time of site plan review.

035

Page 35. (VC 86-V-002, Thorsen Construction Company, Incorporated, continued from page 33)

Mrs. Day seconded the motion.

The motion carried by a vote of 5-0; Mr. DiGiulian and Mr. Ribble were absent from this hearing.

Page 35 April 22, 1986, (Tape 2) After Agenda Item, Action #1:

REQUEST FOR AN OUT-OF-TURN HEARING, BILLY D. DICKEY, VC 86-V-033

Mr. Hammack moved that the Board grant the request for an out-of-turn hearing for Billy D. Dickey. Mr. Hyland seconded the motion which was carried with a vote of 4-1 with Chairman Smith voting NAY. Mr. Ribble and Mr. DiGiulian were not present for this vote.

There being no further business, the Board adjourned at 10:40 P.M.

Mary Ellen Simmons
Mary Ellen Simmons, Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

9/2/86
Date Submitted

9/9/86
Date Approved

036

Blank

39

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 29, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John F. Ribble, III; Gerald Hyland; Ann Day; Mary Thonen; and Paul Hammack.

The Chairman opened the meeting at 9:15 A.M., and Mrs. Day led the prayer.

Page 37, April 29, 1986, (Tape 1) Scheduled case of:

9:00 A.M. BLAIR W. CUPP - A 86-D-003, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that a building permit for agricultural structures for propagation and growing of plants on appellant's property cannot be approved, located at 9439 Leesburg Pike on approximately 6.7208 acres of land, zoned R-1, Draneville District, Tax Map Reference 19-3(1)19.

Mark Bettius of 10521 Judicial Drive, attorney for the applicant, presented the justification for the appeal. His main contention was that Mr. Cupp was a farmer engaged in agriculture. The addition of a greenhouse built of bent rods covered with plastic would not change the use of the land. Mr. Cupp would only be growing, not selling nursery produce on the regulated portion of his land. Mr. Bettius contended that in not allowing Mr. Cupp to build the greenhouse, the County would be regulating a method of farming. The greenhouse would only be an expansion of the method of growing plants in a non-regulated section of the property; there would be no commercial activity in the building.

Mr. Blair Cupp, applicant in the appeal, of 9439 Leesburg Pike, Vienna, Virginia answered questions from the Board concerning various buildings on his property. Mr. Cupp stated that the purpose of the greenhouse would only be to provide a controlled environment for growing over the winter, but as a wholesaler he would sell to others. Further, he stated that he and his wife owned the corporation to which the produce was sold.

Mr. Bettius stated that the whole tract of land was part of a nursery. He stated that in the decision to disallow Mr. Cupp from construction of the greenhouse, the Zoning Administrator was regulating a method of farming, because the tract had been "grandfathered" as a nursery. Mr. Bettius again asserted that the structure, the greenhouse, was only a method of farming.

Ms. Gwinn pointed out that on the Cupp property there was a "grandfathered" nursery use which limited what can be done on the property. If it were truly an agricultural use, the County would not regulate what was done on the property.

Mr. Bettius replied that the greenhouse was not a building from which a regulated commercial activity would take place.

Chairman Smith stated that the addition of the greenhouse would be an expansion of a regulated use, a grandfathered nursery use and therefore, an expansion of the commercial use of the land.

Mrs. Thonen moved to grant Mr. Blair's appeal to overturn the decision of the Zoning Administrator. She stated that she saw the proposed greenhouse to be only a method of growing.

Mr. DiGiulian seconded the motion.

Mr. Hyland objected to the granting of the motion on the basis that it would set a precedent for people taking a piece of property and placing as many greenhouses as they wanted on the property with a resulting commercial impact on surrounding property. While he understood Mr. Bettius' argument, he felt there was a distinction between growing plants in greenhouses and open fields and that the issue should properly go before the Board of Supervisors. Chairman Smith indicated agreement with Mr. Hyland.

The motion passed with a 4-2 vote with Mr. Hyland and Chairman Smith voting NAY. Mr. Hammack was not present for this vote.

See verbatim transcript.

Page 37, April 29, 1986, (Tape 1) Scheduled case of:

9:15 A.M. GREATER LITTLE ZION BAPTIST CHURCH - SP 86-A-007, application under Section 3-103 of the Zoning Ordinance to permit a building addition to an existing church and related facilities to increase the number of seats, to provide additional parking, and a modification of the dustless surface requirement, located at 10185 Zion Drive on approximately 2.448 acres of land, zoned R-1, Annandale District, Tax Map Reference 68-4(1)Parcel 42 (OUT-OF-TURN HEARING GRANTED 3/11/86).

038

Kevin Guinaw, Staff Coordinator, presented the staff report which recommended approval based on the Development Conditions therein.

Board members discussed with staff in length various issues in the case including transportation issues, modification of the dustless surface requirement in the parking lot, the granting of a trail easement, and the construction of the trail.

One consideration brought out in the discussion was the future planned realignment of Zion Drive by Virginia Department of Highways and Transportation (VDH&T). This proposed realignment would affect the church property when it takes place. The Board discussed with staff various safety issues pertaining to the entrances of the church driveways onto Zion Drive. It was the church's contention that there had been no safety problems associated with the entrances in the past.

Mr. Abernathy spoke in justification of the application. He described the nature and quality of the church and its programs. He stated that the church needed additional space in order to provide for growth in their congregation and continuation of their programs. He also stated that the driveways were adequate for the present; there had never been a safety problem associated with them.

Mr. Jim Goins, a resident of Zion Drive and a member of the church also spoke in justification of the application, reiterating the same points made by Mr. Abernathy.

Discussion followed between staff and the Board as to what changes the church should be required to make. Mr. Hyland suggested that perhaps additional time should be granted in order to allow the applicants to work out solutions to the various issues.

Mr. Goins replied that additional time would not be necessary. He enumerated changes to the Development Conditions that the church would like to make. These requests were as follows:

1. Waiver of dustless surface requirement.
2. Elimination of dedication of a trail easement.
3. Delay dedication of site frontage to VDH&T until time of realignment of Zion Drive.
4. Delay modification of driveway entrances until realignment. (The church could provide a policeman or other means to monitor traffic into and out of church property at busy worship times.)
5. Delay submission of a landscaping plan at this time.

Chairman Smith called for speakers in favor of and in opposition to the request.

Greg Ueckman, architect for the church, answered questions pertaining to the application.

Mr. DiGiulian moved to adopt the following special permit resolution with the following modifications to the Development Conditions:

1. In Condition #7 waive the dustless surface requirement for five (5) years at the end of which shall be a review by the Board of Zoning Appeals.
2. Delete Condition # 9.
3. Delete bullet #3 of Condition #10.
4. Change Condition #13 to read, "At such time as Condition 7 becomes operative, a trails easement shall be provided along the entire boundary of the relocated right-of-way of Zion Drive. No construction of the trail will be required."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-A-007 by GREATER LITTLE ZION BAPTIST CHURCH, under Section 3-103 of the Zoning Ordinance to permit a building addition to an existing church and related facilities, to increase the number of seats, to provide additional parking, and a modification of the dustless surface requirement, on property located at 10185 Zion Drive, Tax Map Reference 68-4((1))Parcel 42, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 29, 1986; and

039

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 2.448 acres of land.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The seating capacity of the main worship area shall not exceed 252.
6. There shall be seventy-two (72) parking spaces, including three (3) handicapped spaces. The requirement for a dustless surface is waived for five (5) years. At the end of five (5) years there shall be a review by the Board of Zoning Appeals.
7. Within sixty (60) days of written notice by VDH&T, the applicant shall prepare plats and instruments to dedicate and convey right-of-way for the realignment of Zion Drive as indicated on page 10 of the transportation analysis attached.
8. Temporary grading and construction easements shall be provided for the realignment of Zion Drive.
9. Transitional Screening 1 shall be provided along all lot lines with the following modifications:
 - o Existing vegetation shall be used where possible and supplemented, as determined by the County Arborist, to provide screening equivalent to Transitional Screening 1.
 - o Along the front property line, in the area in front of the church, extending 250 feet from the southern boundary northward, planting requirements may be modified to allow landscape plantings which soften the visual impact of this use and will not interfere with the provision of adequate sight distance. The amount, type and nature of these plantings shall be determined by the County Arborist.
10. Interior parking lot landscaping shall be provided in accordance with Article 13.
11. The barrier requirement shall be waived.
12. At such time as Condition #7 becomes operative, a trails easement shall be provided along the entire boundary of the relocated right-of-way of Zion Drive. No construction of the trail will be required.

040

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 7-0.

Page 40, April 29, 1986, (Tape 2) Scheduled case of:

9:30 A.M. JOHN HANSON SERVICE CORPORATION - SP 86-D-012, application under Section 8-901 of the Zoning Ordinance to allow a reduction to minimum yard requirements based on an error in building location to allow dwelling to remain 20.9 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 1631 Sadlers Wells Drive on approximately 8,459 square feet of land, zoned R-3, Dranesville District, Tax Map 10-2((4))429-A (OUT-OF-TURN HEARING GRANTED 3/18/86).

Lori Greenlief, Staff Coordinator, presented the staff report which recommended approval of the application based upon the Development Conditions therein. Mrs. Greenlief stated that it was staff's opinion that the error in the location of the building had been made in good faith.

Robert Boykin of Greenhorne & O'Mara spoke in justification of the application. He stated that the error in placement of the house had been made in the office prior to the staking; it was not discovered until the house was under roof. The purchaser is living in the house, but cannot go to settlement until a special permit is granted.

Chairman Smith called for questions and speakers for and against the application. Hearing no reply, he closed the public hearing.

Mrs. Day moved to grant the application, noting specifically that the lot behind the home was property of the homeowners association, the error made was human error with no intention of avoidance of the Zoning Ordinance, there were no safety issues involved, and that compliance with the full zoning ordinance would provide a hardship.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

WHEREAS, Application No. SP 86-D-012 by John Hanson Service Corporation under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 20.9 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 1631 Sadlers Wells Drive, Tax Map Reference 10-2((4))429-A, 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 29, 1986; and,

WHEREAS, the Board made the following findings of fact:

The Board has determined that:

- A. The error exceeds ten (10) percent of the measurement involved, and
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and

- C. Such reduction will not impair the purpose and intent of this Ordinance, and
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- E. It will not create an unsafe condition with respect to both other property and public streets, and
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

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

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

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

1. This approval is granted for the location of the dwelling indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.
2. An amended Building Permit reflecting the location of the existing dwelling shall be submitted.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 6-0; Mr. Ribble was not present for this vote.

Page 41, April 29, 1986, (Tape 2), Scheduled case of:

9:50 A.M. JAIMÉ O. FUENTES - VC 86-L-007, application under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to 8 feet from the side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 6832 Darby Lane on approximately 11,003 square feet of land, zoned R-3, Lee District, Tax Map 90-4((6))249.

Lori Greenlief, Staff Coordinator, presented the staff report, noting that this request was for a four (4) foot variance to the minimum side lot requirement. She pointed out that the dwelling on the adjacent lot was 20 feet from the side lot line.

Mr. Fuentes spoke in justification of his application and stated that he had no objection to complying with the Development Conditions in the staff report. He mentioned that other homes in the neighborhood have additions to them in the same manner as his request. In response to a question from Mr. Hyland, Mr. Fuentes noted the lower grade of the land at the back of his house and the difficulty it caused in adding on the back. Mrs. Thonen concurred, acknowledging the general narrowness of lots in the Loisdale subdivision.

Chairman Smith called for speakers in support and in opposition to the request. Hearing no reply, he closed the public hearing.

Mr. Hyland moved to grant the variance noting the narrowness of the lot, support from the neighbors, and no potentially adverse impact on the neighborhood should the variance be granted. Mr. Hammack stated that he was in favor of the variance request due to the lower grade of the land at the rear entrance of the house.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-007 by JAIMÉ O. FUENTES, under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to eight (8) feet from the side lot line, on property located at 6832 Darby Lane, Tax Map Reference 90-4((6))249, Mr. Hyland moved that the Board of Zoning Appeals adopt the following

489
5
D41

042

resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 11,003 square feet of land.

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

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

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

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

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

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

Mrs. Day seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting NAY; Mr. DiGiulian and Mr. Ribble were not present for this vote.

043

10:00 A.M. FRANCIS R. & ALICE L. WILLIS - VC 86-V-008, application under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to 21.0 feet from the rear lot line (25 ft. min. rear yard req. by Section 3-307); and to 20.0 ft. from a pipestem driveway (25 ft. min. req. by Sect. 2-416), located at 8706 Linton Lane on approximately 13,342 square feet of land, zoned R-3, Mount Vernon District, Tax Map 111-1((14))590.

Lori Greenlief, Staff Coordinator, presented the staff report. During discussion with the Board it was noted that the proposed addition was to be an extension of an existing garage for use as a hobby work shop and storage room.

Francis Willis, the applicant, spoke in justification of the application describing his one story house as one with limited space and the unusual feature in being the interior house on a pipestem drive. This unique location of his lot placed him closer to the pipestem driveway than his neighbors' properties are located to the pipestem. He noted that the addition would not come closer to the lot line than the present location of the house.

Chairman Smith noted the receipt of a letter of support for the variance request from a neighbor and called for speakers in support or opposition to the application. Hearing no reply, he closed the public hearing.

Mr. Hammack made the motion to grant the request based on the testimony presented. He specifically noted that the proposed addition would not increase the nearness of the home to the lot line.

// COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-V-008 by FRANCIS R. AND ALICE L. WILLIS, under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to 21.0 feet from the rear lot line, on property located at 8706 Linton Lane, Tax Map Reference 111-1((14))590, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 29, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3.
- 3. The area of the lot is 13,342 square feet of land.

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

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

044

7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

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

Mr. Hyland seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting NAY; Mr. Ribble was not present for this vote.

Page 44, April 29, 1986, (Tape 2) Scheduled case of:

10:10 A.M. ELLIOTT W. AMICK, JR. AND MARION R. AMICK - VC 86-D-018, application under Section 18-401 of the Zoning Ordinance to permit the construction of a tennis court surrounded by a 10 foot high fence 20 feet from a street line and 10 feet from the rear lot line of a corner lot (50 ft. min. front yard and 20 ft. min. rear yard req. by Sects. 3-E07 and 10-104), located at 204 River Bend Road on approximately 86,265 square feet of land, zoned R-E, Dranesville District, Tax Map 8-2((10))7.

Lori Greenleaf, Staff Coordinator, presented the staff report. This application was a request for a variance of thirty feet from the front lot line and 10 feet from the rear lot line. The applicants were requesting permission to locate their tennis court at this location due to the location of the septic field and some old trees which would make relocation to another spot difficult.

Discussion between staff and the Board established that the proposed tennis court would be located about forty (40) feet from the drain field.

Keith Martin, agent for the applicant, spoke in justification of the request. He and Mr. Amick stated that due to the location of old trees, a driveway turn-around, the septic field, and a natural drainage swale it would be difficult to locate the tennis court in another position on the lot. The neighbor adjacent to the rear lot line had no objection to the proposed placement of the court; the Amicks were willing to provide supplemental landscaping on their property next to River Bend Road. Also, since the Amick lot was a corner lot, it was considered to have two front lot lines and therefore greater minimum yard requirements along these two lot lines.

After discussion between the Board and the applicant, Chairman called for speakers in support of the application and speakers in opposition. There were no speakers; Chairman Smith closed the public hearing.

Mrs. Thonen said she was aware of the topographic problems of the lot, but she felt the Amicks had room to move the placement of the court. While she was sympathetic with the problems caused by two front lot lines, she would have been more in favor of a smaller variance request; the testimony had failed to convince her that a hardship existed.

045

Mrs. Thonen moved to deny the request for variance.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4-2 with Mrs. Day and Mr. Hammack voting NAY; Mr. Ribble was not present for this vote.

After further discussion, Mrs. Thonen moved to reconsider the application. Mr. Hammack seconded the motion which passed 5-1 with Chairman Smith voting NAY.

Chairman Smith recalled the application to the floor.

In response to questions from the Board, the applicant stated he would be willing to locate the tennis court thirty feet from River Bend Road and ten (10) feet closer to the drain field.

Mrs. Thonen made the motion to grant the request for the variance.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-018 by ELLIOTT W. AMICK, JR. AND MARION R. AMICK, under Section 18-401 of the Zoning Ordinance to permit the construction of a tennis court surrounded by a 10 foot high fence 20 feet from a street line and 10 feet from the rear lot line of a corner lot, on property located at 204 River Bend Road, Tax Map Reference 8-2((10))7, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 6, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-E.
- 3. The area of the lot is 86,265 square feet of land.

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

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

046

7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

1. This variance is approved in part for the location and the specific structure requested in the application* (to permit tennis court 30 feet from the front lot line and 10 feet from the rear lot line) to be shown on an amended plat. This variance is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A grading permit shall be obtained to ensure that there will be no additional drainage off site as a result of this construction.
4. If there is a desire to add lighting to the tennis court at some future date, the applicant shall file an application to amend this variance and shall appear before the Board of Zoning Appeals for approval.
5. Quality vegetation in the area of the tennis court shall be preserved and supplemented with evergreen plantings to the satisfaction of the County Arborist in order to effectively screen this use from adjacent Lot 6 and from River Bend Road.

Mrs. Day seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting Nay; Mr. Ribble was not present for this vote.

Chairman Smith stated that the amended plat must be submitted for his signature.

Page 46, April 29, 1986, (Tape 3) Scheduled case of:

10:20 A.M. ACCOTINK UNITARIAN UNIVERSALIST CHURCH - SP 85-S-083, application under Section 3-103 of the Zoning Ordinance to permit a church and related facilities, located at 10125 Pohick Road on approximately 10.87 acres of land, zoned R-1, Springfield District, Tax Map 87-2(1)26. (DEFERRED FROM April 15, 1986, AT REQUEST OF APPLICANT).

Kevin Guinaw presented the staff report which particularly noted the environmental and transportation issues involved in the special permit request. Mr. Guinaw stated that the addendum (dated April 28, 1986) to the staff report reversed staff's earlier recommendation for denial to a recommendation for approval providing all Development Conditions could be met. One of these Development Conditions requested that an alternative access be provided to Burke Lake Road in a location other than via Pohick Road.

Dr. June Taylor of 6304 Tall Trees Lane, spoke in justification of the application. Dr. Taylor expressed appreciation to Kevin Guinaw for his assistance to the church in their preparation for the hearing. Dr. Taylor stated Virginia Department of Highways and Transportation was satisfied that a viable solution to the transportation issue had been provided, and the church was working with VDH&T to derive alternative solutions as well. Dr. Taylor indicated for the large part the church was in agreement with

047

the Development Conditions. However, the church did take objection to Development Condition 13. Dr. Taylor stated the church's feeling was that a public access easement would cause increased liability for the church and may even increase the church's insurance rates substantially. The stream that runs across the church property is dangerous; pools often form which are deep enough for drowning accidents. In addition, public access through the property, could cause increased litter and interruption to the sense of solitude at the property which the church was seeking.

Ann Fenstermacher, a member of the church, also spoke in justification of the application. Ms. Fenstermacher reiterated the church's position of disagreement with the granting of a public access easement through church property. She stated the church would do all it could do to protect Burke Lake from erosion and siltation and run off into Burke Lake. The Board members and the applicant's representatives deliberated the merits of the easements.

Chairman Smith called for other speakers in favor of the application. He called for speakers in opposition to the application.

Paul Young of 10207 Burke Lake Road (Lot 16) spoke in opposition. He said he was not against the church application, but against the proposed transportation solution. The solution would create a road along church property which would sandwich his lot and lot 15 between the newly created road and Burke Lake Road. The impact on his property would be great, and would require the possible removal of his barn. He fears the value of his property would be lessened.

Mr. James Prosiden of 10129 Pohick Road (Lot 15) also spoke in opposition to the application. Mr. Prosiden's property would be part of the "island" created by the new road. Mr. Prosiden feared that the proximity of the road to his house would create a health hazard for his family due to exhaust from automobiles.

Kevin Guinaw pointed out that VDH&T may have to construct the new road anyway because of the residents of Pohick Road whose access to Burke Lake Road will be blocked by the Springfield Bypass.

Marilyn Thompson of 10121 Pohick Road (Lot 13) also spoke in opposition to the granting of the permit on the basis of the environmental issue and the transportation issue. Mrs. Thompson stated that she believed the alternate road location was necessitated by the church use, not the existing uses along this section of Pohick Road. Mrs. Thompson also operates a veterinary clinic from her residence.

Mr. Al Yohanda of 10301 Burke Lake Road (Lot 22) spoke in opposition to the permit. He felt that the creation of the road through church property would have detrimental impact on neighboring properties, would create a complex pattern of roads, and would create additional traffic and density to the area.

Mr. DiGiulian moved to grant the special permit with the deletion of the Development Conditions dealing with the roads and modification of Condition #12 to have the open space easement extend across the entire width of the property starting at the northern property line and running south to the southern property line.

Mrs. Thonen seconded the motion.

Mr. Hammack stated he held the same reservations as Mr. Hyland concerning the roads and transportation issue and would, therefore, be unable to support the motion.

Chairman Smith stated he would support the motion as the road issue had nothing to do with the use of the land.

Mrs. Day stated she felt the road issue was tied to the use of the land in this particular case.

Further discussion revealed that if a vote were held on the motion, the motion would probably not pass as the Board seemed to be divided 3-3 due to the roads issue, and four (4) affirmative votes are needed to carry a motion. Some Board members felt that by giving VDH&T land through the church property for the new road, the church would provide greater motivation for VDH&T to create the road which might prove so detrimental to the neighbors. Mr. Hyland suggested that the church be given additional time to work with Fairfax County Office of Transportation, Supervisor Elaine McConnell's office, VDH&T, and the neighbors in order to find a more viable solution to the transportation issue.

Dr. Taylor stated the church would like a deferral in order to have time to work out an alternative solution to the transportation issue.

Mr. DiGiulian withdrew his motion, and Mrs. Thonen agreed to the withdrawal.

048

Mr. DiGiulian made the motion to defer the public hearing. Mrs. Thonen seconded the motion which passed unanimously.

The public hearing was scheduled for June 3, 1986 at 10:45 A.M.

Page 48, April 29, 1986, (Tape 3) After Agenda Item, Action #1:

REQUEST FOR ADDITIONAL TIME FOR DAR AL HIJRAH, SP 84-M-009

Mrs. Thonen moved to grant the request for additional time to commence construction of a church (mosque) and related facilities under SP 84-M-009 for six months, extending the time until October 17, 1986. Mrs. Day seconded the motion which passed 6-0; Mr. Ribble was not present for this vote. The Board voted that it would grant no further extensions of this special permit.

Page 48, April 29, 1986, (Tape 3) After Agenda Item, Action #2:

APPROVAL OF BZA MINUTES, 01/21/86.

Mrs. Day moved that the Board of Zoning Appeals approve the Minutes of January 21, 1986, as presented. This motion was seconded by Mr. Hyland and carried unanimously by a vote of 6-0; Mr. Ribble was not present for this vote.

Page 48, April 29, 1986, (Tape 3) After Agenda Item, Action #3:

APPLICATION FOR APPEAL - CHARLES H. KIMSEY

Mrs. Thonen moved that the Board of Zoning Appeals hear Charles Kimsey's appeal of the Zoning Administrator's decision. Mr. Hyland seconded the motion which passed 5-0. Mr. Ribble and Mr. Hammack were not present for this vote. The appeal is scheduled for public hearing on July 31, 1986 at 9:00 A.M.

Page 48, April 29, 1986, (Tape 3) After Agenda Item, Action #4:

APPLICATION FOR APPEAL - DONALD T. & GABRIELLE H. WILLIAMSON

Mrs. Thonen moved that the Board of Zoning Appeals hear the Donald T. and Gabrielle H. Williamson appeal. Mr. Hyland seconded the motion which passed 5-0. Mr. Ribble and Mr. Hammack were not present for this vote. The appeal is scheduled for public hearing on July 29, 1986 at 9:00 A.M.

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

Mary Ellen Simmons
Mary Ellen Simmons, Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

October 21, 1986
Date Submitted

October 28, 1986
Date Approved

49
049

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 6, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John F. Ribble, III; Gerald Hyland; Ann Day; and Mary Thonen. Paul Hammack was absent from this meeting.

The Chairman opened the meeting at 9:10 A.M., and Mrs. Day led the prayer.

Page 49, May 6, 1986, (Tape 1) Scheduled case of:

9:00 A.M. THE KOREAN PRESBYTERIAN CHURCH OF WASHINGTON - SPA 81-A-002-1, application under Section 3-103 of the Zoning Ordinance to amend S-81-A-002 for a church and related facilities to permit construction of 43 additional parking spaces, located at 4925 Twinbrook Road on approximately 5.38 acres of land, zoned R-1, Annandale District, Tax Map Reference 69-3((1))29 and 29A.

Kevin Guinaw presented the staff report which recommended approval based on the Development Conditions.

Mr. Charles Kim, an elder of the church spoke in justification of the application. Mr. Kim stated that because the children in the church had increased in age and were now drivers it was necessary for the church to provide additional parking spaces. The church is happy to comply with the development conditions and provide transitional screening and interior parking lot landscaping. Although the church will regret taking down the 150 year old trees, it is happy to do so in order to provide a safe site distance for the entrances. Mr. Kim said the church was in agreement with condition number 12 and would provide 25 feet of paving on the parsonage driveway to the point of entrance into the street. Mr. Kim requested the Board's approval of the application.

Mr. Gerald Thomas O'Dell of 7372 Lee Highway spoke in opposition to the application based on the waiver of the dustless surface requirement for the parsonage driveway except for the 25 feet from the roadway. After questioning from Chairman Smith, Mr. O'Dell agreed that he did not live near the church or even in the neighborhood and that it was very unlikely that he would be attending services there.

Mrs. Thonen made the motion to approve the application because it satisfied all the standards for a special permit.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 81-A-002-1 by THE KOREAN PRESBYTERIAN CHURCH OF WASHINGTON, under Section 3-103 of the Zoning Ordinance to amend SP 81-A-002 for a church and related facilities to permit construction of additional parking with modification of the dustless surface requirement for the parsonage driveway, on property located at 4925 Twinbrook Road, Tax Map Reference 69-3((1))29 and 29A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 6, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5.38 acres of land.

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

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

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

050

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The seating capacity of the main worship area shall not exceed 352.
6. There shall be 143 parking spaces, including handicapped spaces, constructed in accordance with the applicable Code requirement. All parking areas shall be constructed and maintained with a dustless surface in accordance with Par. 14 of Sect. 11-102 of the Zoning Ordinance and the Public Facilities Manual.
7. Hours of operation shall be hours of normal church activities.
8. Transitional Screening shall be required along all lot lines with the following modifications:
 - o Existing vegetation shall be used where possible and supplemented, as determined by the County Arborist, to provide screening equivalent to Transitional Screening 1.
 - o Along the front property line, planting requirements shall be modified so as not to interfere with the provision of adequate sight distance at the Twinbrook Road entrance.
9. Adequate sight distance shall be provided at the Twinbrook Road entrance in accordance with VDM&T standards. Vegetation other than low ground cover (e.g. grass and small shrubs) shall be removed from the southern corner of the entrance's sight distance triangle, and no additional vegetation, except grass, shall be planted in the northern corner of the entrance's sight distance triangle.
10. Interior parking lot landscaping shall be provided in accordance with Article 13.
11. The barrier requirement shall be waived.
12. A modification of the dustless surface requirement shall be granted for the parsonage driveway, except for the first twenty-five (25) feet from the edge of existing pavement, which shall be paved. The remainder of the gravel driveway shall be constructed and maintained in accordance with standard practices approved by the Director, Department of Environmental Management. Modification of the dustless surface requirement is approved for a period of five (5) years.

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

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

Page 51, May 6, 1986, (Tape 1), SPA 81-A-002-1, The Korean Presbyterian Church of Washington, continued from Page 49

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0; Mr. Hyland and Mr. Hammack were not present for this vote.

Page 51, May 6, 1986, (Tape 1) Scheduled case of:

9:20 A.M. LAWRENCE AND ELLEN A. GOLDBERG - SP 86-C-006, application under Section 8-901 of the Zoning Ordinance to allow a reduction to the minimum yard requirements based on an error in building location to permit detached garage to remain 9.2 feet from the public street right-of-way line (15 ft. min. distance from street r-o-w line req. by Sect. 6-307), located at 11429 Purple Beech Drive on approximately 13,765 square feet, zoned PRC, Centreville District, Tax Map Reference 26-2((2))(5)22.

Chairman Smith inquired if there were any persons in the room interested in this case. Kevin Guinaw, Staff Coordinator, informed the Board that this case had been administratively withdrawn since no modification was necessary.

Page 51, May 6, 1986, (Tape 1) After Agenda Item, Action #1:

REQUEST FOR AN OUT-OF-TURN HEARING
OPTICAL & ELECTRONIC RESEARCH, INC., VCA 85-C-100-1

Because the Board was ahead of schedule due to the withdrawal of the 9:20 A.M. scheduled case, Chairman Smith called for consideration of the out-of-turn hearing request. Mrs. Day made the motion that this request be granted; Mrs. Thonen seconded the motion which passed unanimously, 5-0. Mr. Hyland and Mr. Hammack were not present for this vote. The application was scheduled to be heard by the Board on June 3, 1986 at 11:15 A.M.

Page 51, May 6, 1986, (Tape 1) Scheduled case of:

9:40 A.M. SAINT ANDREW'S EPISCOPAL CHURCH - SPA 81-S-044-2, application under Sections 3-103 and 8-901 of the Zoning Ordinance to amend SP 81-S-044 for church and related facilities and a child care center to permit the continued modification of the dustless surface requirement as originally allowed by Variance Application VC 83-S-010, located at 6509 Sydenstricker Road on approximately 7.8135 acres of land, zoned R-1, Springfield District, Tax Map Reference 88-2((1))5.

Kevin Guinaw, Staff Coordinator, presented the Staff Report which recommended approval based upon the Development Conditions. Since the granting of a variance VC 86-S-010 on March 29, 1983 to allow the dustless surface, the Zoning Ordinance has been changed, making a request for a modification of the dustless surface requirement a special permit. Therefore, the applicant's request for renewal is considered as an amendment to the church's special permit. Mr. Guinaw reported staff believes that the conditions of modification would be for a limited period of time.

Mr. David Jessell of 6908 Sydenstricker Road, Springfield, Virginia 22152 spoke in justification of the application. The conditions at the church have not changed since the church was allowed to waive the dustless surface requirement. The parking area is well maintained, and the church is in agreement with the Development Conditions.

Chairman Smith called for speakers in support and in opposition to the application. Hearing no reply, he closed the public hearing.

Mr. DiGiulian moved that the Board adopt the following Resolution.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 81-S-044-2 by SAINT ANDREW'S EPISCOPAL CHURCH, under Section 8-901 of the Zoning Ordinance to amend SP 81-S-044 for church and related facilities and a child care center to permit the continued modification of the dustless surface requirement as originally allowed by Variance Application VC 83-S-010, on property located at 6509 Sydenstricker Road, Tax Map Reference 88-2((1))5, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

052

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 7.8135 acres of land.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The hours of operation for the church shall be as required for normal church activities.
6. The hours of operation for the child care center shall be from 8:00 A.M. to 2:00 P.M.
7. The maximum enrollment for the child care center shall be ninety-nine (99).
8. The transitional screening and barrier requirement shall be modified to allow the existing trees to remain where possible and supplemental screening provided as determined by the Director of the Department of Environmental Management.
9. The parking lot lights shall be the low design as provided in the existing lot.
10. The portion of the building in which the classrooms and nursery areas are located shall be acoustically treated to achieve ambient noise levels no higher than 45 dBA Ldn.
11. The portion of the play area not shielded from Old Keens Mill Road by the proposed building, shall be shielded by berms or acoustical fencing not less than six (6) feet in height which is architecturally solid and flush with the ground or take such other measures in order to achieve maximum exterior noise levels of 65 dBA Ldn as imposed by the Environment and Policy Division.
12. Right-of-way dedication shall be provided alongside Sydenstricker Road as determined by the Director of Environmental Management at the time of site plan review. Road improvements shall be provided alongside Sydenstricker Road as required by the Director of Environmental Management in accordance with the Site Plan Ordinance and subject to any appeal rights of the applicant.

053

13. A modification of the dustless surface requirement shall be granted for the southern parking area. The parking area shall be constructed and maintained in accordance with standard practices approved by Director, Department of Environmental Management.

14. This renewal of the modification to the dustless surface requirement is approved for a period of five (5) years.

These conditions incorporate all applicable conditions of the previous approval.

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0; Mr. Hyland and Mr. Hammack were not present for this vote.

Page 53, May 6, 1986 (Tape 1) Scheduled case of:

10:00 A.M. MARION E. MOORE - VC 86-P-010, application under Section 18-401 of the Zoning Ordinance to permit the construction of a deck addition to dwelling to 8 feet from the side lot line (20 ft. minimum side yard req. by Sect. 3-107), located at 8621 Leroy Place on approximately 22,286 square feet of land, zoned R-1, Providence District, Tax Map 59-3((7))5.

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Mr. Marion Moore of 8621 Leroy Place, Fairfax, Virginia spoke in justification of the application. Mr. Moore stated his next door neighbor who would be the neighbor closest to the proposed deck had no objections to the application. Mr. Moore said he had been made aware of the two letters in opposition to the application. He explained these objections were from neighbors who were quite a distance from and separated from his lot by woods; they would not be able to see the deck.

Chairman Smith inquired what was the Moore's justification based upon the nine standards for variance. Mr. Moore said he had purchased the property in good faith and did not realize he would not have adequate space for the deck without the variance. He stated that a handicapped person was living in his household who was not living with them at the time of the purchase of the home. The particular location for the proposed deck was chosen to give the handicapped person access to fresh air; a deck addition at a different location would not allow this access.

Chairman Smith called for speakers in support and in opposition to the request. There were no speakers so Chairman Smith closed the public hearing.

Mrs. Day moved that the Board grant the Standard Form for Variances because the applicant had demonstrated good faith and hardship. The deck was necessary as a means to provide access to the fresh air to handicapped member of the household; the deck would not adversely impact the neighborhood. Strict application of the Ordinance would deprive the owners of reasonable use of their property.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-010 by MARION E. MOORE, under Section 18-401 of the Zoning Ordinance to permit the construction of a deck addition to dwelling to 8 feet from the side lot line, on property located at 8621 Leroy Place, Tax Map Reference 59-3((7))5, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

054

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 22,286 square feet of land.

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

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

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 4-2 with Chairman Smith and Mr. Hyland voting Nay; Mr. Hammack was not present for this hearing.

Page 55, May 6, 1986, (Tape 1) Scheduled case of:

10:10 A.M. BARBARA LYNN DAVIS - SP 86-P-005, application under Section 8-901 of the Zoning Ordinance for modification to the limitations on keeping of animals to permit the keeping of four (4) dogs in an apartment, located at 7374 Lee Highway Apt. #204, zoned R-20, Mason District, Tax Map 50-1((19))(74)1-204.

055

Lori Greenleaf, Staff Coordinator, said Ms. Davis was requesting a deferral; through a misunderstanding her notices were not in order. At the time the original notification package was mailed to Ms. Davis, staff did not realize her home was in a condominium complex which necessitated a different notification process than that used for an apartment. Ms. Davis also had a misunderstanding concerning the number of adjacent property owners to notify.

Gerald O'Dell of 7372 Lee Highway requested permission to address the Board. Chairman Smith told him that he could not speak about the issues in the case, but he could address the deferral request. Mr. O'Dell stated he felt Ms. Davis had been dilatory in complying with the provisions of the Ordinance in regard to her four pets. By allowing postponement of her case, the Board would, in a way, be siding her in her failure to comply.

The Board discussed the matter and agreed that a long time had elapsed since Ms. Davis had been issued the first notice of violation on August 30, 1985. The application for a special permit which she had submitted on October 30, 1985 had been returned because it was not complete. A second violation had been issued on January 10, 1986, and Ms. Davis had submitted a second application for special permit on January 27, 1986. Due to the misunderstanding regarding the notification process, the application was still not ready to be heard. The Board agreed that Ms. Davis had seemed to benefit by her own mistakes.

Chairman Smith mentioned to Mr. O'Dell he could check the condo ordinance regarding the number of animals permitted before he returned to the next hearing.

The Board voted to defer the public hearing on Ms. Davis' application until June 3, 1986 at 11:15 A.M.

Jane C. Kelsey, Chief, Board of Zoning Appeals Support Branch, scheduled a meeting with the Board for Thursday, June 5, 1986, to discuss issues which were important to the Board and to Staff. Ms. Kelsey requested that the members submit any items they wished to discuss so they could be included in the agenda.

As there was no further business, the Board adjourned at 10:30 A.M.

Mary Ellen Simmons

Mary Ellen Simmons, Deputy Clerk
Board of Zoning Appeals

9/2/86

Date Submitted

Daniel Smith

Daniel Smith, Chairman
Board of Zoning Appeals

9/9/86

Date Approved

056

Blank

057

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 13, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; John F. Ribble, III; Gerald Hyland; Ann Day; Mary Thonen; and Paul Hammack.

The Chairman opened the meeting at 9:11 A.M., and Mrs. Day led the prayer.

Page 51 May 13, 1986. (Tape 1) Scheduled case of:

9:00 A.M. HERBERT & BEATRICE KREINIK - VC 86-D-006, application under Section 18-401 of the Zoning Ordinance to permit a six (6) ft. high fence to remain in the front yard abutting a pipestem driveway (4 ft. max. height for fence in any front yard req. by Sect. 10-104), located at 9375 Robnel Place on approximately 13,000 square feet of land, zoned R-2 Cluster, Dranesville District, Tax Map 19-4((20))18.

Lori Greenleaf, Staff Coordinator, presented the Staff Report.

Mr. Harold Miller of 11715 Bowman Green Drive, Reston, Virginia, attorney for the applicants, presented the justification for the variance request which would allow a six foot high fence to remain next to a pipestem driveway. Mr. Miller stated that the Kreiniks had acquired the property in good faith. Prior to settlement with the developer on their home they had entered into an agreement with him to contract with Long Fence to build the fence. Actual construction of the fence took place after settlement. The Kreiniks did not realize their property was considered to have two front yards by virtue of abutting a pipestem driveway. There is at least one other fence like the Kreinik's fence in the subdivision; one other had been started when Mary Burton, Zoning Inspector, stopped its construction. The Kreinik's need a fence of this height in order to contain their dogs who can jump a four foot high fence. Letters circulated by the Kreiniks to solicit support for their request yielded seven in support and only two in opposition. No visibility problem entering and exiting the public street is posed by the fence; there is no evidence to support claims that a fence of this type would lower property values.

The Board members discussed various considerations in length with Mr. Miller and Mrs. Kreinik. Chairman Smith asked Mr. Miller how the Kreinik application met the hardship requirements for a variance. Mr. Miller stated the existence of two front yards and the ownership of the two dogs who could jump fences of normal heights constituted the hardship. Mr. Hyland stated he could understand the prohibition from building a fence of such height on a corner lot of a normal street, but felt the danger of such a fence on a pipestem drive would not be the same. It was noted by Mr. Hammack that ability to see small children could be hindered even if the fence were only four feet in height. Mrs. Thonen mentioned that all of the letters of objection mentioned the safety factor.

Chairman Smith called for other speakers in support and in opposition to the application.

Mr. Grant McMicken of 9373 Robnel Place Vienna, Virginia stated he was strongly opposed to granting the variance to allow the six foot high fence to remain. Mr. McMicken views the height and location of the fence present a serious safety hazard making it impossible for drivers to see adults as well as small children. He mentioned the number of small children who live on the pipestem and a senior citizen who frequently walks on the pipestem.

Mrs. Marylah C. Martin of 9369 Robnel Place also spoke in opposition to the application, citing the safety hazard as her reason for disapproval.

Mr. Miller restated the applicants' position that the property was acquired in good faith, the safety hazard was not really present, and the fence would not be detrimental to property values.

As there were no other speakers, Chairman Smith closed the Public Hearing.

Mr. Hammack made to motion to adopt the standard variance resolution form with the following modification: the fence shall be moved back from the pipestem driveway sixteen (16) feet.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-006 by HERBERT AND BEATRICE KREINIK, under Section 18-401 of the Zoning Ordinance to permit a six (6) foot high fence to remain in the front yard abutting a pipestem driveway, on property located at 9375 Robnel Place, Tax Map Reference 19-4((20))18, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 13, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 13,000 square feet of land.

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations: Condition 1 shall be changed as follows:

1. This variance is approved in part for the location and the specific structure requested in the application and is not transferable to other land. The fence shall be moved back from the pipestem sixteen (16) feet.

Mr. Hyland seconded the motion.

The motion failed by a vote of 3-2, 4 affirmative votes being necessary to carry a motion. Mr. Thonen and Chairman Smith voted NAY; Mr. Ribble and Mr. DiGiulian were not present for this vote.

The Board noted that several cases had come before them dealing with a fence built by Long Company in violation of the Zoning Ordinance. During construction of a fence in the same neighborhood in which the Kreiniks lived, Long Fence was informed by Mary Burton, Zoning Inspector, that the fence they were building was in violation of the Zoning Ordinance. However, Long Fence Company ignored the information and continued to build the fence. Mr. Hyland indicated it was necessary to take steps to require Long to

058

Page 59; May 13, 1986, (Tape), VC 86-D-006, Herbert & Beatrice Kreinik, continued from Page 57)

comply with the Zoning Ordinance in the future. Mr. Hyland moved the following steps be taken: 1) Write a letter to Mr. Stone of Long Fence Company, requesting him to come before the Board and explain why Long Fence repeatedly builds fences in violation of the Zoning Ordinance, 2) Have the County Attorney advise the Board of Zoning Appeals if the County has the authority to revoke a permit of a company like Long Fence Company who continues to disregard the Zoning Ordinance, 3) To amend the Ordinance to require a building permit for fences.

Mrs. Thonen seconded the motion. The Board discussed further the problem of contractors and developers who disregard the Zoning Ordinance. Board members stated that they may not have the authority to require Mr. Stone to appear before the Board, but could request that he appear.

The motion carried 4-1 with Chairman Smith voting NAY; Mr. Ribble and Mr. DiGiulian were not present for the vote.

Page 59; May 13, 1986, (Tape 2) Scheduled case of:

9:15 A.M. HELEN M. RICHARDS - VC 85-D-114, application under Section 18-401 of the Zoning Ordinance to permit subdivision into two lots, proposed Lot 10B-1 having a width of 61.96 feet (80 ft. minimum lot width required by Section 3-306), located at 6907 Churchill Road on approximately .882 acres of land, zoned R-3, Dranesville District, Tax Map Reference 30-2((3))10B.

Keith Martin, attorney for the applicant, requested a deferral of the hearing on this request in order to solve the transportation issue of where the driveway entrances to the lots should be located.

Chairman Smith inquired if there was anyone present interested in the case. Ms. Ann Gray of 1213 Ingleside Avenue, McLean, stated she was an interested party. Marilyn Anderson, Staff Coordinator, said Ms. Richards had been advised two weeks ago about the recommendations from the Office of Transportation in reference to the resolution of the sight distance problem. Ms. Gray indicated she had no objection to a deferral of the hearing.

Mrs. Thonen moved that the case be deferred. Mrs. Day seconded the motion which passed unanimously. The public hearing was scheduled for June 24, 1986 at 10:30 A.M.

Page 59; May 13, 1986, (Tape 3) Scheduled case of:

9:35 A.M. RICK ACUNA - VC 86-P-014, application under Section 18-401 of the Zoning Ordinance to permit the construction of a garage addition to dwelling to 3 feet from the side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 8318 Syracuse Circle on approximately 10,500 square feet of land, zoned R-3, Providence District, Tax Map 49-1((9))(E)48.

Marilyn Anderson, Staff Coordinator, presented the Staff Report. A new affidavit indicating the Mr. Acuna was the co-owner of the subject property was entered into the record. It was noted that the house on adjacent lot 47 is 17 feet from the side lot line at its nearest point.

Mr. Paul Harrelle, architect for the applicant, spoke in justification of the variance request. Points noted by Mr. Harrelle were the lack of objection from the neighbor, the need for protection of automobiles and a place for storage, the difficult topography of the property in which the land falls off sharply in the rear lot, and an easement on the other side lot which prevents additions in that area.

Mr. Harrelle noted the presence of other homes in the neighborhood which were as close to the property line as the Acuna application was requesting.

The Board discussed the application and indicated that a nine foot variance request was too great. Chairman Smith called for other speakers in favor and in opposition to the request. There was no reply so he closed the public hearing.

Mrs. Thonen moved to grant-in-part the request for variance. She moved that the Board grant a five (5) foot variance which would permit the garage addition to be built up to seven (7) feet from the side lot line.

059

060

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-014 by RICK ACUNA, under Section 18-401 of the Zoning Ordinance to permit the construction of a garage addition to dwelling to 3 feet from the side lot line *(seven feet from the lot line approved), on property located at 8318 Syracuse Circle, Tax Map Reference 49-1((9))(K)48, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 13, 1986; and

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

- 1. That the applicant is the co-owner of the land.
- 2. The present zoning is R-3.
- 3. The area of the lot is 10,500 square feet of land.

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

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

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

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

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

- 1. This variance is approved in part for the location and the specific addition requested in the application* (to permit garage addition up to (7) seven feet from the side lot line) to be shown on an amended plat. This variance is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting NAY; Mr. Ribble and Mr. DiGiulian were not present for this vote.

Chairman Smith stated that the amended plat must be submitted for his signature.

Page 61, May 13, 1986, (Tape 3) Scheduled case of:

9:50 A.M. JAREN VAN DEN HEUVEL - SP 86-C-008, application under Section 3-103 of the Zoning Ordinance to permit a Home Professional Office (Psychologist), located at 11446 Bronzedale Drive on approximately 26,205 square feet of land, zoned R-1, Centreville District, Tax Map Reference 46-2((13))613.

Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval based upon the Development Conditions contained therein. Ms. Anderson explained that the application was for a part time home professional office to operate between 4:00 P.M. and 7:00 P.M. two evenings a week and on an occasional Saturday morning. There would be no employees, and there would be no more than three (3) clients per day and only one at a time. The office would have a private entrance from a walk out basement. Staff's only concern was the screening of the parking area which was addressed in the development conditions.

Mr. Van Den Heuvel presented the justification for the application and stated he accepted the limits of the development conditions. In response to questions from the Board he stated his services would include testing of children and perhaps counseling of adults with marriage problems.

Chairman Smith called for speakers in favor and in opposition to the request.

Mr. Herbert J. Davis of 11458 Bronzedale spoke in opposition to the request. He presented a petition in opposition signed by 47 homeowners. Because the neighborhood was new, still under construction, he felt it was too soon to allow the establishment of a home professional office; new residents would not be able to voice an opinion on the matter. The people who signed the petition felt the office would cause traffic congestion at the busiest time of day. The petitioners felt there were many other places a business of this type could be located, for example, in nearby Fair Lakes commercial center. The petitioners felt allowing the establishment of the office in their neighborhood would possibly lower property values and set a precedent for other such offices, as well as causing traffic, parking, and safety problems. Mr. Davis stated the petitioners were concerned that the "client behavior would 'threaten' their community".

Mr. Hyland pointed out the Office of Transportation did not feel a traffic problem would be created by the presence of the office. Also, the Zoning Ordinance permits the establishment of home professional offices. There is no indication that home professional offices lower property values. The application seems "innocuous", he stated, and perhaps the only possible objection to such offices would be philosophical.

Sylvia Ambreu, a resident of the neighborhood, stated she had three questions: 1) How would the hours be controlled? 2) Would granting of the application be precedent setting? 3) Would there be a sign?

Chairman Smith said once the hours were set, the applicant must comply with them on the basis of honor. If the hours were violated, the Zoning Administrator could rescind the permit. Ms. Anderson stated the Zoning Ordinance allows for signs of certain specified dimensions, but the Board can condition the permit to disallow any signs. Mr. Van Den Heuvel stated he would not have a sign.

Mr. Hyland said the granting of a special permit to establish a home professional office in a neighborhood where none existed previously would not be precedent setting. When an office was already in existence in a neighborhood, the Board would be less likely to grant a future request.

6.5
061

062

Board members discussed various aspects of the application... Mrs. Thonen did not see why someone should come into a new neighborhood and set up a new office to operate during the busiest hours of the day. Mrs. Day felt as the applicant was a full time employee of Arlington County the home office would not be providing his main source of income; he could rent space in a commercial area.

Mrs. Day moved to deny the request for the special permit.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-008 by JAREN VAN DEN HEUVEL, under Section 3-103 of the Zoning Ordinance to permit a home Professional Office (Psychologist), on property located at 11446 Bronzedale Drive, Tax Map Reference 46-2((13))613, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 13, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 26,205 square feet of land.

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

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses as contained in Section 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-907 of the Zoning Ordinance.

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

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1; Mr. Hyland voted NAY. Mr. DiGiulian and Mr. Ribble not present for the vote.

Page 62 May 13, 1986, (Tape 3) Scheduled case of:

10:10 A.M. SAINT ANTHANSAIUS CHURCH - SP 86-D-009, application under Section 3-103 of the Zoning Ordinance to permit building and parking additions to an existing church and related facilities, with waiver of the dustless surface requirement, located at 1316 Trap Road on approximately 1.231 acres of land, zoned R-1, Dranesville District, Tax Map 19-4((3))1.

The Board voted unanimously to defer the hearing of this case until July 1, 1986 at 10:40 A.M. to allow the church to work out some of the problems raised by staff.

Page 62 May 13, 1986, (Tape 3) Scheduled case of:

WILLIAM F. DUFFY - VC 86-L-013, application under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to 23.4 feet from the front lot line (30 ft. min. front yard req. by Sect. 3-407), located at 5605 Bristol Court on approximately 8,964 square feet of land, zoned R-4, Lee District, Tax Map 81-1((4))(G)38.

Marilyn Anderson, Staff Coordinator, presented the Staff Report. The applicant is requesting a 6.6 variance from the minimum front lot line requirement in order to build an addition to his home 23.4 feet from the front lot line in an area where 30 feet is the minimum requirement. Due to the way his house sits on the lot, and due to the curvature of the street, the addition would have no negative impact on the adjacent property.

063

William F. Duffy spoke in justification of his application. He had lived in his home for twelve years; when he purchased the home, he had only one child. Now he has three, and therefore, needs more space. He cannot add on to the back of his house because of a steep 12 foot slope in the back yard; the addition would not be detrimental to the adjacent property.

Chairman Smith called for speakers in favor and in opposition to the request. Hearing no reply, he closed the public hearing.

Mr. Hyland moved that the Board adopt the standard variance resolution form.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-013 by WILLIAM F. DUFFY, under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to 23.4 feet from the front lot line, on property located at 5605 Bristol Court, Tax Map Reference 81-1((4))(G)38, 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, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-4.
- 3. The area of the lot is 8,964 square feet of land.

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

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

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

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

064

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

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

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0; Mr. DiGiulian and Mr. Ribble not present for the vote.

10:45 A.M. HARRISON AND JOYCE FAHRNER - VC 86-A-019, application under Section 18-401 of the Zoning Ordinance to permit the enclosure of the existing carport for use as a garage 9.1 feet from the side lot line such that the side yards total 19.1 feet (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located at 5507 Andrews Chapel Court on approximately 14,693 square feet of land, zoned R-3 (C), Annandale District, Tax Map 77-1((6))333.

Page 64

Marilyn Anderson, Staff Coordinator, presented the request staff report which was a request for a 0.9 foot variance from the minimum twenty (20) foot combined side lot requirement.

Joyce Fahrner spoke in justification of the application. She stated the unusual "pie shape" of her lot on the cul-de-sac made her side lot narrower than what was necessary in order to enclose the existing carport.

Chairman Smith called for speakers in favor and in opposition to the request. There was no reply and he closed the public hearing.

Mr. Hammack moved that the Board adopt the standard variance resolution form due to the unusual triangular shape of the lot, and because the variance request was a minimum request.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-019 by HARRISON AND JOYCE FAHRNER, under Section 18-401 of the Zoning Ordinance to permit the enclosure of the existing carport, on property located at 5507 Andrews Chapel Court, Tax Map Reference 77-1((6))333, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 13, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3 (C).
3. The area of the lot is 14,693 square feet of land.

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

65
065

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

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

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

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

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

Mrs. Day seconded the motion.

The motion carried by a vote of 5-0; Mr. DiGiulian and Mr. Ribble not present for the vote.

Page ⁶⁵ 65 May 13, 1986, (Tape 3) Scheduled case of:

11:00 A.M. EDWARD J. STALCUP - VC 86-D-005, application under Section 18-401 of the Zoning Ordinance to permit a subdivision into three (3) lots, proposed Lot 2 having the width of 15 feet (100 ft. min. lot width req. by Sect. 3-206) and to permit the house on Lot 1 to remain 6 ft. and the house on Lot 3 to remain 10 ft. from the proposed front lot line after dedication (35 ft. min. front yard req. by Sect. 3-207), located at 6248 and 6250 Park Road on approximately 1.599 acres of land, zoned R-2, Dranesville District, Tax Map 31-3((1))80A & 80D.

Ken Sanders, attorney for the applicant, requested a deferral in order to rework the placement of the pipestem driveway. The deferral was granted, and the public hearing was scheduled for June 24, 1986 at 10:45 A.M.

The Board recessed at 11:45 A.M., and reconvened at 11:56 A.M. Upon reconvening, the members decided to recess for lunch.

The Board reconvened at 1:02 P.M.

Page 066 May 13, 1986, (Tape 4) Scheduled case of:

11:15 A.M. WEST*GROUP, INC., AGENT FOR THE APPLICANT, WESTPARK ASSOCIATES - A 86-D-001, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's decision denying density credit for certain dedicated public rights-of-way, Dranesville District, Tax Map 29-2((15))pt. A4 and 29-4((7))A3 (DEFERRED FROM 3/25/86 AND 4/15/86).

Chairman Smith noted the appeal had been deferred in order to give the appellant and the County Attorney time to do further research. He asked Jane Gwinn, Zoning Administrator, if she had a statement. Ms. Gwinn replied that she had nothing to add to her position which was presented in her memorandum dated May 8, 1986, but she would be glad to answer any questions.

Charles Smith of 1600 Anderson Road, McLean, Virginia spoke in justification of the appeal. In September 1977, Westpark applied to the Board of Supervisors for rezoning to I-P, and the property description included land to the center line of Jones Branch Drive. Westpark offered to provide the public improvements, even though they did not plan to develop the land for ten to fifteen (10-15) years. In 1978 a new Zoning Ordinance was written which talked about density credits for the first time. Between 1979 and 1981 there were three dedications of right-of-way, two for Jones Branch Drive and one for Park Run; these were done in accordance with providing the public improvements under a Public Improvement Plan (PI) Plan.

Mr. Charles Smith stated these dedications were Westpark's mistake, because Westpark did not request reservation of density credits at the time of dedication. Mr. Smith pointed out the Zoning Administrator claimed Westpark lost its claims to density credits at the time of the dedications.

Mr. Charles Smith maintained the PI plan is only a component of the site plan process. While the Zoning Administrator says that through subdividing a developer gives up density credits, Mr. Smith maintained the subdivision ordinance applies only to parcels of less than five (5) acres. Westpark's subdivisions were greater than five (5) acres, so the subdivision ordinance would not apply to Westpark. Also, the deeds of dedication were only deeds of easement, not deeds of fees; so the density credits still belong to the owner.

Mr. Charles Smith stated the Zoning Administrator had relied on the Ruck Case to say that Westpark, like the Ruck case, had forfeited density credits, because they had not used them in the first development. Ruck could have used the credits at the time of the first development, but did not, and so lost them. Westpark, on the other hand, had never tendered a site plan for development of their property; it had only used a PI plan at the request of the County in order to provide the public improvements, and a PI plan is only a phase in the site plan process. Therefore, Westpark had never had the opportunity to use their density credits.

Mr. Smith concluded by asking that the Board look at the Public Improvement plans as only being a component of the site plan process.

Karen Harwood, Assistant County Attorney, spoke in support of the Zoning Administrator's decision. Because the plan submitted by Westpark came under provisions of Chapter 101 of the County Ordinance it could not come under the Site Plan Ordinance. Ms. Harwood said that the subdivision ordinance is not restricted to less than five acres of land.

Mr. Hyland inquired how long after the rezoning the roads were put in. Ms. Harwood stated the rezonings had taken place in 1977, and the public improvements were put in between 1979 and 1981. She noted that dedication of roads precedes acceptance into the state system.

Thomas Fleury, Vice President of Development Service of West*Group, stated that their main point was that they never lost density credits, even after they dedicated.

Ms. Gwinn, replied that in order for density credits to have been reserved, they would have to have been annotated on the subdivision plan; and, that reservation would had to have had approval by the Board of Supervisors prior to the dedication. There is no evidence that the density credits were addressed at the time.

Page 67, May 13, 1986, (Tape 3), (West*Group, Inc., Agent for the Applicant, Westpark Associates, A 86-D-001) cont. FROM PAGE 66

Mrs. Thonen moved to uphold the decision of the Zoning Administrator and deny the appeal of West*Group. While she did not like to see anyone who would dedicate and construct early not receive density credits, she had to agree with the Zoning Administrator's decision for denying density credits for certain dedicated public rights-of-way.

Mr. Hammack seconded the motion to uphold the Zoning Administrator's decision.

The motion passed 4-3 with Mr. Hyland, Mrs. Day, and Mr. DiGiulian voting NAY.

Page 67, May 13, 1986, (Tape 4) After Agenda Item, Action #1:

REQUEST FOR ADDITIONAL TIME FOR SPA 73-P-007-1
UNITY OF FAIRFAX, CHURCH OF THE DAILY WORD

Mrs. Day moved to grant the request for additional time for SPA 73-P-007-1 by Unity of Fairfax, Church of the Daily Word. Mr. Hyland seconded the motion which passed unanimously 7-0. The new expiration date will be November 13, 1986. The Board voted unanimously that they will approve no further extensions.

Page 67, May 13, 1986, (Tape 4) After Agenda Item, Action #2:

REQUEST FOR ADDITIONAL TIME FOR SP 84-D-064
HERNDON CONGREGATION OF JOHOVAH'S WITNESSES

Mr. Hyland moved to grant the request for additional time for SP 84-D-064 by Herndon Congregation of Jehovah's Witnesses. Mr. Ribble seconded the motion which passed unanimously 7-0. The new expiration date will be November 13, 1986.

Page 67, May 13, 1986, (Tape 4) After Agenda Item, Action #3:

ADDITIONAL TIME REQUEST FOR VC 83-D-020
ARTHUR W. JR. & BERNICE KROP

Mrs. Day moved to deny the request for additional time for Arthur W. Jr. and Bernice Krop. Mr. Hyland seconded the motion which passed 6-1 with Mr. Hammack voting NAY.

Page 67, May 13, 1986, (Tape 4) After Agenda Item, Action #4:

APPROVAL OF BZA MINUTES OF JANUARY 28, 1986

Mrs. Day moved to approve the minutes of the Board of Zoning Appeals meeting of January 23, 1986. Mr. Ribble seconded the motion which passed unanimously 7-0.

Page 67, May 13, 1986, (Tape 4) After Agenda Item, Action #5:

REQUEST FOR OUT-OF-TURN HEARING FOR SPA 85-D-014
LEESBURG PIKE COMMUNITY CHURCH

Mrs. Thonen moved to deny the request for an out-of-turn hearing for Leesburg Pike Community Church. Mr. DiGiulian seconded the motion which passed unanimously 7-0.

Page 67, May 13, 1986, (Tape 4) After Agenda Item, Action #6:

REQUEST FOR OUT-OF-TURN HEARING FOR SP 86-C-027
LAUREL LEARNING CENTER

Mrs. Thonen moved to deny the request for an out-of-turn hearing for the Laurel Learning Center. Mr. DiGiulian seconded the motion. The motion to deny failed to pass by a vote of 3-4 with Mr. Hyland, Mr. Ribble, Mrs. Day, and Mr. Hammack voting NAY.

Mr. Hyland moved that the Board grant the request for an out-of-turn hearing for the Laurel Learning Center. Mr. Hammack seconded the motion which passed 6-1 with Chairman Smith voting NAY. The public hearing is scheduled for July 8, 1986 at 10:30 A.M.

67
067

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, passed out the tentative agenda for the joint meeting of the Board and Staff.

There being no further business, the Board voted to adjourn at 1:50 P.M.

Mary Ellen Simmons
Mary Ellen Simmons, Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

October 21, 1986
Date Submitted

October 28, 1986
Date Approved

699
069

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 20, 1986. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Mary Thonen; and Paul Hammack. John DiGiulian, Vice Chairman; John F. Ribble, III absent from the meeting.

The Chairman opened the meeting at 8:06 P.M., and Mrs. Day led the prayer.

Page 169 May 20, 1986, (Tape 1) Scheduled case of:

8:00 P.M. EDDIE L. AND NORMA M. BELLETT - VC 86-M-011, application under Section 18-401 of the Zoning Ordinance to permit the subdivision into two (2) lots, proposed Lot 4-B having a width of 12.27 feet (100 ft. min. lot width req. by Sect. 3-206), located at 4927 Sunset Lane on approximately 2.0003 acres of land, zoned R-2, Mason District, Tax Map 71-4((1))4.

Lori Greenlief, Staff Coordinator, presented the Staff Report.

Bernard Fagelson appeared before the Board as the representative for the applicant and explained the use as outlined in the statement of justification as submitted with the application. He advised the Board that the applicant had agreed to all of the conditions requested by staff and added that the proposal would provide the best use of the land with the least impact. Mr. Fagelson submitted for the record a letter in support of the proposal from the property owners at 4929 Sunset Lane.

Chairman Smith called for speakers and there being none, closed the public hearing and turned to Mr. Hammack for action on the case.

Mr. Hammack stated that it was his opinion that the applicant had met all of the required standards for a variance. He moved to accept the variance with two additions to the conditions: Add Condition 7, that ingress and egress be provided by a common driveway serving lots 4A, 4B and 5. Mr. Hammack added that when the common entrance was provided that the existing driveway on lot 4A be closed. He also added Condition 8, that the existing frame shed on proposed lot 4A be removed.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-011 by EDDIE L. AND NORMA M. BELLETT, under Section 18-401 of the Zoning Ordinance to permit the subdivision into two lots, proposed lot 4-B having a width of 12.27 feet, on property located at 4927 Sunset Lane, Tax Map Reference 71-4((1))4, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 20, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 2.0003 acres of land.

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

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

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

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

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

6. That:

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

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

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

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

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

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

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

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

1. This variance is approved for the subdivision of one lot into two lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The driveway to the proposed lot shall be constructed in accordance with the Public Facilities Manual.
4. A plan showing the limits of clearing and grading and tree preservation shall be approved by the County Arborist at the time of site plan review.
5. An entrance permit shall be obtained from VDH&T.
6. Right-of-way dedication of 25 feet from the centerline of Sunset Lane shall be provided.
7. Ingress and egress shall be provided by a common driveway serving the existing house on proposed lot 4A, the house to be constructed on proposed lot 4B and the existing house on lot 5. When the common entrance is provided the existing driveway on lot 4A be closed.
8. The existing frame shed on proposed lot 4A shall be removed.

Mrs. Day seconded the motion which passed unanimously with Mr. DiGiulian and Mr. Ribble absent from the meeting.

Page 10, May 20, 1986, (Tape 1) Scheduled case of:

8:15 P.M. FREDERICK AND CLAIRE G. SUBT - VC 86-V-012, application under Section 18-401 of the Zoning Ordinance to permit the subdivision into three (3) lots, proposed Lot 10-B having a width of 20.0 feet (80 ft. min. lot width req. by Sect. 3-306), located at 8639 and 8701 Winthrop Drive on approximately 1.0 acres of land, zoned R-3, Mount Vernon District, Tax Map 111-2((4))(5) 9 & 10.

Lori Greenleaf, Staff Coordinator presented the Staff Report.

070

712
3
071

Bernard Fagelson appeared before the Board as the representative of the applicant and explained the use as outlined in the statement of justification submitted with the application. He noted that the applicant agreed to the development conditions as requested by staff.

Following a question from Mr. Hyland, Mr. Fagelson stated that the odd shaped lot would present a hardship on the applicant. Mr. Hyland pointed out that the site could be developed into two lots.

Chairman Smith called for speakers and Katherine Moore of 8637 Winthrop Drive, appeared before the Board and submitted a petition in opposition to the proposal. She noted that the Board had denied a similar request by the applicant in 1982 and asked that this request also be denied because it was not in conformance with the neighborhood.

Paul Powell, 8701 Standish Road, appeared before the Board in opposition to the proposal. He added that he supported the findings of the staff report.

Mr. Smith pointed out that the applicant has reasonable use of the land and that it would not be compatible with the neighborhood if changed.

There being no other speakers, comments or questions, Chairman Smith closed the public hearing and turned to Mrs. Thonen for action on the case.

Mrs. Thonen expressed the opinion that a precedent would be set if the proposed variance were granted and also added that there was no hardship on the applicant. Therefore, Mrs. Thonen moved to deny the request for a variance.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-V-012 by FREDERICK AND CLAIRE G. SUBT, under Section 18-401 of the Zoning Ordinance to permit the subdivision into three lots, proposed Lot 10B having a width of 20.0 feet, on property located at 8639 and 8701 Winthrop Drive, Tax Map Reference 111-2((4))(5)9 & 10, Ms. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 20, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 1.0 acres of land.

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

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

072

6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

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

Page 72, May 20, 1986, (Tape 1) Scheduled case of:

8:30 P.M. GREAT FALLS SWIM & TENNIS CLUB, INC. - SPA 82-D-019-3, application under Section 3-103 of the Zoning Ordinance to amend SP 82-D-019 for community recreation facilities to change hours of operation of swimming pool from 9:00 a.m. - 9:00 p.m. to 6:00 a.m. to 9:00 p.m., located at 761 Walker Road on approximately 5.5244 acres of land, zoned R-1, Dranesville District, Tax Map 13-1((1))27.

Lori Greenlief, Staff Coordinator, presented the staff report which recommended approval of SPA 82-D-019-3 subject to the conditions set forth in Appendix 1.

Norman Hess, 761 Walker Road, appeared before the Board as the representative for the applicant and explained the use as outlined in the statement of justification submitted with the application. He reiterated that the two hour period from 6:00 a.m. to 8:00 a.m. was being proposed as an exercise time for adults only with little diving and minimal noise.

Following a discussion among the Board it was determined that the use should be granted on a trial basis with Board review in a year.

Chairman Smith called for speakers and there being none, closed the public hearing and turned to Mrs. Day for action on the case.

Following a question from Mrs. Day, Mrs. Greenlief explained that an existing covered pavilion was not shown on the plat and therefore a revised plat was necessary. Mrs. Day moved to grant the Special Permit Amendment with additions to the development conditions.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 82-D-019-3 by GREAT FALLS SWIM AND TENNIS CLUB, INC., under Section 3-103 of the Zoning Ordinance to amend SP 82-D-019 for community recreation facilities to change hours of operation of swimming pool from 9:00 a.m. - 9:00 p.m. to 6:00 a.m. to 9:00 p.m., on property located at 761 Walker Road, Tax Map Reference 13-1((1))27, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

43
5
073

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 20, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5.5244 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. Transitional Screening 1 shall be provided in the area between the pool and the southern lot line. The County Arborist shall determine the size, and type of plantings. The existing vegetation along the remainder of the site shall be preserved to satisfy Transitional Screening 1. If there is an area where insufficient plantings exist to screen this use from adjacent residences, additional supplemental evergreen plantings shall be provided as determined by the County Arborist. The existing chain link fence which encircles the pool and tennis courts areas shall remain to satisfy the barrier requirement.
5. The hours of operation for facility shall be as follows:
 - o Tennis Courts & Platform
Tennis Courts: 7:00 A.M. to 10:00 P.M.
 - o Swimming Pool Regular Hours: 9:00 A.M. to 9:00 P.M.
 - o Adult Swim (18+ years of age
and above): 6:00 A.M. to 8:00 A.M.
(Monday thru Saturday)
 - o Swim Team Practice
and Meets: 8:00 A.M. to 9:00 A.M.
(Monday thru Saturday)
 - o Adult swim hours are for a period of one year.
6. After-hour parties for the swimming pool shall be governed by the following:
 - o Limited to six (6) per season.
 - o Limited to Friday, Saturday, and pre-holiday evenings.
 - o Shall not exceed beyond 12:00 midnight.
 - o A written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
 - o Request shall be approved for only one (1) such party at a time and such requests shall be approved for only after the successful conclusion of a previous after-hour party.

074

- 7. No bullhorns, loudspeakers, radios or setting up of facilities shall be permitted before the hour of 9:00 A.M. These devices may be used at or after 8:00 A.M. on the two to four occasions of swim meets at the facility.
- 8. All loudspeakers, bullhorns and lighting shall be directed on site.
- 9. There shall be no more than four (4) "A" level swim meets per year at this facility.
- 10. There shall be a minimum of sixty-seven (67) parking spaces and a maximum of one hundred and eighteen (118) parking spaces.
- 11. The maximum number of family memberships shall be four hundred (400).
- 12. All activities shall comply with the provisions of Chapter 108 of the County Code, Noise Ordinance, and the glare performance standards of the Zoning Ordinance.
- 13. Bicycle racks shall be provided to accommodate a minimum of twenty-five (25) bicycles.
- 14. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.
- 15. All required handicapped parking spaces shall be maintained with a dustless surface and in accordance with all applicable standards.
- 16. There shall be annual inspection of the gravel parking areas to ensure compliance with the conditions of this permit, the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
- 17. The approval of a waiver of the dustless surface requirement shall be valid until June 19, 1989.
- 18. A revised plat showing the 48 foot by 20 foot existing, covered pavilion shall be submitted for approval.

Mr. Hyland seconded the motion which carried unanimously with Mr. DiGiulian and Mr. Ribble absent from the meeting.

Page 14, May 20, 1986 (Tape 1) Scheduled case of:

8:50. P.M. NEIL K. KAGAN - VC 86-P-017, application under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to the dwelling to 13.0 feet from the rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 3412 Cypress Drive on approximately 13,990 square feet of land, zoned R-3, Providence District, Tax Map 59-2((8))(8)7.

Lori Greenlief, Staff Coordinator, presented the staff report.

Neil Kagan, the applicant appeared before the Board and explained the use as outlined in the statement of justification submitted with the application. Mr. Hyland pointed out that construction to the north was not practical due to the topographical conditions and Mr. Smith noted the unusual shape of the lot.

Chairman Smith called for speakers and there being none, closed the public hearing and turned to Mr. Hyland for action on the case. Mr. Hyland moved to approve the variance on the basis that the applicant had met all of the required standards for a variance.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-017 by NEIL K. KAGAN, under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to the dwelling to 13.0 feet from the rear lot line, on property located at 3412 Cypress Drive, Tax Map Reference 59-2((8))(8)7, 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 20, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,990 square feet of land.

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

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

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

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

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

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

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

75
7
075

Page 110 May 20, 1986, (Tape 2) Scheduled case of:

9:00 P.M. TURTO TURTIANEN - VC 86-D-016, application under Section 18-401 of the Zoning Ordinance to permit construction of a garage addition to a dwelling 4.4 feet from the side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 1654 Strine Drive on approximately 19,429 square feet of land, zoned R-3, Dranesville District, Tax Map 31-3((21))35.

Lori Greenlief, Staff Coordinator, presented the Staff Report.

Turto Turtianen, the applicant, explained the nature of the use as outlined in the statement of justification submitted with the application and agreed to the development conditions.

There being no speakers to this application, Chairman Smith closed the public hearing and turned to Mr. Hyland for action on the case.

Mr. Hyland noted the irregular shape of the lot and moved to accept the application on the basis that the applicant had met all of the required standards for variances.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-016 by TURTO TURTIANEN, under Section 18-401 of the Zoning Ordinance to permit the construction of a garage addition to a dwelling 4.4 feet from the side lot line on property located at 1654 Strine Drive, Tax Map Reference 31-3((21))35, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 20, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3.
- 3. The area of the lot is 19,429 square feet of land.

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

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

077

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

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

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

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

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

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

There being no other business, the Board moved to adjourn the meeting at 10:00 P.M.

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

Daniel Smith
 Daniel Smith, Chairman
 Board of Zoning Appeals

9/2/86
 Date Submitted

9/2/86
 Date Approved

Blank

078



79
D79

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 3, 1986. The following Board Members were present: Dainel Smith, Chairman; John DiGiulian, Vice-Chairman; John F. Ribble, III; Gerald Hyland; Ann Day; and Paul Hemmack. Mrs. Thonen was absent from this meeting.

Chairman Smith opened the meeting at 9:13 A.M., and Mrs. Day led the prayer.

Page 19, June 3, 1986, (Tape 1) Scheduled case of:

9:00 A.M. WILLIS B. KERN - SP 86-P-003, application under Section 8-901 of the Zoning Ordinance for reduction to the minimum yard requirements based on error in building location to permit a maintenance shed to remain 3.1 feet from the side lot line (25 ft. minimum side yard required by Section 30-2.2.2, 1959 Zoning Ordinance), located at 2168 Evans Court on approximately 9.0655 acres of land, zoned R-20, Providence District, Tax Map 40-1(1)44. (DEFERRED FROM APRIL 8, 1986)

Lori Greenlief, Staff Coordinator, presented the staff report. Mrs. Greenlief stated that staff was concerned about the lack of landscaping between the shed and the adjacent property. Staff recommended approval of this special permit request based upon the Development Conditions contained in the Staff Report.

Mr. Charles Curran, agent for Mr. Kern, spoke in justification for the request. He stated that the Development Conditions recommended by Staff were acceptable to the applicant. The shed had been located too close to the property line in violation of the minimum side yard requirements to avoid cutting down some large trees. The applicant had made attempts to respond to the objections of the adjacent property owners by repainting the shed from its stark white color and by putting a new roof on the structure.

Mr. Hyland noted that the Board was in possession of a letter from a neighbor requesting that the applicant construct a six (6) foot high fence with barbed wire on top between the shed and the property line. Further discussion followed between the Board and Mr. Curran concerning various aspects of the case. It was noted that a building permit had never been obtained for the structure; Mr. Curran did not know if an inspection had been made to determine if the shed was in conformance with County building code requirements.

Chairman Smith called for speakers in support and in opposition to the application.

Dorothy Claypool of 7607 Dominion Drive submitted pictures of the shed and surrounding area for the record. She requested that the Board require the owner to repaint the shed to a color that would match the yellow-beige color of the brick on his apartment buildings. She requested that he be required to reroof the shed because the roof which had been added was not of substantial construction.

Mr. Curran stated that the applicant would be willing to work with the neighbors and try to select a color for the shed that would be compatible with the apartment building. He stated that the applicant would be willing to reroof the shed and construct a fence at the other end of the shed to restrict traffic from the apartment property onto the adjacent properties.

Chairman Smith closed the public hearing.

Mr. DiGiulian moved that the Board of Zoning Appeals adopt the Special Permit Resolution form with the addition of the following conditions:

4. A shingle roof shall be provided for the shed, the color is to blend with the roofs on the adjacent properties.
5. The shed is to be repainted with a color to match as closely as possible the color of the brick on the apartment buildings, the owner to work with the homeowners association on the adjacent property to select the color.
6. A fence shall be provided from the westerly corner of the shed nearest the property line, the fence to be the same type and size as the existing fence on the adjacent property.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-003 by WILLIS B. KERN, under Section 8-901 of the Zoning Ordinance to permit a maintenance shed to remain 3.1 feet from the side lot line, on property located at 2168 Evans Court, Tax Map Reference 40-1(1)44, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

080

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-20.
- 3. The area of the lot is 9.0655 acres of land.

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

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

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

- 1. This approval is for the location of the shed as indicated on the plat included with this application, and is not transferable to other land or to other structures on the same land.
- 2. An amended Building Permit shall be obtained for the structure.
- 3. The applicant shall plant and maintain Arborvitae or Skyrocket Juniper a minimum of six (6) feet in height six (6) inches from the property line and spaced three (3) feet apart along the entire length of the back of the shed and to five (5) feet from the back along the sides of the shed.
- 4. A shingle roof shall be provided for the shed. The color is to blend with the roofs on the adjacent properties.
- 5. The shed is to be repainted with a color to match as closely as possible the color of the brick on the apartment buildings, the owner to work with the homeowners association on the adjacent property to select a color.
- 6. A fence shall be provided from the westerly corner of the shed nearest the property line, the fence to be the same type and size as the existing fence on the adjacent property.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, three (3) months after the approval date of the Special Permit unless the conditions approved by the Board of Zoning Appeals have been satisfied, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-2, with Chairman Smith and Mr. Hammack voting **NAY**; Mrs. Thonen was not present for this hearing.

Page 80 June 3, 1986, (Tape 1) Scheduled case of:

9:15 A.M. HAROLD DAVID DELLINGER - VC 85-P-109, application under Section 18-401 of the Zoning Ordinance to permit construction of 11.29 foot high detached garage, 2.0 feet from rear and 2.8 feet from side lot lines (11.29 ft. minimum rear yard and 12 ft. minimum side yard required by Sections 3-307 and 10-104), located at 8111 Bright Meadows Lane on approximately 12,165 square feet, zoned R-3, Providence District, Tax Map Reference 39-4((18))10 (DEFERRED FROM 4/15/86, NOTICES NOT IN ORDER).

81
081

Kevin Guinaw, Staff Coordinator, presented the Staff Report. In his opening statement Mr. Guinaw noted that there had been controversy concerning whether the property had been properly posted prior to public hearing. A memorandum to Wayne Pumphrey, Acting Director, Office of Comprehensive Planning, from Marilyn Anderson, Staff Coordinator, Board of Zoning Appeals Support Branch, explained the particulars of the posting of the Dellinger case which had originally been scheduled for hearing on March 11, 1986, again on April 15, 1986, and finally on June 3, 1986. The previous two hearings had been deferred because the applicant had failed to make the required legal notifications. Copies of this memorandum were submitted to the Board. After discussion between Chairman Smith and Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, it was determined that the postings had been done properly, satisfying the legal requirements and the case could be heard.

Jody Gibson of 434 Ridge Road, Greenbelt, Maryland, agent for Mr. Dellinger spoke in justification of the application. She explained why Mr. Dellinger had not met the notification requirements for the two previously scheduled public hearings. She said she had letters from two of Mr. Dellinger's neighbors who had no objection to the variance request. She pointed out that the proposed garage, which would only be 1.29 feet above the height limit for garages, would be in the rear of the property, and would be unobtrusive. She reviewed the nine requirements for the granting of a variance and indicated Mr. Dellinger's request conformed to these requirements. In summation, Ms. Gibson stated that the granting of the variance would not change the residential character of the zoning district and would be in the best interest of the neighborhood as a garage would provide out of sight storage.

Discussion between Board members and Mr. Dellinger followed concerning whether Mr. Dellinger was operating a business from his home and regarding concerns expressed by many of his neighbors about the number of delivery vehicles going to and from his residence. It was noted that the Board was in receipt of numerous letters, including a petition, from neighbors requesting that the variance not be granted and expressing concerns as to the nature of the use of the Dellinger property.

Mr. Dellinger stated that he did not operate a business from his home. He admitted at one time he had two delivery vans associated with his various occupations parked at his home, but that there was only one van at his property now. He had made arrangements to keep his other delivery vehicle parked at an Exxon station in Fairfax City near the intersection of Rt. 123 and Rt. 50. He stated that no deliveries were made to his residence in connection with his business interests. At one time his house had contained a garage as an integral part of the house, but it had been turned into living space for his family.

At 10:12 A.M. the Board recessed to give Mr. Dellinger and Ms. Gibson the opportunity to review the letters of opposition to his request and the expressed concerns of the neighbors contained in these letters.

The Board reconvened at 10:22 A.M.

Mr. Hyland and Mr. Hammack again questioned Mr. Dellinger concerning the number of vehicles arriving at his home, parking there, and making deliveries. Mr. Dellinger again affirmed that he had no deliveries of products to his residence connected with his business in any way. He stated that he had deliveries of wood and meat to his home for use by his own family.

Chairman Smith called for speakers in favor and in opposition to the variance request.

Marsha Sloop of 8159 Woodland Court, Dunn Loring, Virginia stated that she was opposed to the granting of the variance. She stated that the neighbors had been concerned for several years concerning the many vehicles coming to and from the Dellinger residence and the possibility that Mr. Dellinger was conducting business from his home. She pointed out that it was his own choice to convert the existing garage in his house into living space. Also, it was Mr. Dellinger's choice to put the swimming pool in the middle of his back yard, eliminating space where a garage could be put that would comply with zoning requirements. She concluded by saying that the unique situation existing in the Dellinger yard had been of his own making, and she asked that the Board deny the request for variance.

082

Lois B. Riley of 8117 Bright Meadows Lane, Dunn Loring, Virginia, spoke in opposition to the variance request. She believed that the addition of the garage would give an over crowded appearance to the yard, resulting in a negative impact on the value of other properties in the neighborhood.

Ursula Suedkamp of 8107 Bright Meadows Lane, Dunn Loring, Virginia, also spoke in opposition to the request. Ms. Suedkamp stated that she and her husband did not know why Mr. Dellinger needed such a large garage which would look like a factory to them.

Mr. Dellinger spoke in rebuttal, stating the garage that had been in his house would not have been of sufficient height to contain his personal customized van. He said the proposed garage would match his home and would be for personal use; it would only be a one car garage.

Marilyn Anderson, Staff Coordinator, responded to questions from the Board concerning inspections she had made at the Dellinger residence when she was a Zoning Inspector. She stated she had never seen any delivery trucks there, though the Zoning Enforcement Office had had complaints of deliveries to the property. Mrs. Anderson said Mr. Dellinger had told her he was a Washington Post distributor and that he did send bills from his home. He had told Mrs. Anderson that he had an office in his home. Mrs. Anderson stated it was permissible to have an office in the home with a Home Occupation Letter. Mr. Dellinger had agreed to procure one but upon the advice of his lawyer, did not since he had another office on Eisenhower Avenue from which the majority of the work was conducted. Mr. Dellinger told Mrs. Anderson that while the bills were sent from his residence, he had no employees there. When neighbors complained of a lady employee who arrived three days a week at the Dellinger home and stayed all day, Mr. Dellinger explained to Mrs. Anderson that the person was the cleaning lady.

As there were no further questions, Chairman Smith closed the public hearing.

Mrs. Day moved to deny the request for the variance. She pointed out that the garage would be over seven (7) feet high and that there were many letters from neighbors in opposition to the request. She further felt that Mr. Dellinger had created his own problem by turning his existing garage into living space and putting a swimming pool in his back yard.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-P-109 by HAROLD DAVID DELLINGER, under Section 18-401 of the Zoning Ordinance to permit construction of 11.29 foot high detached garage, 2.0 feet from rear and 2.8 feet from side lot lines, on property located at 8111 Bright Meadows Lane, Tax Map Reference 39-4((18))10, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 3, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 12,165 square feet of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;

083

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

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

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 6-0; Mrs. Thonen was not present for this hearing.

Page 83, June 3, 1986, (Tape 2) Scheduled case of:

9:30 A.M. RICHARD E. PATTESON - SP 86-C-010, application under Section 8-901 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in the building location to allow dwelling to remain 22.2 feet from the rear lot line (25 ft. min. rear yard required by Sect. 3-507), located at 3827 Dittany Court on approximately 7,563 square feet of land, zoned R-5, Centreville District, Tax Map 34-4((10))400.

Kevin Guinaw presented the Staff Report which recommended approval of this request.

Robert Boykin of Greenhorne and O'Mara spoke in justification of the application. Mr. Boykin stated the error made in placing the house 2.8 feet too close to the rear yard line had been a computing error and had not been intentional. It had been made in the process of translating information from the approved grading plan into a real distance and coordinate format used by the field crew. The engineer failed to utilize a computer subroutine which would have doubled checked the rear yard requirements. Mr. Boykin stated that Greenhorne and O'Mara was being especially careful to use the computer subroutine and had instituted a checklist procedure to ensure that all computations were correct.

Chairman Smith called for speakers in favor and in opposition to the application. As there were no speakers, he closed the public hearing.

Mr. Hyland moved to grant the request as Mr. Boykin had presented testimony that the error had been made in good faith.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hyland made the following motion:

WHEREAS, Application No. SP 86-C-010 by Richard E. Patteson under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 22.2 feet from the rear lot line, on property located at 3827 Dittany Court, Tax Map Reference 34-4((10))400, 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 June 3, 1986; and,

WHEREAS, the Board made the following findings of fact:

1. The Board has determined that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

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

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

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

1. This approval is granted for the location of the dwelling indicated on the plat submitted with this application and is not transferable to other land or structures on the same land.
2. An amended Building Permit reflecting the location of the existing dwelling shall be submitted and approved.

Mrs. Day seconded the motion which passed by a vote of 6-0; Mrs. Thonen was absent from this hearing.

Page 84 June 3, 1986, (Tape 2) Scheduled case of:

9:45 A.M. JAMES C. AND HEIDI WOODWARD - SP 86-C-011, application under Section 8-901 of the Zoning Ordinance to allow a reduction to minimum yard requirements based on an error in the building location to allow dwelling to remain 6.9 feet from side lot line (12 ft. min. side yard required by Sect. 3-307), located at 2634 New Banner Lane on approximately 10,833 square feet of land, zoned R-3, Centreville District, Tax Map 25-2((11))211.

Kevin Guinaw, Staff Coordinator, presented the staff report which recommended approval of the application.

Mr. Robert Boykin of Greenhorne and O'Mara spoke in justification of the request. He stated the error had been made by the failure of the person who computed the house for the survey party to perform a check to ensure that the house would not be in violation of the yard requirements. He stated that Greenhorne and O'Mara had instituted a safeguard against such errors now. He added that last year the firm staked 1500 properties and errors occurred in only .2 percent of the total volume. He affirmed that these errors were not habitual.

084

85
385

085

Chairman Smith called for additional speakers in support or in opposition to the request. As there was no reply, he closed the public hearing.

Mr. Ribble moved that the Board grant the request for the special permit as the error had been made in good faith, and the use of the property would not be detrimental to the use and enjoyment of adjacent properties.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Ribble made the following motion:

WHEREAS, Application No. SP 86-C-011 by James and Heidi Woodward under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow a reduction to minimum yard requirements based on an error in the building location to allow dwelling to remain 6.9 feet from side lot line, on property located at 2634 New Banner Lane, Tax Map Reference 25-2((11))211, 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 June 3, 1986; and,

WHEREAS, the Board made the following findings of fact:

1. The Board has determined that:

- A. The error exceeds ten (10) percent of the measurement involved, and
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
- C. Such reduction will not impair the purpose and intent of this Ordinance, and
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- E. It will not create an unsafe condition with respect to both other property and public streets, and
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

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

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

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

- 1. This approval is granted for the location of the dwelling indicated on the plat submitted with this application and is not transferable to other land or structures on the same land.
- 2. An amended Building Permit reflecting the location of the existing dwelling shall be submitted and approved.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6-0; Mrs. Thonen was absent from this hearing.

086

10:00 A.M. JOHN HANSON SERVICE CORPORATION - SP 86-D-014, application under Section 8-901 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in the building location to allow a dwelling to remain 22.0 feet from the rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 1715 Fantasia Circle on approximately 8,500 square feet of land, zoned R-3, Dranesville District, Tax Map 10-3((7))13.

Kevin Guinaw, Staff Coordinator, presented the staff report which recommended approval of the application based upon the Development Conditions contained therein.

Robert L. Boykin of Greenhorne and O'Mara presented the justification for the request for a special permit. Mr. Boykin stated that the error which resulted in the house being placed too close to the rear yard line was a staking error rather than a computing error. The field crew had been given the correct dimensions, which they misinterpreted. The party chief for the crew reversed the front and rear yard requirements for the district. The chief also added two feet to the front yard to accommodate a two foot cantilever on the second floor of the house, resulting in a 27 foot front yard. His mistake was in not relating his field decisions to the office when he returned at the end of day. Otherwise, the error could have been averted.

Chairman Smith called for speakers in support and in opposition to the request. There was no response, so he closed the public hearing.

Mr. Hammack moved to grant the request as testimony indicated that the error had been made in good faith and would not be detrimental to the use and enjoyment of adjacent properties.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 86-D-014 by JOHN HANSON SERVICE CORPORATION under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow a reduction to the minimum yard requirements based on an error in the building location to allow a dwelling to remain 22.0 feet from the rear lot line, on property located at 1715 Fantasia Circle, Tax Map Reference 10-3((7))13, 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 June 3, 1986; and,

WHEREAS, the Board made the following findings of fact:

1. The Board has determined that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

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

807
087

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

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

1. This approval is granted for the location of the dwelling indicated on the plat submitted with this application and is not transferable to other land or structures on the same land.
2. An amended Building Permit reflecting the location of the existing dwelling shall be submitted and approved.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6-0; Mrs. Thonen was absent from this hearing.

Page 87 June 3, 1986, (Tape 2) Scheduled case of:

10:15 A.M. JAMES GASPARIS - VC 86-L-003, application under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to 11.18 feet from the side lot line and 15.61 ft. from the rear lot line (15 ft. minimum side yard & 25 ft. minimum rear yard required by Section 3-207); and to allow an existing open deck to remain 1.17 feet from the side lot line (10 feet minimum side yard required by Section 3-207 and 2-412), located at 6006 Beech Tree Drive on approximately 17,897 square feet, zoned R-2, Lee District, Tax Map 82-4((15))1. (DEFERRED FROM 4-15-86).

Kevin Guinaw, Staff Coordinator, presented the staff report.

James Gasparis, applicant, spoke in justification of his application. He stated that his house was small with no basement and no attic space. The narrow depth of the lot and the location of the house on the lot made addition to the house difficult at a location other than the one selected. The home had been purchased in good faith, and the deck was part of the structure at the time of the purchase. Mr. Gasparis stated that he had put in a great deal of landscaping to provide screening and privacy from the adjoining property and to make the deck attractive. The deck provided a lot of open air enjoyment for his family as well as for the neighbors. In addition, there was a 157 foot buffer of vacant land and easement to the rear of his lot between his property and the next structure. Mr. Gasparis said his proposed addition and existing deck would be harmonious with the character of the neighborhood, and he requested the Board's approval of his application.

Chairman Smith called for additional speakers in favor of or in opposition to the request. There were no other speakers, so he closed the public hearing.

Mr. DiGiulian moved to grant the request and adopt the standard variance resolution form, noting the exceptional narrowness of the lot and the existence of the floodplain to the rear of the property creating a large distance between the Gasparis property and and structures on the adjoining property.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-003 by JAMES GASPARIS, under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to dwelling to 11.18 feet from the side lot line and 15.61 feet from the rear lot line and to allow an existing open deck to remain 1.17 feet from the side lot line, on property located at 6006 Beech Tree Drive, Tax Map Reference 82-4((15))1, 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

88

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 3, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 17,897 square feet of land.

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

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

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

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

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-0; Mrs. Thonen was not present for this hearing.

10:30 A.M. VIVIAN C. VOCHAN - SP 86-M-016, application under Section 3-303 of the Zoning Ordinance to permit a nursery school and child care center, located at 3149 Annandale Road on approximately 41,196 square feet of land, zoned R-3, Mason District, Tax Map 50-4((20))18.

Kevin Guinaw, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the development conditions contained therein.

Vivian Vochan, the applicant appeared before the Board and explained the use as outlined in the statement of justification as submitted with the application. She advised the Board that the proposed use would provide an educational service to the community but indicated that the transitional screening requirements would cause a hardship. She requested that the size and number of trees be reduced.

Responding to a question from Mrs. Day, Mr. Guinaw clarified that the staff was recommending Transitional Screening 1 due to the addition of a play area. He further added that the existing screening was insufficient and that supplemental plantings were necessary to meet the requirements.

There being no other comments, questions or speakers to this application, Chairman Smith closed the public hearing.

Mrs. Day moved that the Special Permit be granted subject to the following change in the condition 9: Existing vegetation shall be used where possible and supplemented with additional plantings, 3 foot evergreens every 5 feet to supplement the existing deciduous trees as determined by the County Arborist.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-M-016 by VIVIAN C. VOCHAN, under Section 3-303 of the Zoning Ordinance to permit a nursery school and child care center in an existing church, on property located at 3149 Annandale Road, Tax Map Reference 50-4((20))18, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 3, 1986; and

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

1. That the applicant is the contract purchaser/lessee.
2. The present zoning is R-3.
3. The area of the lot is 41,196 square feet of land.

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

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

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

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

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The hours of operation shall be 7:00 A.M. to 6:00 P.M., Monday through Friday.
6. The maximum daily enrollment shall be sixty (60) children.
7. There shall be a maximum of seven (7) employees on the site at one time.
8. Twelve (12) on-site parking spaces shall be provided.
9. Transitional Screening 1 shall be provided on the eastern, southern and western lot lines with the following modifications:
 - o Existing vegetation shall be used where possible and supplemented with additional plantings, 3 foot evergreens every 5 feet to supplement the existing deciduous trees as determined by the County Arborist;
 - o On the western lot line, a reduced screening yard and plantings, as determined by the County Arborist, shall be allowed in the area adjacent to the parking lot;
10. A play area shall be provided as shown on the approved plat and shall be fenced in compliance with the Health Department standards.
11. A left turn lane into the site shall be provided on Annandale Road in accordance with VDH&T standards and paid for by the applicant.
12. On-street parking in front of the church property shall be eliminated.
13. The driveway entrance shall be designed to meet VDH&T standards. This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

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

Mr. Hammack inquired if the applicant agreed with conditions and the applicant indicated agreement.

Mr. Hammack seconded the motion which passed unanimously with Mrs. Thonen absent from the meeting.

Page 90 June 3, 1986, (Tape 2) Scheduled case of:

10:45 A.M. THE CHURCH OF THE HOLY CROSS - SPA 84-P-004-1, application under Section 3-303 of the Zoning Ordinance to amend SP 84-P-004 for a church and related facilities to permit construction of a building addition, increase number of seats and parking spaces, located at 2455 Gallows Road on approximately 3.558 acres of land, zoned R-3, Providence District, Tax Map 39-4((1))33A. (NOTICES NOT IN ORDER)

91
B
91

The Board voted by unanimous consent to defer this case to April 15, 1986 at 10:45 A.M. because the notices were not in order. Mrs. Thonen was absent from the meeting. The new public hearing is scheduled for June 17, 1986 at 8:30 P.M.

Page 91, June 3, 1986, (Tape 2) Scheduled case of:

10:45 A.M. ACCOTINK UNITARIAN UNIVERSALIST CHURCH - SP 85-S-083, application under Section 3-103 of the Zoning Ordinance to permit a church and related facilities, located at 10125 Pohick Road on approximately 10.87 acres of land, zoned R-1, Springfield District, Tax Map 87-2((1))26. (DEFERRED FROM 4/15/86 AT REQUEST OF APPLICANT & 4/29/86 FOR ADD'T. INFO.)

Mr. Hyland expressed concern that there would be an adverse effect on the surrounding neighbors if the special permit were approved without the transportation issues being resolved.

Cathy Ichtner, Office of Transportation, advised the Board that alternative issues were being explored such as relocating Burke Lake Road further north. Barnes Lawson appeared before the Board as the representative of the applicant and explained the use as outlined in the statement of justification as submitted with the application. He noted the existing road network was fine and that the applicant would work with the neighbors to try and resolve any transportation problems.

Chairman Smith called for speakers and Benjamin Calvin, 8144 Lake Park Drive, appeared before the Board in support of the proposed application.

James Prosiden, 10129 Pohick Road, appeared before the Board and expressed concern for traffic and pollution problems. Frederica Young, 10207 Burke Lake Road, also appeared before the Board in opposition to the proposal due to possible traffic problems.

Al Yohanda, 10301 Burke Lake Road, requested that the proposed application be deferred to allow more time to resolve the access problems.

In rebuttal, Mr. Lawson requested that the condition dealing with the public access easement be waived and that the open space easement be 100 feet wide instead of 150 feet.

There being no other comments or questions, Chairman Smith closed the public hearing and turned to Mr. DiGiulian for action on the case.

Mr. DiGiulian moved to grant the special permit subject to the revised development conditions. Mr. Hammack stated that he would oppose the motion because he felt that the proposal would create an adverse impact on the surrounding neighbors.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-S-083 by ACCOTINK UNITARIAN UNIVERSALIST CHURCH, under Section 3-103 of the Zoning Ordinance to permit church and related facilities, on property located at 10125 Pohick Road, Tax Map Reference 87-2((1))26, 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 10.87 acres of land.

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

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

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

1. This approval is granted to the applicant and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The seating capacity of the main worship area shall not exceed 200.
6. There shall be fifty-one (51) parking spaces, including four (4) handicapped spaces.
7. Existing vegetation shall be deemed to satisfy the transitional screening requirements along the rear and northern property lines. In the area adjacent to Lot 27 on the southern boundary, existing vegetation shall be supplemented as necessary to provide screening equivalent to Transitional Screening 1. On the front property line, a twenty-five (25) foot planting strip shall be required to adequately screen the church parking area from residential properties across Pohick Road. The degree and nature of required plantings shall be determined by the County Arborist.
8. The applicant shall work with the County Arborist to determine the boundaries for tree clearance before approval of a building permit or undertaking any site clearance or construction activity. Existing trees shall be preserved except where removal is necessary to accommodate construction.
9. Interior parking lot landscaping shall be provided in accordance with Article 13.
10. The applicant shall dedicate thirty (30) feet from the centerline of Pohick Road for future road improvements and shall construct a right turn deceleration lane within this dedicated area.
11. The entrance to the site shall be designed to provide adequate site distance as required by VDH&T.
12. Pursuant to Virginia Code Section 10-152, the applicant shall, at the time of site plan approval, record among the land records of Fairfax County an open space easement to the Board of Supervisors. The easement shall include a strip of land 150 feet wide, centered on the Oppossum Branch Stream, and extending across the width of the property. There shall be no clearing of any vegetation within this area, except for dead or dying trees or shrubs. No structures of any kind, except a pedestrian bridge and a trail to and from it, shall be located within this easement.
13. A sign may be erected in accordance with the provisions of Article 12, Signs.
14. Erosion and sediment controls, conforming to the policies, guidelines and specifications contained in Article 11 of the Public Facilities Manual, Chapter 104 of the County Code, and the Virginia Erosion and Sediment Control Handbook shall be required.

93
93

15. Best Management Practices (BMP) designed to protect the Burke Lake watersheds as determined by the Director of the Department of Environmental Management shall be provided.
16. Should future access from Pohick Road to new Burke Lake Road be constructed as currently proposed along the property's northern boundary, the applicant may redesign the front parking area to provide direct access to this new road.
17. Should future access from Pohick Road to new Burke Lake Road be constructed along the property's northern boundary, transitional screening yards shall be provided outside the dedicated area and the grading and construction easements. Existing vegetation shall be deemed to satisfy the transitional screening requirement.

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

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

Mr. Ribble seconded the motion which carried by a vote of 5-1 with Mr. Hammack voting nay and Mrs. Thonen absent from the meeting.

At 12:35 p.m. Chairman Smith called a recess and reconvened the meeting at 1:03 p.m. to go into an Executive Session to discuss pending legal matters.

Prior to the start of the next case, the Board took action on the following After Agenda Item.

Page 93, June 10, 1986 (Tape 3) After Agenda Item Action #1

GREATER SPRINGFIELD VOLUNTEER FIRE DEPARTMENT - VC 86-L-048.

Mrs. Day moved that the Board of Zoning Appeals grant the request for an out-of-turn hearing for the Greater Springfield Volunteer Fire Department, VC 186-L-048 for 7/22/86 at 9:00 A.M. There being no objection to the motion, Chairman Smith so ordered.

Page 93, June 3, 1986, (Tape 3) Scheduled case of:

11:15 A.M. BARBARA LYNN DAVIS - SP 86-P-005, application under Section 8-901 of the Zoning Ordinance for modification to the limitations on keeping of animals to permit the keeping of four (4) dogs in an apartment, located at 7374 Lee Highway Apt #204, zoned R-20, Providence District, Tax Map Reference 50-1((19))(74)1-204. (DEFERRED FROM 5/6 NOTICES NOT IN ORDER)

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the proposed application subject to the development conditions contained in the staff report.

Following a question from Chairman Smith, Ms. Greenlief stated that letters from the Timberlane Condominium Association had been submitted in support of the application.

Barbara Davis, the applicant, appeared before the Board and advised them she had not been aware that she was violating the Ordinance by having four dogs in her apartment. She added that she was making an effort to relocate.

Chairman Smith called for speakers and P.R.H. Wijesinghe, 3374 Lee Highway, appeared before the Board in support of the application.

Gerald Odell, 7372 Lee Highway, appeared before the Board in opposition to the proposal. He expressed concern that approval of the special permit would be precedent setting. Mr. Odell submitted a letter and other documents for the record.

Chairman Smith called for rebuttal from the applicant, and Ms. Davis reiterated that she had been unaware that she was violating any Ordinance.

In response to a question from Mr. Hyland, Ms. Davis stated that she would agree to limiting the special permit approval to six months.

There being no other comments or questions, Chairman Smith closed the public hearing and turned to Mr. Hyland for action on the case.

Mr. Hyland moved to grant the special permit with the stipulation that it be granted for a period of six months.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-005 by BARBARA LYNN DAVIS, under Section 2-512 of the Zoning Ordinance to permit modification to the keeping of animals to allow four (4) dogs to remain in an apartment, on property located at 7374 Lee Highway, #204, Tax Map Reference 50-1(19)(74)1-204, 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 3, 1986; and

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

1. That the applicant is the contract purchaser/lessee.
2. The present zoning is R-20.
3. The area of the lot is 635 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-917 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. A copy of this SPECIAL PERMIT shall be made available to all departments of the County of Fairfax during working hours.
3. The applicant shall comply with Sect. 41-2-5 of the Fairfax County Code for Animals and Fowl, Unrestricted Dogs Prohibited: Leash Law, whenever the animals are outside the apartment.
4. The apartment shall be kept free of odor and animal debris.
5. This special permit approval is for only the four (4) poodles which currently reside in the apartment.
6. The applicant shall not allow the dogs onto the outside patio unattended. In addition, if no one is home, the sliding glass door shall be closed.
7. The applicant shall not walk the dogs in the grassed common area but rather shall limit the dogs to the wooded area to the east of her apartment building. The applicant shall take the shortest route from the apartment building door to the wooded trail and should the dogs defecate before reaching the wooded area, the applicant shall utilize a debris-scooper.

95
95

8. The applicant shall continue to use a light timer to ensure that the lights in the apartment will go on at dusk.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Mrs. Day seconded the motion which failed by a vote of 3-1, four affirmative votes being necessary for the motion to carry. Mr. Smith voted nay; Mr. Hammack and Mr. Ribble not present for the vote; Mrs. Thonen absent from the meeting.

At this time Ms. Davis requested a waiver of the 12 month limitation for rehearing the special permit.

By unanimous consent, the Board granted Ms. Davis the waiver of the 12 month limitation for rehearing the special permit with Mr. Hammack and Mr. Ribble not present for the vote; Mrs. Thonen absent from the meeting.

There being other business, the Board voted to adjourn the meeting at 2:06 P.M.

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

Mary Ellen Simmons
Mary Ellen Simmons, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

9/2/86
Date Submitted

9/9/86
Date Approved

Blank



97

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building Tuesday, June 10, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John F. Ribble, III, Gerald Hyland; Ann Day; Paul Hammack and Mary Thonen.

Chairman Smith opened the meeting at 9:13 A.M., and Mrs. Day led the prayer.

Page 97, June 10, 1986, (Tape 1) Scheduled case of:

9:00 A.M. NAZEM & HALLA HACHWI - SP 85-C-013, application under Section 8-914 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location to allow a deck to remain .5 feet from the side lot line (8 ft. min. side yard req. by Sects. 3-207 & 2-412); .6 feet from the rear lot line (8 ft. min. rear yard req. by Sects. 3-207 & 2-412); and 15 feet from the front lot line (25 ft. min. front yard req. by Sects. 3-207 and 2-412), located at 11933 Riders Lane on approximately 15,895 square feet, zoned R-2, Centreville District, Tax Map 26-3(10)159.

9:00 A.M. NAZEM & HALLA HACHWI - VC 85-C-024, application under Section 18-401 of the Zoning Ordinance to permit accessory uses and structures to cover more than thirty percent (30%) of the area of the minimum required rear yard (30% max. coverage allowed by Sect. 10-103); to permit a fence approximately 4'8" high to remain in a front yard (4 ft. max. height for fence in a front yard by Sect. 10-104); to permit a fence approximately 9'10" high to remain in the rear and side yards (7 ft. max. height for fence in rear & side yards by Sect. 10-104); and to permit a pool and deck to remain in the front yard (no accessory structure permitted in a front yard by Sect. 10-104), located at 11933 Riders Lane on approximately 15,895 square feet, zoned R-2, Centreville District, Tax Map 26-3(10)159.

Marilyn Anderson, Staff Coordinator, presented the staff report and advised the Board that staff had originally recommended denial of the Special Permit, but now believed the applicant had misunderstood a verbal conversation with regard to what he was allowed to do. Therefore, Mrs. Anderson stated that staff was recommending approval of the Special Permit.

Harold Miller, representative of the applicant, appeared before the Board and explained the use as outlined in the statement of justification as submitted with the application. He added that he had met with the neighbors and had agreed to enter into a covenants to address the following concerns: maintenance of the wooden fence, replacement of plantings as necessary, lighting of the pool in accordance with County standards, handle any storm runoff problems and general maintenance of the property. Mr. Miller pointed out that the citizens would not grant an easement for storm drainage but felt that it should be provided onsite. He advised the Board that there had been a legitimate error due to a language barrier.

The Board discussed the negligence of the electrical contractor who had obtained only two of the nine permits required.

Chairman Smith called for speakers and Ted Dealey, 2633 Wild Cherry Place appeared before the Board in opposition to the proposal. He expressed the following concerns: That the property was a potential eyesore, a fence that was on the property line and that the most of the rear yard was concrete. At this time, Mrs. Thonen moved to recess to allow the applicant and the citizens additional time to try and resolve the issues. There being no objection, Chairman Smith so ordered.

Page 97, June 10, 1986, (Tape 1) Scheduled case of:

9:30 A.M. RONALD DERR - SP 86-V-015, application under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit 12 foot high dish antenna to remain on a side lot line, and 11 foot high shed to remain 1.9 feet from side lot line and 2.0 feet from rear lot line (10 ft. min. side yard for both structures, 15.9 ft. min. rear yard for shed req. by Sects. 3-407 and 10-104), located at 6103 Bangor Drive on approximately 6,595 square feet of land, zoned R-4 & HC, Mount Vernon District, Tax Map 83-3(9)(4)2.

Marilyn Anderson, Staff Coordinator, requested SP 86-V-015, Ronald Derr, be deferred to July 22, 1986 at 8:30 P.M. There being no objection, Chairman Smith so ordered for readvertising since the new plat showed the shed to be higher than had been originally shown on the plat, thus a greater modification was necessary.

9:40 A.M. MR. & MRS. CHARLES NORMAN ANDREAE, III - VC 86-V-020, application under Section 18-401 of the Zoning Ordinance to permit construction of a porch addition to dwelling to 26.3 feet from front lot line (30 ft. min. front yard req. by Sect. 3-407), located at 6120 Woodmont Road on approximately 7,700 square feet of land, zoned R-4, Mount Vernon District, Tax Map 83-3((14))(11)-16.

Marilyn Anderson, Staff Coordinator, presented the staff report.

Charles Andrae, the applicant, appeared before the Board and explained the use as outlined in the statement of justification as submitted with the application.

Following a question from Chairman Smith, Mr. Andrae stated that he was aware that an open porch was allowed by right but noted that an open porch would not be in conformance with the neighborhood.

There being no other comments, questions or speakers to this application, Chairman Smith closed the public hearing and turned to Mrs. Thonen for action on the case.

Mrs. Thonen moved to accept the variance subject to the development conditions contained in the staff report.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-V-020 by MR. AND MRS. CHARLES NORMAN ANDREAE, III, under Section 18-401 of the Zoning Ordinance to permit construction of a porch addition to dwelling, on property located at 6120 Woodmont Road, Tax Map Reference 83-3((14))(11) 16, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 10, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 7,700 square feet of land.

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

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

99
99

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

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

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

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

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

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

Mr. Hyland and Mr. Ribble seconded the motion which passed unanimously.

9:50 A.M. ROBERT L. ADAMS - VC 86-D-021, application under Section 18-401 of the Zoning Ordinance to permit subdivision into 3 lots, 2 of which have proposed lot width of 5 feet each (80 ft. min. lot width req. by Sect. 3-306), and to permit existing dwelling to remain 15.1 feet from the contiguous pipestem driveway (25 ft. min. front yard req. by Sect. 2-416), located at 1686 Chain Bridge Road on approximately 1.336 acres of land, zoned R-3, Dranesville District, Tax Map Reference 30-3((1))58.

PAGE 99

Marilyn Anderson presented the staff report and noted that the proposal would not be in conformance with the Public Facilities Manual because the percentage of pipestem lots exceeded the recommended 20 percent limit.

Robert Adams appeared before the Board as the representative of the property owner Clara A. Money. He stated that the highest and best use of the property would be to resubdivide it. He further explained the use as outlined in the statement of justification as submitted with the application.

Chairman Smith called for speakers and Darlene Strevey of 1680 Chain Bridge Road appeared in opposition to the proposal. She explained that she had a prospective buyer for her property who would not be interested if the Variance were granted. She added that she was concerned that her property value would decrease.

In response to a question from Mr. Hammack, Mrs. Anderson stated that the easement for the driveway did not limit the number of houses that could use the easement.

Sheila McGrath, 6662 Midhill Place, appeared before the Board and advised that she was the interested buyer for Mrs. Strevey's house. She added that she was opposed to the Variance because she was concerned that it would cause additional traffic.

Marty Dela Vega, 1686 Chain Bridge Road, was the next speaker before the Board who expressed the opinion that the pipestem would not create a traffic problem.

George Atkinson (Mrs. Money's nephew) 10194 Hillington Court, agreed with the previous speaker.

Responding to questions from Mr. Ribble, Mrs. Anderson agreed that the deed of easement was for 140 feet back and seven feet on each side. Mr. Hammack and Mrs. Anderson further discussed the easement.

At 10:50 A.M., Chairman Smith called a brief recess to try to resolve the issue concerning the easement and reconvened the meeting at 11:03 A.M.

Mrs. Anderson provided the Board with a copy of the subdivision plat for lot five.

In rebuttal, Mr. Atkinson stated that there was an 18 foot wide paved easement and that the easement went to the back of lot 5C which was 315 feet.

Chairman Smith closed the public hearing and turned to Mr. DiGiulian for action on the case. Mr. DiGiulian stated that although he was inclined to move approval of the Variance, the Board needed new plats and additional information. Therefore, Mr. DiGiulian moved deferral until the Board received new plats that showed compliance with DEM requirements for pipestem driveways.

The motion was seconded and carried by a vote of 6-1 with Mr. Hyland voting nay.

Variance 86-D-021, Robert L. Adams was then scheduled for July 22, 1986 at 8:40 P.M.

Page 100, June 10, 1986 (Tape 2) Scheduled case of:

10:00 A.M. GARY H. RUDD - SP 85-V-076, application under Section 8-901 of the Zoning Ordinance to permit modification to minimum yard requirements based on error in building in location to allow industrial building to remain 6.5 feet from a front lot line (40 feet minimum front yard required by Section 5-607) located at 10116 Giles Run Road on approximately 40,200 square feet, zoned I-6, Mount Vernon District, Tax Map Reference 113-2(3)E6.
RECONSIDERATION HEARING

Jane Kelsey, Chief, BZASB, stated that this was a reconsideration hearing and should proceed as if it was a new application, the advertising, posting and notice requirements had been met.

Mr. Hyland stated it wasn't his intent in approving to find that the applicant met the standards, but to allow the applicant time to correct the problem.

Ms. Kelsey said that was not proper. The enforcement of the Zoning Ordinance is the responsibility of the Zoning Administrator.

Marilyn Anderson, Staff Coordinator, presented the staff report and advised the Board that staff was recommending denial of the proposed application because it did not satisfy the standards of Section 8-914 of the Zoning Ordinance. She further added that the County Attorney's Office had advised that the BZA did not have the legal right to approve the special permit that allowed the applicant two years to correct the situation.

Gary Rudd, the applicant, appeared before the Board and provided a brief history of the application and added that he was willing to come into compliance but needed additional time.

Chairman Smith called for speakers and Mark Shepard, Lorton Federation of Communities, appeared before the Board in opposition to the proposal. He expressed the opinion that the applicant had already had sufficient time to correct the situation.

Dan Carpenter, 10500 Old Colchester Road, appeared before the Board and advised that he was developing his property according to County standards and felt that Mr. Rudd should also comply with those standards.

Following a discussion among the Board concerning what action the BZA could take, Karen Harwood, County Attorney's Office appeared before the Board and reiterated that the BZA could not approve the permit and allow the applicant additional time to come into conformance.

Chairman Smith closed the public hearing and turned to Mrs. Thonen for action on the case.

Mrs. Thonen moved to deny the application because it did not meet the standards for a special permit.

Mr. Hammack seconded the motion which failed by a vote of 3-4 with Mr. Hammack, Mrs. Thonen and Mr. Ribble voting aye; Mrs. Day, Mr. DiGiulian, Mr. Hyland and Mr. Smith voting nay.

Mike Phones, representative for the applicant requested that the case be deferred for six months.

Mr. DiGiulian then moved to give the applicant six months to correct the violation.

Mr. Hammack made a substitute motion, that the BZA deny the application but with the provision that the Board make a recommendation to the Zoning Administrator that the applicant be given 6 months to remove the portion of the building in violation prior to commencing action to enforce the Zoning Ordinance provisions which are applicable.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-V-076 by GARY H. RUDD, under Section 8-901 of the Zoning Ordinance to permit modification to minimum yard requirements based on error in building on location to allow industrial building to remain 6.5 feet from a front lot line, on property located at 10116 Giles Run Road, Tax Map Reference 113-2((3))E6, 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is I-6.
3. The area of the lot is 40,200 square feet of land.

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED with the provision that the Board make a recommendation to the Zoning Administrator that the applicant be given 6 months to remove the portion of the building in violation prior to commencing action to enforce the Zoning Ordinance provisions which are applicable.

Mr. Hyland seconded the motion which carried unanimously.

PAGE 101

At this time the Board continued the public hearing for NAZEM & HALLA HACHWI - SP 85-C-013 and NAZEM & HALLA HACHWI - VC 85-C-024.

Mr. Miller advised the Board that he and the citizens had come to an agreement concerning the covenants.

Mr. DiGiulian then moved to defer the decision to the next meeting until a formal copy of the covenants could be signed and presented to the Board.

After a brief discussion, Mr. DiGiulian withdrew his motion but following further discussion, Mrs. Thonen moved to defer decision to the next meeting.

Mr. DiGiulian seconded the motion which failed.

Following more discussion of the application, Mr. DiGiulian moved to reconsider the motion to defer decision for one week. The motion was seconded and passed by a vote of 6-1 with Mr. Hammack voting nay.

Page 101: June 10, 1986 (Tape 3) Scheduled case of:

10:15 A.M. MICHAEL J. MASOW & WINIFRED R. MASOW - SP 86-S-017, application under Section 8-901 of the Zoning Ordinance to permit modification to minimum yard requirements for an R-C lot to permit addition of deck to dwelling to 13.3 feet from side lot line (20 ft. min. side yard req. by Sects. 3-C07 & 2-412), located at 4420 Cub Run Road on approximately 12,659 square feet of land, zoned R-C, WS, & AN, Springfield District, Tax Map Reference 33-4((2))355.

Marilyn Anderson, Staff Coordinator, presented the staff report which recommended approval.

Michael Mason, the applicant appeared before the Board and explained the use as outlined in the statement of justification as submitted with the application.

There being no comments, questions or speakers to this application, Chairman Smith closed the public hearing.

Mr. Hyland moved to approve the special permit subject to the conditions contained in Appendix 1 of the staff report.

102

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-017 by MICHAEL J. MASON AND WINIFRED R. MASON, under Section 8-901 of the Zoning Ordinance to permit modification to minimum yard requirements for an R-C lot to permit addition of deck to dwelling to 13.3 feet from side lot line, on property located at 4420 Cub Run Road, Tax Map Reference 33-4((2))355, 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-C, WSFOD & ANOID.
3. The area of the lot is 12,659 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-913 of the Zoning Ordinance.

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

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

Mr. Hyland seconded the motion which carried by a vote of 5-0 with Mr. Ribble and Mrs. Thonen not present for the vote.

Page 102, June 10, 1986 (Tape 3) Scheduled case of:

10:30 A.M. BILLY D. DICKEY - VC 86-V-033, application under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 38 feet from street line of a corner lot (50 ft. min. front yard req. by Sect. 3-E07), located at 11501 Gunston Roadway on approximately 23,968 square feet of land, zoned R-E, Mount Vernon District, Tax Map Reference 119-4((2))53)5, 6, 7, 8, 10, 12, 14, 16, 18, 20, and 22. (OUT-OF-TURN HEARING GRANTED)

Marilyn Anderson advised the Board that the notices for VC 86-V-033 were not in order.

Mr. Dickey, the applicant, appeared before the Board and advised them that he had had difficulty in locating some of the owners' names and addresses.

Mr. Hyland pointed out that it would be in Mr. Dickey's best interest to defer the case until the notices were in order to avoid any citizen complaints.

Mrs. Kelsey then suggested to the Board a date of July 1, 1986 at 11:00 A.M. to hear Mr. Dickey's Variance request. There being no objections from the Board, Chairman Smith so ordered.

EVELYN ELIZABETH WOOD AND NINA CATHERINE WOOD, VC 86-D-049.
REQUEST FOR OUT-OF-TURN HEARING

Mr. Hammack moved that the Board of Zoning Appeals deny the request for the out-of-turn hearing for Evelyn Elizabeth Wood and Nina Catherine Wood, Variance VC 86-D-049. The motion was seconded by Mr. Hyland and carried unanimously with Mr. DiGiulian, Mr. Ribble and Mrs. Thonen not present for the vote.

//

DARLENE C. STREVEY, VC 86-D-055.
REQUEST FOR OUT-OF-TURN HEARING

Page 103

Mrs. Day moved that the Board of Zoning Appeals grant the request for an out-of-turn hearing for Darlene C. Strevey for July 22, 1986 at 8:50 P.M. Mr. Hyland seconded the motion which passed unanimously with Mr. Ribble and Mrs. Thonen not present for the vote.

There being no other business, the Board voted to adjourn the meeting at 1:04 P.M.

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

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

9/2/86
Date Submitted

9/9/86
Date Approved

103

Blank

1



The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 17, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman, Ann Day; John F. Ribble, III; Mary Thonen; and Paul Hammack. Gerald Hyland was absent from the meeting.

Page 105, June 17, 1986, (Tape 1) Scheduled case of:

8:00 P.M. CAPITAL BAPTIST CHURCH - SPA 76-M-268-1, application under Section 3-203 of the Zoning Ordinance to amend S-268-76 for church and related facilities to reflect change of name, permit addition of new sanctuary, land area and parking facilities with a modification of the dustless surface requirement on lot 52, located at 3435 Aston Street on approximately 6.08 acres of land, zoned R-2, Mason District, Tax Map Reference 59-2((1))52 and 55.

Kevin Guinaw, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions set forth in Appendix 1 of the report. Staff recommended a change in Development Condition No. 8, bullet 2 to add the words "and on the southern lot line, where Transitional Screening 1 shall be required along the area adjacent to Lots 17 and 18.

Mr. Keith Sinclair, representative for Capital Baptist Church, presented the applicant's justification. He stated that the applicant had discussed the modifications suggested by staff and was in agreement with them. He pointed out, however, that with respect to preservation of the oak tree, the applicant would like to go on record that should the oak tree later become a problem, they will request removal.

Mr. Russell Jenkins of 6817 Barron Road, McLean, spoke in support of the request.

Pastor Robert L. Johnson also spoke in support, and offered photographs and a color rendering of the proposed facility. He stated his belief that the proposed plans will result in an improved appearance. The Board asked for clarification with respect to the letter from Mr. Sealey, referring to trailer on the church premises that was being used as living quarters. Pastor Johnson stated that the trailer was being used on a temporary basis for a visiting evangelist, and would be vacated within three weeks.

Mr. Eric Scheider of 3454 Callows Road, Annandale, spoke in opposition to the request due to his concern about proper drainage. Staff advised that this issue will be addressed at the time of the site plan review.

Mr. Don Wilder Platt of 7708 Thor Drive, Annandale, spoke in opposition to the proposed construction, stating his concern about noise and invasion of privacy. He presented a petition signed by several residents, and stated that the major concern of the residents was that views from the backyards would be obstructed. Mr. Platt also pointed out that the potential for increased traffic congestion is also a concern of the residents.

Mr. Sinclair declined the opportunity to rebut, and there being no further comments, Chairman Smith closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 76-M-268-1 by CAPITAL BAPTIST CHURCH, under Section 3-203 of the Zoning Ordinance to amend S-268-76 for church and related facilities to reflect change of name, permit addition of new sanctuary, land area and parking facilities with a modification of the dustless surface requirement on lot 52, located at 3435 Aston Street on approximately 6.08 acres of land, zoned R-2, Mason District, Tax Map Reference 59-2((1))52 and 55. Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 17, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 6.0766 Acres of land.

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

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

105

106
NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The seating capacity of the main worship area shall not exceed 497.
6. There shall be 125 parking spaces provided on Lot 55. All parking spaces shall be constructed and maintained with a dustless surface in accordance with Par. 14 of Sect. 11-102 of the Zoning Ordinance and the Public Facilities Manual. There shall be no off-site parking from this use.
7. Interior parking lot landscaping shall be provided in accordance with Article 13.
8. Transitional Screening 1 shall be provided on all lot lines with the following modifications:
 - o existing vegetation shall be used where possible and supplemented where necessary, as determined by the County Arborist;
 - o on Lot 52, existing vegetation shall be considered to satisfy the screening requirement on all lot lines, except on the northern lot line, where Transitional Screening 1 shall be required along the bus parking area, and on the southern lot line, where Transitional Screening 1 shall be required along the area adjacent to Lots 17 and 18.
9. The barrier requirement shall be waived.
10. The barn located on the property shall be used for storage purposes only.
11. The applicant shall work with the County Arborist to determine the boundaries for tree clearance before approval of a building permit or undertaking any site clearance or construction activity, and develop a plan to preserve and protect existing trees.
12. Parking lot lighting, if installed shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.
13. A modification of the dustless surface requirement shall be granted for the driveway and parking area on Lot 52. These surfaces shall be constructed and maintained in accordance with standard practices approved by the Director, Department of Environmental Management. Modification of the dustless surface requirement is approved for a period of five (5) years.
14. Lot 52 shall continue to be used for residential purposes and for six bus parking spaces. The entrance to Gallows Road shall be used for residential purposes only. The driveway to the bus parking area shall be closed, to preclude church use of this entrance.
15. Signs shall be permitted in accordance with Article 12, Signs.

16. The applicant shall meet all drainage requirements at the time of site plan approval and there shall be no increase in storm water runoff on adjacent properties.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0. Mr. Hyland was absent.

Page 107, June 17, 1986, (Tape 1) Scheduled case of:

8:35 P.M. C KENNETH & DOROTHY L. MICHLOVITZ- SP 86-C-019, application under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit 11.5 foot high shed to remain 2.7 feet from a side lot line (12 ft. min. side yard required by Sects. 3-107 & 10-104), located at 3417 Lyrac Street on approximately 42,040 square feet of land, zoned R-1(C), Centreville District, Tax Map 46-1(18)4,5.

Kevin Guinaw, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions set forth in Appendix 1 of the report. He pointed out that the applicant had begun to build a shed when they were notified that it would be in violation of the Zoning Ordinance. They stopped construction and are requesting a special permit for a reduction to the minimum yard requirement based upon an error in building location so that they may complete construction.

Mr. Michlovitz presented his justification, and responded to the Board's questions with respect to a letter from Mr. Dennis Colin which stated in part that the proposed shed would be visible from the Colin residence. Mr. Michlovitz presented photographs to the Board showing the angle of the house and the location of the shed. He stated that the visual impact would be minimal due to the extent of foliage in the area.

There being no further comments, Chairman Smith closed the public hearing and declared five-minute recess at 8:50 PM.

The hearing resumed at 8:55 PM.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-019 by C. KENNETH & DOROTHY L. MICHLOVITZ, under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit 11.5 foot high shed to remain 2.7 feet from a side lot line (12 ft. min. side yard req. by Sects. 3-107 & 10-104), located at 3417 Lyrac Street on approximately 42,040 square feet of land, zoned R-1(C), Centreville District, Tax Map 46-1(18)4 & 5. Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 17, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1(C).
3. The area of the lot is 42,040 square feet of land.

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

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-901, 8-903, and 8-914 of the Zoning Ordinance.

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

Mrs. Day seconded the motion.

The motion carried by a vote of 6-0. Mr. Hyland was absent from the meeting.

1075

3

107

108

PAOR 108

Chairman Smith noted a request from Mr. Harold Miller requesting deferral of the Hachwi case due to the absence of the principal representative, Mr. Miller. The citizens concerned with the application were also present and did not indicate any objection to the deferral. The Board agreed to defer the case, and it was rescheduled for June 24, 1986 at 11:00 AM.

Page 108, June 17, 1986, (Tape 1) Scheduled Case of:

9:00 PM THE CHURCH OF THE HOLY CROSS - SPA 84-P-004-1, application under Section 3-303 of the Zoning Ordinance to amend SP 84-P-004 for a church and related facilities to permit construction of a building addition increase in seats and parking spaces, located at 2455 Gallows Road on approximately 3.558 acres of land, zoned R-3, Providence District, Tax Map 39-4(1)33A.

Kevin Guinaw, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions set forth in Appendix 1 of the Staff Report.

Mr. Larry Mildenhall of 409 East Broad Street, Falls Church, presented his justification.

Mrs. Rena Lizenby, resident of Lot 33, spoke of her concern with respect to adequate screening to reduce the visual impact of the proposed facility from her residence. She pointed out that when her family members are outdoors during times when the church holds outdoor social functions, there is an intimidating element, particularly with respect to her small son.

The Board requested clarification as to the extent of screening to be provided. Staff advised that the development conditions call for screening from the rear of the proposed addition to the sidewalk. Staff suggested that the wording of the development condition could be changed to show this intent more clearly.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 84-P-004-1 by CHURCH OF THE HOLY CROSS, under Section 3-303 of the Zoning Ordinance to amend SP 84-P-004 for a church and related facilities to permit construction of a building addition increase in seats and parking spaces, located at 2455 Gallows Road on approximately 3.558 acres of land, zoned R-3, Providence District, Tax Map 39-4(1)33A, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 17, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 3.558 Acres of land.

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

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

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

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

109

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening 1 shall be required on all lot lines except the southern lot line with the following modifications:
 - o existing vegetation shall be used to satisfy the screening requirement to the north and the east on the rear of the property, and in the area between the church building and Lot 33;
 - o along the northern lot line, in the area extending from the rear of the church building to the sidewalk on Gallows Road, supplemental plantings equivalent to Transitional Screening 1 shall be provided; and
 - o along the front boundary, supplemental plantings of the evergreen variety shall be provided to soften the impact of the church development from adjacent properties.

The nature and type of all supplemental plantings shall be determined by the County Arborist.

6. Peripheral parking lot landscaping shall be provided on the southern lot line along the existing parking area and along the new parking area, in accordance with Article 13.
7. Interior parking lot landscaping in the new parking area shall be provided in accordance with Article 13.
8. The barrier requirement shall be waived.
9. The seating capacity of the main worship area shall not exceed 140.
10. There shall be fifty-seven (57) parking spaces provided.
11. Signs shall be permitted in accordance with the provisions of Article 12, Signs.
12. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-0. Mr. Hyland was absent.

//

There being no other business, Chairman Smith adjourned the meeting at 9:30 P.M.

110

Jane C. Kelsey
Jane C. Kelsey, Branch Chief, BZASB
for Pat Tinker

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

9/2/86
Date Submitted

9/9/86
Date Approved

111
1
111

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 24, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John F. Ribbie, III; Gerald Hyland; Ann Day; Paul Hammack and Mary Thonen.

Chairman Smith opened the meeting at 9:15 A.M., and Mrs. Day led the prayer.

//

Page 111, June 24, 1986, (Tape 1) Scheduled case of:

9:00 A.M. THOMAS GOLDWELL VC 86-A-022, application under Section 18-401 of the Zoning Ordinance to permit construction of deck addition to dwelling to 7.3 feet from side lot line (12 ft. min. side yard req. by Sects. 3-307 & 2-412), located at 10319 Commonwealth Boulevard on approximately 8,400 square feet of land, zoned R-3, Annandale District, Tax Map 68-4((9))1239.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that there was an error in the staff report on page 1 under Location and Character of the Area. She explained that the second sentence should read: "The property has access directly onto Commonwealth Boulevard. The pipestem driveway to the west of the subject property provides access to four lots." The last two sentences should remain the same.

Thomas Coldwell, the applicant, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application. He added that there were exceptional property characteristics and extraordinary conditions applicable to his request.

There being no speakers to this application and no further comments or questions, Chairman Smith closed the public hearing and turned to Mr. Hammack for action on the case.

Mr. Hammack moved approval of the Variance, noting that the applicant had met the standards for a variance especially under numbers one and six of Section 18-404.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-022 by THOMAS GOLDWELL, under Sections 3-307 and 2-412 of the Zoning Ordinance to permit construction of deck addition to dwelling to 7.3 feet from side lot line, on property located at 10319 Commonwealth Boulevard, Tax Map Reference 68-4((9))1239, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 24, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 8,400 square feet of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

112

- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

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

Mr. Hyland seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting nay; Mr. DiGiulian not present for the vote.

//

9:10 A.M. BRIAN H. LENEY & ANN M. THORNTON - VC 86-S-023, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 10.3 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 12701 Sabastian Drive on approximately 0.9184 acre of land, zoned R-1 (WS), Springfield District, Tax Map Reference 55-4((6))10.

Lori Greenlief, Staff Coordinator, presented the staff report.

Mr. Hyland noted that there was an error in the staff report with regard to the size of the size of the subject lot which was 40,007 square feet and not 40,007 acres.

Brian Leney, the applicant, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application. He noted that the lot was of an unusual shape.

There being no speakers to this application and no other comments or questions, Chairman Smith closed the public hearing and turned to Mrs. Thonen for action on the case.

Mrs. Thonen moved approval of the subject variance subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-S-023 by BRIAN H. LEWEY and ANN M. THORNTON, under Section 3-107 of the Zoning Ordinance to permit construction of garage addition to dwelling to 10.3 ft. from side lot line, on property located at 12701 Sabastian Drive, Tax Map Reference 55-4((6))10, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 24, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 40,007 square feet of land.

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

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

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

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

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

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

3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion carried by a vote of 6-1 with Chairman Smith voting nay.

//

Page 114, June 24, 1986, (Tape 1), Scheduled case of:

9:20 A.M. GENERAL ASSETS, INCORPORATED - VC 86-D-025, application under Section 18-401 of the Zoning Ordinance to permit enclosure of an existing carport 30.1 feet from front lot line (35 ft. min. front yard req. by Sect. 3-207), located at 6620 Claymore Court on approximately 18,705 square feet of land, zoned R-2, Dranesville District, Tax Map 30-2((24))6A.

Lori Greenlief, Staff Coordinator, presented the staff report.

Charles Runyon, representing the applicant, appeared before the Board and outlined the request as explained in the statement of justification as submitted with the application.

There being no speakers to this application and no other comments or questions, Chairman Smith closed the public hearing and turned to Mr. DiGiulian for action on the case.

Mr. DiGiulian moved to grant the variance, noting that the applicant had met all of the standards as set forth in the Zoning Ordinance for a variance.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-025 by GENERAL ASSETS, INC., under Section 3-207 of the Zoning Ordinance to permit enclosure of existing carport 30.1 feet from front lot line, on property located at 6620 Claymore Court, Tax Map Reference 30-2((24))6A, 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 24, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 18,705 square feet of land.

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

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

115

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

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

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

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

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

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

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 7-0.

//

Page 115 June 24, 1986, (Tape 1) Scheduled case of:

9:30 A.M. ROBERT O. HOLLIDAY, JR. - VC 86-M-026, application under Section 18-401 of the Zoning Ordinance to permit construction of addition to dwelling to 17.5 feet from front lot line, (35 ft. min. front yard req. by Sect. 3-207), located at 3408 Fiddlers Green on approximately 22,474 square feet of land, zoned R-2, Mason District, Tax Map Reference 61-1((11))695.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that an existing deck was possibly in violation in the Zoning Ordinance therefore, staff was recommending a change in Condition as follows:

"IF THE DECK DOES NOT COMPLY WITH THE FAIRFAX COUNTY ZONING ORDINANCE REGULATIONS THEN THE APPLICANT SHALL OBTAIN THE APPROPRIATE COUNTY APPROVAL OR SHALL MODIFY THE CONFIGURATION OF THE DECK SO THAT IT IS NOT IN VIOLATION. CONSTRUCTION OF THE PROPOSED ADDITION WILL NOT COMMENCE UNTIL ONE OF THE ABOVE ACTIONS HAS BEEN TAKEN."

Robert Holiday, the applicant, appeared before the Board and explained that he had constructed a deck without a building permit and due to confusion concerning requirements for the side yard the deck was built slightly over the side yard.

Chairman Smith suggested that a certified plat be obtained.

Mr. Holiday explained the use as outlined in the statement of justification as submitted with the application. He noted that proposed solar addition did meet the standards of the Zoning Ordinance for a Variance.

In response to a question from Mr. Hyland, Mr. Holiday stated that he was required to present his request to the Architectural Review Board for the Barcroft Homeowners Association. He added that he had not appeared before the Architectural Review Board but would do so.

Mr. Hyland and Chairman Smith expressed the opinion that Mr. Holiday should have already presented his request to the Architectural Review Board before coming before the Board of Zoning Appeals.

Mr. Hyland moved to continue the public hearing on the subject application to July 8, 1986 at 10:45 A.M.

The motion was seconded by Mr. DiGiulian and passed by a vote of 5-2 with Chairman Smith and Mr. Ribble voting no.

//

9:40 A.M. ARMOND A. SONNEK - VC 86-A-027, application under Section 18-401 of the Zoning Ordinance to permit construction of carport addition to dwelling to 4.3 feet from side lot line, (7ft. min. side yard req. by Sects. 3-307 & 2-412), located at 7727 Arlen Street on approximately 10,539 square feet of land zoned R-3, Annandale District, Tax Map 70-2((6))156.
PAGE 116

Lori Greenlief, Staff Coordinator, presented the staff report.

Armond Sonnek, the applicant, appeared before the Board and explained the use as outlined in the statement of justification as submitted with the application.

There being no speakers to this application and no other comments or questions, Chairman Smith closed the public hearing and turned to Mrs. Day for action on the case.

Mrs. Day moved to grant the subject variance subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-027 by ARMOND A. SONNEK, under Sections 3-307 and 2-412 of the Zoning Ordinance to permit construction of carport addition to dwelling to 4.3 feet from side lot line, on property located at 7727 Arlen Street, Tax Map Reference 70-2((6))156, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 24, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,539 square feet of land.

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

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

Page 117 June 24, 1986, (Tape 1) (VC 86-A-027, ARMOND A. SONNEK, continued from Page 116)

- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 7-0.

//

10:00 A.M. WHITNEY L. WAGNER - VC 86-A-032, application under Section 18-401 of the Zoning Ordinance to permit construction of a detached garage 10 feet from a side lot line (15 ft. min. side yard req. by Sects. 3-207 & 10-104), located at 7109 Triad Way on approximately 20,588 square feet of land, zoned R-2, Annandale District, Tax Map 71-3(19)8A.

Lori Greenlief, Staff Coordinator, presented the staff report.

Whitney Wagner, the applicant, appeared before the Board and explained the use as outlined in the statement of justification as submitted with the application.

Mrs. Thonen and Chairman Smith suggested that the garage be 21 feet in width instead of 24 feet.

There being no speakers to this application and no other comments or questions, Chairman Smith closed the public hearing.

Mr. Ribble moved approval of the proposed variance subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-032 by WHITNEY L. WAGNER, under Section 3-207 of the Zoning Ordinance to permit construction of a detached garage 10 feet from a side lot line, on property located at 7109 Triad Way, Tax Map Reference 71-3(19)8A, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 24, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-2.
- 3. The area of the lot is 20,588 square feet of land.

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

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

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-1 with Chairman Smith voting Nay.

//

10:15 A.M. OPTICAL & ELECTRONIC RESEARCH, INC. - VCA 85-C-100-1, application under Section 18-401 of the Zoning Ordinance to amend VC 85-C-100 allowing construction of a building to 25 feet from one front lot line and to ten (10) feet from the other lot front lot line to change the building from 3 floors to 4 floors, located at 11501 Sunset Hills Road on approximately 73,206.8 square feet of land, zoned I-4, Centreville District, Tax Map 17-4((13))1. (OUT-OF-TURN HEARING)

Lori Greenlief, Staff Coordinator, presented the staff report and noted that an out-of-turn hearing for the subject application had been granted on May 6, 1986. She added that the applicant was requesting approval of a variance amendment to increase the height of the office building to four stories.

Following a question from Chairman Smith, Ms. Greenleaf explained that additional parking could be provided. Chairman Smith pointed out that a revised plat should be provided.

Frederick Bley, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application.

There being no speakers to this application and no other comments or questions, Chairman Smith closed the public hearing.

Mr. Hyland moved to approve the subject variance subject to the development conditions contained in the staff report with an additional condition 5: The applicant shall submit to the Board for the Chair's signature an amended plat that will show the additional parking that will be required by the addition of a fourth floor. The location of that parking to be determined at the completion of the site plan review process.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VCA 85-C-100-1 by OPTICAL AND ELECTRONIC RESEARCH, INC., under Section 18-401 of the Zoning Ordinance to amend VC 85-C-100 allowing construction of a building to 25 feet from one front lot line and to ten (10) feet from the other lot front lot line to change the building from 3 floors to 4 floors, on property located at 11501 Sunset Hills Road, Tax Map Reference 17-4((13))11, 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 24, 1986; and

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

1. That the applicant is the Optical and Electronic Research, Inc.
2. The present zoning is I-4.
3. The area of the lot is 73,206.8 square feet of land.

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

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

119
9
119

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. If a Building Permit has already been obtained, that Building Permit shall be amended to reflect the addition.
4. Parking shall be provided in accordance with Article 11 of the Zoning Ordinance.
5. The applicant shall submit to the Board for the Chair's signature an amended plat that will show the additional parking that will be required by the addition of a fourth floor. The location of that parking to be determined at the completion of the site plan review process.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 7-0.

//
Page 120 June 24, 1986, (Tape 2), Scheduled case of:

10:30 A.M. HELEN M. RICHARDS - VC 85-D-114, application under Section 18-401 of the Zoning Ordinance to permit subdivision into two lots, proposed Lot 10B-1 having a width of 61.96 feet (80 ft. minimum lot width required by Section 3-306), located at 6907 Churchill Road on approximately .882 acres of land, zoned R-3, Dranesville District, Tax Map 30-2((3))108. (DEFERRED FROM MAY 13, 1986 AT APPLICANT'S REQUEST)

Marilyn Anderson, Staff Coordinator, presented the staff report and noted that the Board of Zoning Appeals had denied a similar request by the applicant on March 5, 1985. She added that staff had the following concerns:

A portion of the lot was in a floodplain, the proposed lot was an awkward shape and that the proposed access should be changed.

Keith Martin, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application. He noted that most of the property in the rear was unbuildable because it was in floodplain. Mr. Martin stated that he had previously requested a deferral to work out transportation problems. In conclusion, Mr. Martin requested that condition 2 be deleted.

Chairman Smith noted that there had been two letters submitted in opposition. The Board allowed Mr. Martin a few minutes to review the letters as he had not seen them.

With regard to the letters, Mr. Martin stated that the proposed lot size was in conformance and that there would be no visual impact due to the lots being wooded.

121
121

There being no speakers to this application and no comments or questions, Chairman Smith closed the public hearing and turned to Mr. Hammack for action on the case.

Mr. Hammack moved to deny the subject variance because it did not meet the standards of the Zoning Ordinance in Section 18-404.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-114 by HELEN M. RICHARDS, under Section 3-306 of the Zoning Ordinance to permit subdivision into two lots proposed lot 10-B-1 having a width of 61.96 feet, at property located at 6907 Churchill Road, Tax Map Reference 30-2((3))10B, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 24, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 35,808 square feet of land.

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

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

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

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

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

Ms. Day seconded the motion.

The motion carried by a vote of 4-3 with Mr. DiGiulian, Mr. Hyland and Mr. Ribble voting nay.

//

At this time Mr. Hyland moved that the Board go into Executive Session to discuss legal matters. There being no objection, Chairman Smith so ordered.

//

Page 122, June 24, 1986, (Tape 1), Scheduled case of:

10:45 A.M. EDWARD J. STALCUP - VC 86-D-005, application under Section 18-401 of the Zoning Ordinance to permit a subdivision into three (3) lots, proposed Lot 2 having the width of 15 feet (100 ft. min. lot width req. by Sect. 3-206) and to permit the house on Lot 1 to remain 6 ft. and the house on Lot 3 to remain 10 ft. from the proposed front lot line after dedication, (35 feet minimum front yard requirement by Section 3-207), located at 6248 and 6250 Park Road on approximately 1.599 acres of land, zoned R-2, Dranesville District, Tax Map 31-3((1))80A & 80D. (DEFERRED FROM MAY 13, 1986)

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that the application had been deferred from May 13, 1986 to resolve issues concerning site access. She added that the existing house on proposed lot 3 was originally scheduled to remain but was now going to be demolished; therefore, the second part of the Variance concerning the proximity of the house to the front lot line should only pertain to the house on proposed lot 1. Ms. Greenlief concluded that the applicant did have reasonable use of the land.

Ken Sanders, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application. Mr. Sanders submitted a revised plat for the Board's review. He stated that the house on lot 3 was going to be demolished, the house on lot 1 would remain. Mr. Sanders pointed out that at the request of the Office of Transportation the pipestem driveway would be moved to the west and a common driveway provided for the three homes, eliminating existing driveways on Park Road. In conclusion, Mr. Sanders indicated that the applicant would be willing to have the lot as shown on the original plat or as an alternative he would be willing to have the pipestem driveway moved to the west and demolish the dwelling on lot 3.

There being no speakers to this application, Chairman Smith closed the public hearing and turned to Mr. Hammack for action on the case.

Mr. Hammack moved to grant the Variance in accordance with the development conditions of the Zoning Ordinance with the following changes: Pipestem lot on lot 2 with a lot width of 15 feet and requiring a variance of 85 feet; require a variance of 35 feet to the front yard requirement to allow the existing dwelling to remain on proposed lot 1 and to remain approximately 6 feet from the front lot line after the right-of-way dedication; and a 25 foot variance on proposed lot 3 to allow the dwelling to remain there until its demolished.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-005 by EDWARD J. STALCUP, under Sections 3-206 and 3-207 of the Zoning Ordinance to permit subdivision into 3 lots, proposed lot 2 having a width of 15 feet and to permit the house on lot 1 to remain *6 feet (*Change the underscored portion to 7.5 feet to comply with certified plat) and the house on lot 3 to remain 10 feet **until it is demolished (**Per additional information supplied at the hearing) from the proposed front lot line after dedication, on property located at 6248 and 6250 Park Road, Tax Map Reference 31-3((1))80A and 80D, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 24, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 1.599 acres of land.

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

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

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

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

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

1. This variance is approved for the subdivision of one lot into three lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The applicant shall work with the County Arborist to determine the boundaries for tree clearance before approval of a building permit or undertaking any site clearance or construction activity. Existing trees shall be preserved except where removal is necessary to accommodate construction.
4. Dedication of right-of-way shall be 15 feet from the front lot line as shown on the plat submitted with this application.
5. An entrance permit shall be obtained from VDH&T.
6. Access to all three lots shall be from a single pipestem driveway.

123

13

123

7. Demolition of the existing residence on proposed lot 3 shall be completed prior to the issuance of a building permit for the construction of improvements on the proposed lot 2.

Mr. Ribble seconded the motion.

The motion carried by a vote of 7-0.

//

Page 124 June 24, 1986, (Tape 2), Scheduled case of:

11:00 A.M. MAZEM & HALLA HACHWI - SP 85-C-013, application under Section 8-914 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location to allow a deck to remain .5 feet from the side lot line (8 ft. min. side yard req. by Sects. 3-207 & 2-412); .6 feet from the rear lot line (8 ft. min. rear yard req. by Sects. 3-207 & 2-412); and 15 feet from the front lot line (25 ft. min. front yard req. by Sects. 3-207 and 2-412), located at 11933 Riders Lane on approximately 15,895 square feet, zoned R-2, Centreville District, Tax Map 26-3((10))159. (DEFERRED FROM 6/10/86 & 6/17/86)

AND

11:15 A.M. MAZEM & HALLA HACHWI - VC 85-C-024, application under Section 18-401 of the Zoning Ordinance to permit accessory uses and structures to cover more than thirty percent (30%) of the area of the minimum required rear yard (30% max. coverage allowed by Sect. 10-103); to permit a fence approximately 4'8" high to remain in a front yard (4 ft. max. height for fence in a front yard by Sect. 10-104); to permit a fence approximately 9'10" high to remain in the rear and side yards (7 ft. max. height for fence in rear & side yards by Sect. 10-104); and to permit a pool and deck to remain in the front yard (no accessory structure permitted in a front yard by Sect. 10-104), located at 11933 Riders Lane on approximately 15,895 square feet, zoned R-2, Centreville District, Tax Map 26-3((10))159. (DEFERRED FROM 6/10/86 & 6/17/86)

Marilyn Anderson, Staff Coordinator, presented the staff report and advised the Board that the subject applications had been deferred from 6/10/86 and 6/17/86 to allow the applicant time to provide a signed copy of the covenants. Harold Miller, representative of the applicant, appeared before the Board and submitted the signed copy of the covenants.

Mrs. Anderson reported that staff had one concern regarding the covenants that pertained to the stormwater runoff. She added that staff was revising the development condition to read: "The stormwater runoff from the property will be as approved by the Department of Environmental Management." Mrs. Anderson noted that DEM had not had time to review the covenants.

Mr. Miller stated that DEM had checked the drains and found a minimal amount of water. He added that there would be such a small amount of water that it would be discharged naturally.

There being no speakers to this application, Chairman Smith closed the public hearing and turned to Mr. DiGiulian for action on the case.

Mr. DiGiulian moved to grant the special permit with the development conditions contained in the staff report with the following changes: 1-4 will remain the same; Condition 5 will be substituted with number 2 of the homeowners covenants which would be incorporated into the special permit.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-C-013 by MAZEM AND HALLA HACHWI, under Sections 3-207 and 2-412 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location to allow a deck to remain .5 feet from the side lot line, .6 feet from the rear lot line, and 15 feet from the front lot line, on property located at 11933 Riders Lane, Tax Map Reference 26-3((10))159, 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

125
15

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 24, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2(C).
3. The area of the lot is 15,895 square feet of land.

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

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

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

1. This special permit is granted for the location of the concrete deck surrounding the swimming pool indicated on the plat submitted with this application and is not transferable to other structures on the same land.
2. The final inspection and approval of Building Permit 84065B0570 shall be obtained from the Department of Environmental Management for the installation of the swimming pool.
3. An amended Building Permit for BP 84174B0820 shall be obtained correcting the address and showing all retaining walls constructed on the property. This Building Permit shall be amended to reflect the actual height of the retaining walls.
4. Certification by a Professional Engineer that the retaining walls on the property are structurally sound shall be provided to the Director, Department of Environmental Management.
5. The owners of lot 159 agree to discharge the storm drainage which presently discharges into Lots 160 and 158 into the "on line planter" as shown on the approved plat. This work will be completed on or before September 30, 1986. The two existing drain outlets shall be plugged.
6. An Electrical Permit shall be obtained for the installation of all lights around the swimming pool area and approval of their installation shall be obtained from DEM.
7. The following Homeowners Covenants are hereby incorporated into this Special Permit at the request of the Board:

"The undersigned parties all being owners of lots in Fox Mill Woods Subdivision, name Nazem Hachwi and Halla Hachwi (owners of lot 159), Robert L. Kerr and Sandy R. Kerr (owners of lot 160), Mark E. Borton and Carol A. Borton (owners of lot 158), and Gayle A. Deeley (owner of lot 176), being desirous of establishing and maintaining minimum standards of maintenance for the exterior of their premises, for and in consideration of the sum of \$10.00, each to the other paid, receipt of which is hereby acknowledged, and in further consideration of the mutual promises contained herein, hereby agree as follows:

- (1) All parties agree to maintain their yards in such manner as meets the general level of maintenance in the community, which shall include, but is not limited to, regular and complete cutting of grass.
- (2) The owners of lot 159 agree to discharge the storm drainage which presently discharges into lots 160 and 158 into the "on line planter" (outlined in red on Attachment A). This work will be completed on or before September 30, 1986. The two existing drain outlets shall be plugged.
- (3) The pool lighting on lot 159 shall not exceed Fairfax County, Virginia standards for intensity of exterior lighting. If it exceeds these standards the owners of lot 159 agree to take necessary steps to comply. The natural screening of these lights shall be maintained at a height of at least eight feet.
- (4) The owners of lot 159 agree to properly maintain the wooden fences which presently provides screening for their swimming pool, including (a) replacement of broken, detached or rotted slats, (b) maintaining the natural

wood, painting such wood being prohibited, (c) prevent sagging or other collapse or deterioration of the fence support structure, (d) make such remedial fence construction as will effect the following changes: (1) the top of the scalloped fence along lot 160 will have the same symmetry as that fence section which presently faces Wild Cherry Place and lot 176, present height being retained, (2) for that portion of the fence which is adjacent to lots 158 and 160, elimination of present spacing between fencing boards which has resulted from shrinkage of the wood, (3) at that point along lot 160 where there will be change in the fence height, the owners of lot 160 will plan, choose and install landscaping plantings to be paid for by the owners of lot 159 at a cost not to exceed \$1,000.00, (4) prior to July 15, 1986, the owners of lot 160 shall communicate to the owners of lot 159 the point at which the change in the fence height shall occur, (5) all which is required under this section shall be completed on or before September 30, 1986.

(5) The owners of lot 159 shall properly maintain their landscaping, including the pine trees and other plantings which screen their pool. Should any of said plantings die or if any of said plantings are presently dead, they will be replaced by comparable items."

NOTE: A signed copy of the Homeowners Covenants is contained in the file.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-2 with Chairman Smith and Mr. Hammack voting nay.

//

With regard to VC 85-C-024, Mr. DiGiulian moved to grant the Variance subject to the development conditions with the following changes: 1-4 will remain the same; Condition 5 will be substituted with number 2 of the homeowners covenants which would be incorporated into the variance.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-C-024 by NAZEM AND HALLA HACHWI, under Sections 3-207, 10-103 and 10-104 of the Zoning Ordinance to permit accessory uses and structures to cover more than thirty percent (30%) of the area of the minimum required rear yard; to permit a fence approximately 4'8" high to remain in a front yard; to permit a fence approximately 9'10" high to remain in the rear and side yards; and to permit a pool and deck to remain in the front yard on property located at 11933 Riders Lane, Tax Map Reference 26-3((10))159, 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 24, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2(C).
3. The area of the lot is 15,895 square feet of land.

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

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

127

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

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

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

6. That:

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

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

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

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

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

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

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

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

1. This variance is approved for:

o the coverage of more than thirty percent (30%) of the rear yard with a swimming pool and a concrete deck, and

o for the height of the fencing in the rear, front and side yards indicated on the plat submitted with this application and is not transferable to other land.

2. The screening between the fence and the sidewalk shall remain and the entire fence shall be maintained in good repair.

3. An amended Building Permit for BP 84174B0820 shall be obtained correcting the address and showing all retaining walls constructed on the property. This Building Permit shall be amended to reflect the actual height of the retaining walls.

4. Certification by a Professional Engineer that the retaining walls on the property are structurally sound shall be provided to the Director, Department of Environmental Management.

5. The owners of lot 159 agree to discharge the storm drainage which presently discharges into Lots 160 and 158 into the "on line planter" as shown on the approved plat. This work will be completed on or before September 30, 1986. The two existing drain outlets shall be plugged.

6. An Electrical Permit shall be obtained for the installation of all lights around the swimming pool area and approval of their installation shall be obtained from DEM.

7. The final inspection and approval of Building Permit 84065B0570 shall be obtained from the Department of Environmental Management for the installation of the swimming pool.

8. The following Homeowners Covenants are hereby incorporated into this Variance at the request of the Board:

"The undersigned parties all being owners of lots in Fox Mill Woods Subdivision, name Nazem Hachwi and Halla Hachwi (owners of lot 159), Robert L. Kerr and Sandy R. Kerr (owners of lot 160), Mark E. Borton and Carol A. Borton (owners of lot 158), and Gayle A. Deeley (owner of lot 176), being desirous of establishing and maintaining minimum standards of maintenance for the exterior of their premises, for and in consideration of the sum of \$10.00, each to the other paid, receipt of which is hereby acknowledged, and in further consideration of the mutual promises contained herein, hereby agree as follows:

(1) All parties agree to maintain their yards in such manner as meets the general level of maintenance in the community, which shall include, but is not limited to, regular and complete cutting of grass.

(2) The owners of lot 159 agree to discharge the storm drainage which presently discharges into lots 160 and 158 into the "on line planter" (outlined in red on Attachment A). This work will be completed on or before September 30, 1986. The two existing drain outlets shall be plugged.

(3) The pool lighting on lot 159 shall not exceed Fairfax County, Virginia standards for intensity of exterior lighting. If it exceeds these standards the owners of lot 159 agree to take necessary steps to comply. The natural screening of these lights shall be maintained at a height of at least eight feet.

(4) The owners of lot 159 agree to properly maintain the wooden fences which presently provides screening for their swimming pool, including (a) replacement of broken, detached or rotted slats, (b) maintaining the natural wood, painting such wood being prohibited, (c) prevent sagging or other collapse or deterioration of the fence support structure, (d) make such remedial fence construction as will effect the following changes: (1) the top of the scalloped fence along lot 160 will have the same symmetry as that fence section which presently faces Wild Cherry Place and lot 176, present height being retained, (2) for that portion of the fence which is adjacent to lots 158 and 160, elimination of present spacing between fencing boards which has resulted from shrinkage of the wood, (3) at that point along lot 160 where there will be change in the fence height, the owners of lot 160 will plan, choose and install landscaping plantings to be paid for by the owners of lot 159 at a cost not to exceed \$1,000.00, (4) prior to July 15, 1986, the owners of lot 160 shall communicate to the owners of lot 159 the point at which the change in the fence height shall occur, (5) all which is required under this section shall be completed on or before September 30, 1986.

(5) The owners of lot 159 shall properly maintain their landscaping, including the pine trees and other plantings which screen their pool. Should any of said plantings die or if any of said plantings are presently dead, they will be replaced by comparable items."

NOTE: A signed copy of Homeowners Covenants is contained in the file.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-2 with Chairman Smith and Mr. Hammack voting nay.

//

Page 128, (Tape), June 24, 1986, AFTER AGENDA ITEM #1

Additional Time Request for Anthony Audia, VC 84-D-074

Mrs. Day moved to grant the request for additional time for VC 84-D-074, Anthony Audia. Mr. Hyland seconded the motion which passed unanimously. The new expiration date is September 6, 1986.

//

Page 128, (Tape), June 24, 1986, AFTER AGENDA ITEM # 2

Request for Additional Time Three E Development Corporation

Mr. Hyland moved to deny the request for additional time for Three-E Development VC 83-V-147 through VC 83-V-150.

Mrs. Day seconded the motion. After some discussion among the Board, Mr. Hyland withdrew the motion.

Following testimony from George Wirth, President, Three-E Development Corporation and Paul Swanson an engineer for the project, Mr. Hyland again moved to deny the request for additional time.

Mrs. Day seconded the motion which failed by a vote 3-4; Mr. DiGiulian, Mr. Hammack, Mrs. Smith and Mrs. Thonen voting nay and Mrs. Day, Mr. Hyland and Mr. Ribble voting aye.

Mr. Hammack then moved to grant the request for additional time for 18 months.

Mr. DiGiulian seconded the motion.

Mr. Hyland suggested a substitute motion: That the Board grant an extension of time for 12 months with the stipulation that no other extensions be granted.

Mrs. Day seconded the motion which failed by a vote 3-4; Mr. DiGiulian, Mr. Hammack, Mrs. Smith and Mrs. Thonen voting nay and Mrs. Day, Mr. Hyland and Mr. Ribble voting aye.

Mr. Hyland then suggested an amendment: That the Board grant the request for additional time for 18 months with no other extensions. Mr. Hammack did not accept the amendment.

Mr. Hyland then suggested a substitute motion: That the Board grant the request for additional time for 18 months with no other extensions.

Mr. Ribble seconded the motion which failed by a vote of 3-4 Mr. DiGiulian, Mr. Hammack, Mrs. Smith and Mrs. Thonen voting nay and Mrs. Day, Mr. Hyland and Mr. Ribble voting aye.

Mr. Hammack then moved that the request for additional time be granted for a period of 18 months.

The motion passed by a vote of 4-3 with Mr. DiGiulian, Mr. Hammack, Mr. Smith, and Mrs. Thonen voting aye; Mrs. Day, Mr. Hyland and Mr. Ribble voting nay.

The motion was seconded the motion which passed by a vote of 4-3 with Mr. Hyland, Mr. Ribble and Mrs. Day voting nay.

NOTE: The new expiration date is December 6, 1987.

//

OUT-OF-TURN HEARING REQUEST FOR CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS

SPECIAL PERMIT - SP 83-C-080

Mrs. Thonen moved to grant the request for an out-of-turn hearing for the Church of Jesus Christ of Latter Day Saints, SP 83-C-080.

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

//

There being no other business, the Board voted to adjourn the meeting at 1:04 P.M.

//

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

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

9/2/86
Date Submitted

9/9/86
Date Approved

129
129

Blank



The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 1, 1986. The following Board Members were present: Daniel Smith, Chairman; John F. Ribble III, Gerald Hyland, Ann Day, Paul Hammack and Mary Thonen. John DiGiulian, Vice-Chairman, was absent from the hearing.

Chairman Smith opened the meeting at 9:10 A.M., and Mrs. Day led the prayer.

//

Page 131, July 1, 1986, (Tape 1 and Tape 2) Scheduled case of:

9:00 A.M. TOM AND KAREN VARTANIAN/GOODMAN HOMES, INC. - VC 86-D-034, application under Section 18-401 of the Zoning Ordinance to permit construction of a swimming pool in a front yard (accessory structure or use not to be located in any front yard req. by Sect. 10-104), located at 1320 Ballantrae Farms Drive on approximately 25,917 square feet of land, zoned R-1, Dranesville District, Tax Map 31-1((20))17.

Marilyn Anderson, Staff Coordinator, presented the staff report.

In response to questions from Mr. Hyland and Mrs. Thonen, Mrs. Anderson explained that the property had two front yards because it abuts two public streets.

Richard Reid, Director of Planning for Paciulli, Simmons and Associates, Ltd., represented the applicants and stated that all criteria for a variance had been met; this was a reasonable use for the site and would not be detrimental to the neighborhood.

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

Prior to stating the motion, Mr. Hammack agreed that the configuration of the lot was unusual and this was an appropriate use for this site and would therefore move to grant this request.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-034 by TOM AND KAREN VARTANIAN/GOODMAN HOMES, INC., under Section 18-401 of the Zoning Ordinance to permit construction of a swimming pool in a front yard, on property located at 1320 Ballantrae Farms Drive, Tax Map Reference 31-2((20))17, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 1, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 25,917 square feet of land.

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

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

131

131

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

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

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

6. That:

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

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

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

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

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

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

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

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

1. This variance is approved for the location of the swimming pool shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained for the swimming pool.
4. Quality vegetation shall be preserved and supplemented with evergreen plantings to the satisfaction of the County Arborist in order to effectively screen this use from the adjacent Lot 11 and from West Langley Lane.

Mrs. Thonen seconded the motion which carried by a vote of 5-1 with Chairman Smith voting Nay; Mr. DiGiulian absent from the meeting.

//

Page 132 July 1, 1986, (Tape 1) Scheduled case of:

9:15 A.M. WILLIAM R. GREGG - SP 85-A-081, application under Section 8-901 of the Zoning Ordinance to allow waiver of dustless surface requirement for plant nursery, located at 5716 High Lane on approximately 3.80 acres, zoned R-1 & R-2, Annandale District, Tax Map Reference 78-1((1))9 & 10. (TO BE CONCURRENT W/SEA 81-A-026-1: Planning Cman 6/11/86; Board of Supervisors 6/27/86)

Marilyn Anderson, Staff Coordinator, presented the staff report which recommended approval. She stated that the Special Exception for the nursery had been approved on June 27, 1986.

William R. Gregg, the applicant, explained the nature of the use and the justification for the modification of the dustless surface requirement as contained in the statement of justification submitted with the application.

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

Before making the motion, Mrs. Thonen agreed that a gravel parking lot would not create an adverse impact on the surrounding properties and therefore would move to recommend of the application.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-A-081 by WILLIAM R. GREGG, under Section 8-901 of the Zoning Ordinance to permit waiver of dustless surface requirement for plant nursery, on property located at 5716 High Lane, Tax Map Reference 78-1(1)9 and 10, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 1, 1986; and

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

1. That the applicant is the owner of the land
2. The present zoning is R-1 and R-2.
3. The area of the lot is 3.80 acres of land.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the 54 gravel parking spaces, loading areas, driveway, and aisles indicated on the plat submitted with this application, except as qualified below. Any additional changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. All gravel surface areas shall be constructed in accordance with standards approved by the Director, DEM. The handicap parking spaces shall be paved with a dustless surface.
6. All gravel surface areas shall be maintained in good condition at all times in accordance with standard practices approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.

The speed limit shall be no greater than 10 mph on site and calcium chloride shall be applied as a dust suppressant during extended dry periods.

- 7. The driveway into the site shall be paved for a minimum of approximately 55 feet from the edge of pavement of Burke Road to the base of the required slope easement.
- 8. This approval is for a period of five (5) years.

Mr. Ribble seconded the motion which carried unanimously with Mr. Hyland not present for the vote; and Mr. DiGiulian absent from the meeting.

//

9:25 A.M. J. BYRON LANDSCAPING AND NURSERY, INC. - SP 85-S-086, application under Section 8-901 of the Zoning Ordinance to permit modification or waiver of the dustless surface requirement for a plant nursery, located at 7300 Ordway Road on approximately 15.9797 acres of land, zoned R-C & WSP0D, Springfield District, Tax Map 74-1((1))22.

Marilyn Anderson, Staff Coordinator, presented the staff report which recommended approval and noted that the Board of Supervisors had approved SE 85-S-150 on June 23, 1986, permitting the operation of the plant nursery.

William Donnelly of Hunton & Williams, attorney for the applicant, explained there had been two changes to the plat since the Board of Supervisors public hearing date, noting that one greenhouse had been eliminated and the location of the one remaining greenhouse had been shifted. Chairman Smith pointed out that these changes came under the Special Exception Amendment and would not affect the Board of Zoning Appeals decision. As there were no speakers either for or against this application, Chairman Smith closed the public hearing.

Prior to stating the motion, Mrs. Day moved that the Board of Zoning Appeals adopt the following Resolution in accordance with the revised plat dated June 19, 1986 with the modifications as noted by the applicant.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-S-086 by J. BYRON LANDSCAPING AND NURSERY, INC., under Section 8-901 of the Zoning Ordinance to permit modification or waiver of the dustless surface requirement for a plant nursery, on property located at 7300 Ordway Road, Tax Map Reference 74-1((1))22, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 1, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-C.
- 3. The area of the lot is 15.9797 acres of land.

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

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

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

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

2. This approval is granted for the 43 gravel parking spaces, driveways, loading areas and aisles indicated on the plat submitted with this application, except as qualified below. Any changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. All gravel surface areas shall be constructed in accordance with standards approved by the Director, DEM. The handicap parking spaces shall be paved with a dustless surface.
6. All gravel surface areas shall be maintained in good condition at all times in accordance with standard practices approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area. The speed limit on site shall not exceed 10 mph.
7. The driveway into the site shall be paved for a minimum of 25 feet beyond the edge of the pavement of Ordway Road.
8. This approval is for a period of five (5) years.

Mr. Ribble seconded the motion which carried unanimously with Mr. Hyland not present for the vote; and Mr. DiGiulian absent from the meeting.

//

Before proceeding with the next case, Chairman Smith informed the Board that a decision needed to be made concerning retaining outside Counsel. Mr. Hammack moved that the County Attorney be requested to fund \$2,500 to retain the services of the law firm of Dunn and McCormick to represent the Board in the case of Blair W. and Dorothy S. Cupp vs the Board of Zoning Appeals case. Mrs. Thonen seconded the motion which carried unanimously with Mr. DiGiulian and Mr. Ribble absent from the meeting.

//

Page 135. July 1, 1986, (Tape 1) Scheduled case of:

9:40 A.M. WILLIAM M. WAYSHNER & BETTY J. WAYSHNER, VC 86-L-036, application under Section 18-401 of the Zoning Ordinance to permit subdivision into 2 lots, proposed lot 72A-1 having width of 12 feet (80 ft. min. lot width req. by Sect. 3-306), located at 6024 Old Rolling Road on approximately 39,498 square feet of land (0.907 acre), zoned R-3 (HC), Lee District, Tax Map 81-4((1))72A.

Marilyn Anderson, Staff Coordinator, presented the staff report.

Howard Birmeil of 8136 Old Keene Mill Road represented the applicants and noted that the hardship came from the applicants trying to maintain and keep up with the rising cost of the land in Fairfax County while living in Florida.

Following questions from the Board, Mrs. Anderson explained there were no sidewalks and gutters presently in the neighborhood and pointed out that Bruce Douglas of the Office of Comprehensive Planning was available to answer questions if needed.

During a discussion between Board members and Mr. Douglas, Mr. Douglas clarified that he felt this application was not in conformance with the Plan nor in harmony with the existing neighborhood.

Chairman Smith called for speakers in support or in opposition to this case, hearing no reply, closed the public hearing.

Before making the motion, Mr. Hyland noted that he felt this application met the criteria and should be granted.

Mr. Hammack stated he would vote against the motion as he did not feel the applicants did meet standard #5 under Section 18-404 of the Zoning Ordinance.

Chairman Smith agreed with Mr. Hammack and stated he wished to see the stability of the neighborhood maintained in keeping with the Comprehensive Plan.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-036 by WILLIAM M. WAYSHNER AND BETTY J. WAYSHNER, under Section 18-401 of the Zoning Ordinance to permit subdivision into 2 lots, proposed lot 72A-1 having width of 12 feet, on property located at 6024 Old Rolling Road, Tax Map Reference 81-4((1))72A, 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3 (HC).
3. The area of the lot is 39,498 square feet of land.

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

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

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

137

137

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

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

1. This variance is approved for the subdivision of one (1) lot into two (2) with a minimum lot width of not less than twelve (12) feet for Lot 72A-1. This approval is for the subdivision as shown on the plat except that minor lot line adjustments which do not affect the approved variance shall be permitted.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The subdivision of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code, and other applicable requirements of the Public Facilities Manual.
4. Access to both lots shall be via the pipestem driveway from Old Rolling Road and adequate sight distance must be demonstrated and approved by BDH&T prior to subdivision approval. The driveway shall be constructed in accordance with the Public Facilities Manual. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway.
5. Dedication of right-of-way for public streets purposes shall be provided 26 feet from the centerline for the entire frontage of the property or dedication of 25 feet from centerline if approved by DEM as appropriate to match existing dedication along adjacent parcels. The alignment shall be determined by the Director, Department of Environmental Management at the time of subdivision plat review. In addition, the applicant shall provide temporary grading easements for future road improvements.
6. Construction of pavement widening along with curb and gutter matching the improved section immediately south of the site shall be constructed on Old Rolling Road as approved by VDH&T.
7. These lots shall be served by public sewer and water.

Mr. Ribble seconded the motion which failed by a vote of 4-2, with Chairman Smith, Mrs. Day, Mrs. Thonen, and Mr. Hammack voting NAY; Mr. DiGiulian absent from the meeting.

//

Page 137 July 1, 1986, (Tape 1 and Tape 2) Scheduled case of:

10:00 A.M. RIDGEMONT MONTESSORI SCHOOL, INC. - SPA 85-D-024-1, application under Section 3-103 of the Zoning Ordinance to amend SP 85-D-024 for a nursery school and school of general education to permit reduction of land area and continuation of the use for a term of five (5) years, and extension of hours of operation, located at 6519 Georgetown Pike on approximately 1.4 acres of land, zoned R-1, Dranesville District, Tax Map 22-3(1) Parcel 4.

Marilyn Anderson, Staff Coordinator, presented the staff report which recommended approval in accordance with the Development Conditions. She informed the Board that George Phillips of the Office of Transportation was present to answer any questions with regard to the transportation issues.

John Cahill of the law firm of Hazel, Beckhorn and Hanes represented the applicant and disagreed with the staff's recommendation that a left turn lane should be constructed at the entrance to the school.

Following a discussion between the Board, Mrs. Anderson, and Mr. Phillips regarding the transportation issues, Mrs. Thonen made a motion to convene an executive session to meet with the County Attorney to review the issue. Mr. Ribble seconded the motion which passed unanimously.

After the Executive Session, Chairman Smith reconvened the public hearing and called for speakers in support or in opposition and Raymond H. Milkman of 6762 Lucy Lane pointed out that if the school had the expense of constructing a left turn lane it would have to close.

During rebuttal, Mr. Cahill entered into the record the daily tally of vehicle trips per day which had been prepared by the applicant.

Prior to stating his motion, Mr. Ribble noted he was not in agreement with the left turn lane requirement and would therefore move adoption of the application with the following modifications: Conditions #1 through #7 would remain the same; Condition #8 would be deleted; Conditions #9 through #12 would be renumbered #8 through #11; Conditions #13 and #14 would be deleted; Condition #15 would be modified to read: "the special permit will be issued for a period of two (2) years"; Conditions #16 through #19 would be renumbered #13 through #16; Condition #20 would become #17 and read as follows: "grading and temporary construction easements for future road improvements shall be provided."

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 85-D-024-1 by RIDGEMONT MONTESSORI SCHOOL, INC., under Section 3-103 of the Zoning Ordinance to permit reduction of land area and continuation of the use for a term of five (5) years, and extension of hours of operation, on property located at 6519 Georgetown Pike, Tax Map Reference 22-3((1))4, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 1, 1986; and

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

- 1. That the applicant is the lessee of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 1.4 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303, 8-305 and 8-307 of the Zoning Ordinance.

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

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

5. The maximum daily enrollment shall be 63 children.
6. The maximum hours of operation shall be 9:00 A.M. to 3:00 P.M., Monday through Friday.
7. Transitional Screening 1 shall be modified as follows:
 - o Transitional Screening 1 shall be waived along the eastern lot line adjacent to the parking area. Transitional Screening 1 shall be provided along the eastern lot line between Georgetown Pike and the parking area.
 - o Along the rear lot line, existing vegetation shall be retained and supplemented to provide Transitional Screening 1 except that the width of the planting area may be reduced to the approximately fourteen (14) feet existing in that location.
 - o Transitional Screening 1 shall be provided along the entire western lot line adjacent to the play area.
 - o Transitional Screening 1 shall be modified along the front lot line provided additional landscape plantings are installed which will screen the parking and play area from Georgetown Pike. The size, type, and location shall be approved by the County Arborist.
8. The solid barrier shall be provided along the southern and eastern lot lines between the parking lot and the lot lines.
9. If parking lot lighting is installed, such lighting shall be the low intensity type on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.
10. Signs shall be in accordance with the provisions of Article 12, Signs.
11. Handicapped parking spaces shall be provided in accordance with all applicable State and County regulations.
12. The applicant will implement car pool and/or van pool arrangements sufficient to ensure that trips to and from the site will not exceed 150 trips per day; and further, that no employee, parent of a child attending the school or any other person coming to the school in connection with the applicant's use, will be allowed to enter the church lot by making a left turn from Georgetown Pike.
13. The Transitional Screening required by Development Condition 7 along the western lot line of the property will be provided at the time that the resubdivision of the Church property is recorded in the Land Records of Fairfax County.
14. If the property is subdivided, the existing septic field will be relocated to a location approved by the Fairfax County Health Department, if a suitable location cannot be determined the property will be connected to public sewer.
15. The special permit will be issued for a period of two (2) years.
16. Dedication of right-of-way 45 feet from the centerline of Old Georgetown Pike shall be provided by the owner of the property when requested by Department of Environmental Management to provide for the improvement of Old Georgetown Pike.
17. Grading and temporary construction easements for future road improvements shall be provided.

Mr. Hyland seconded the motion which carried by a vote of 5-1 with Chairman Smith voting Nay; Mr. DiGiulian absent from the meeting.

//

At 12:25 p.m., the Board recessed for lunch and reconvened at 1:30 p.m. with Chairman Smith presiding.

//

10:15 A.M. DAVID C. BUCKIS, SP 86-C-021, application under Section 3-104 of the Zoning Ordinance to permit home professional dental office, located at 3238 West Ox Road on approximately 2.199 acres of land, zoned R-1, Centreville District, Tax Map 35-4(1)pt. of 35.

Marilyn Anderson, Staff Coordinator, presented the staff report. Mrs. Anderson explained that in 1978 the applicant had been granted a Special Permit but that the site plan had never been approved, nor a Non-Residential Use permit issued.

Following questions from the Board, Mrs. Anderson responded that staff was not certain of the date the applicant had commenced the business in his home but a notice had been issued in February 1986. She further explained that site plan approval was still needed and the County Arborist would have to approve and inspect.

Susan Pesner of Peterson and Pesner represented the applicant and presented the justification for this application. Ms. Pesner also informed the Board that the pending Writ of Certiorari in the Circuit Court would be dropped if this application were approved.

In response to questions from the Board, Ms. Pesner stated that the applicant had commenced his business because he was not aware that he could not and because the process had taken such an amount of time.

Prior to stating the motion, Mr. Hammack stated that he felt that the applicant had met all the requirements and therefore was recommending approval of this application.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-021 by DAVID C. BUCKIS, under Section 3-104 of the Zoning Ordinance to permit a home professional dental office, on property located at 3238 West Ox Road, Tax Map Reference 35-4(1) pt. of 35, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 1, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 2.199 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-907 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The maximum number of parking spaces provided for this use shall be ten (10). One handicapped parking space shall be provided; that space being the closest space to the structure.

141

141

5. Existing vegetation shall remain and additional plantings shall be provided where necessary to ensure that the parking area is screened from adjacent properties and from West Ox Road at the determination of the Director, Department of Environmental Management (DEM).
6. Dedication of right-of-way to 45 feet from the centerline of West Ox Road shall be provided along the site frontage to the satisfaction of the Director, DEM. A deceleration lane may also be required if determined necessary by the Director, DEM. Vegetation shall be cleared and other measures taken to provide adequate sight distance for the driveway entrance.
7. The maximum number of employees shall be three (3) including the applicant, but excluding any other dentist.
8. The normal hours of operation shall be established from 7:30 A.M. to 5:30 P.M., Monday through Friday. Occasional emergency visits outside normal business hours shall be permitted.
9. A ten (10) foot wide dedication for trail purposes shall be provided along West Ox Road, pursuant to the Countywide Trails Plan.
10. One sign shall be permitted on the subject property in accordance with Article 12, Signs.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, twelve (12) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

The motion carried by a vote of 4-2 with Chairman Smith and Mrs. Day voting Nay with Mr. DiGiulian absent from the meeting.

//

Page 141, July 1, 1986, (Tape 3) Scheduled case of:

10:30 A.M. SAINT ANTHANSIAUS CHURCH - SP 86-D-009, application under Section 3-103 of the Zoning Ordinance to permit church and related facilities to remain and to permit addition to building and parking additions with waiver of the dustless surface requirement, located at 1316 Trap Road on approximately 1.231 acres of land, zoned R-1, Dranesville District, Tax Map 19-4((3))1.

Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval of only the existing structure with development conditions set forth in the Staff Report. The church has been operating since the 70's, but was never legally established. Staff recommended denial of any intensification of the use because of the small, long, narrow lot.

William Collins of 6258 North Kensington Street represented the applicant and explained the use as contained in the statement justification submitted with the application.

Chairman Smith asked if there were any persons to speak in support of this application and the following person came forward: Father Ronald Ringrose, 1316 Trap Road, who stated that all requirements had been met and the primary use of the facility was on Sunday morning.

The next speaker was Richard Kite of 41 South French Street, who stated that this application had been pending for 6 years and asked that the driveway be left intact to accommodate handicapped individuals who attended the church.

Chairman Smith asked if there were any other speakers to speak either in support or in opposition and hearing no reply, closed the public hearing.

Prior to making the motion, Mrs. Thonen stated that she agreed with the staff that this use was too intense for this site and was therefore going to move to grant-in-part.

//

REVISED

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-D-009 by SAINT ANTHANSIUS CHURCH, under Section 3-103 of the Zoning Ordinance to permit church and related facilities to remain and to permit *addition to building and parking additions with waiver of the dustless surface requirement, on property located at 1316 Trap Road, Tax Map Reference 19-4((3))1, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 1, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 1.231 acres of land.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the building and uses as qualified below. An amended plat incorporating these Development Conditions shall be submitted and approved by this Board. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. There shall be no addition to the dwelling without the approval of the Board of Zoning Appeals.
6. The seating capacity of the main worship area shall not exceed 82 seats with a corresponding minimum and maximum of 21 parking spaces provided. All parking shall be on-site and accessible through the property only and shall be located to the rear of the building.
7. All gravel surface areas shall be constructed and maintained in good condition at all times in accordance with standards approved by the Director, Department of Environmental Management (DEM). There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area. This approval is for a period of five (5) years. Only one driveway entrance shall be permitted and it shall be paved and constructed in accordance with the VDH&T commercial entrance standards.
8. Handicapped parking spaces shall be provided in accordance with applicable codes and shall be paved with a dustless surface.

143
143

9. Dedication of right-of-way for public street purposes shall be provided to thirty (30) feet from the centerline of Trap Road. Grading easements shall be provided for future road improvements.
10. Sight distance shall be provided at the entrance as approved by VDH&T.
11. Road improvements shall be provided to include pavement to 12 feet from the centerline of Trap Road, a shoulder, and a ditch across the entire frontage of the site.
12. Transitional Screening 1 shall be provided along all lot lines except that this requirement may be modified along the front lot line to allow landscape plantings which soften the visual impact of the use and will not interfere with the provision for adequate sight distance at the entrance. The amount, type and size of these plantings shall be determined by the County Arborist.
13. Interior parking lot landscaping shall be provided in accordance with Article 13.
14. The barrier requirement shall be waived.
15. The sign on the property shall comply with the provision of Sect. 12, Signs, of the Zoning Ordinance.

Mr. Hammack seconded the motion which carried by a vote of 5-1 with Chairman Smith voting Nay; Mr. DiGiulian absent from the meeting.

At this time Mr. Collins requested that the 12 month time limit be waived and Mr. Hyland so moved with Mr. Ribble seconding the motion. The request was denied by a vote of 3-3 with Mrs. Day, Mrs. Thonen and Mr. Hammack voting NAY.

//

Page 143 July 1, 1986, (Tape 3) Scheduled case of:

10:45 A.M. MR. & MRS. G. T. EISENHART - VC 86-A-035, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 7.6 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 8204 Toll House Road on approximately 40,000 square feet of land, zoned R-3, Annandale District, Tax Map 70-2((7))50.

Marilyn Anderson, Staff Coordinator, presented the Staff Report and pointed out that the existing shed would be moved to ensure that the application would be in compliance with the required conditions.

Elmo L. Owens represented the applicant and explained the nature of the request as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Mr. Hyland moved that the letter of justification be entered into the record and Mr. Ribble seconded the motion.

Chairman Smith called for speakers either in support or in opposition to this application and hearing no reply, closed the public hearing.

Before making the motion, Mrs. Day stated that the applicant had met all the requirements and moved for approval in conformance with the development conditions in the Staff Report dated June 12, 1986.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-035 by MR. AND MRS. G. T. EISENHART, under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 7.6 feet from side lot line, on property located at 8204 Toll House Road, Tax Map Reference 70-2((7))50, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 1, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3.
- 3. The area of the lot is 40,000 square feet of land.

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

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

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

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

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

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

Mr. Ribble seconded the motion which carried unanimously with Mr. DiGiulian absent from the meeting; Mr. DiGiulian absent from the meeting.

//

11:00 A.M. BILLY D. DICKEY - VC 86-V-033, application under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 38 feet from street line of a corner lot (50 ft. min. front yard req. by Sect. 3-E07), located at 11300 Gunston Roadway on approximately 23,968 square feet of land, zoned R-E, Mount Vernon District, Tax Map Reference 119-4((2))(53)5, 6, 7, 8, 10, 12, 14, 16, 18, 20, and 22. (OUT-OF-TURN HEARING GRANTED) (DEFERRED FROM 6/10/86 NOTICES NOT IN ORDER)

145

Marilyn Anderson, Staff Coordinator, presented the staff report.

Bill Dickey, the applicant, explained the nature of the request as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak in support or in opposition to this application and hearing no reply, closed the public hearing.

Prior to making the motion, Mr. Hyland stated that he felt that the applicant had met all the requirements and therefore moved for approval of this application.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-V-033 by BILLY D. DICKEY, under Section 18-401 of the Zoning Ordinance to permit construction of dwelling to 38 feet from street line of a corner lot, on property located at 11300 Gunston Roadway, Tax Map Reference 119-4((2))(53)5, 6, 7, 8, 10, 12, 14, 16, 18, 20, and 22, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 1, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-E.
- 3. The area of the lot is 23,968 square feet of land.

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

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

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

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

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

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

If it is the intent of the Board of Zoning Appeals (BZA) to approve this application, the BZA should condition its approval by requiring conformance with the following development conditions:

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

Mr. Hammack seconded the motion which carried unanimously and Mr. DiGiulian absent from the meeting.

//

Page 146, July 1, 1986, (Tape 3) After Agenda Item, Action #1:

CALVARY MEMORIAL PARK - SPA 81-A-022-1

Mr. Hyland moved to approve the request for Additional Time for Calvary Memorial Park, Special Permit Amendment SPA 81-A-022-1. Mr. Ribble seconded the motion which passed unanimously.

//

Page 146, July 1, 1986, (Tape 3) After Agenda Item, Action #2:

BURKE COMMUNITY CHURCH - SPA 77-S-269-1

Mr. Ribble moved to deny the request for an Out-of-Turn Hearing for Burke Community Church, Special Permit Amendment 77-S-269-1. Mr. Hammack seconded the motion, which was passed unanimously.

//

Page 146, July 1, 1986, (Tape 3) After Agenda Item, Action #3:

COLLABORATIVE PHASE 1 - SP 86-C-033

Mr. Ribble moved to deny the request for an Out-of-Turn Hearing for Collaborative Phase 1, Special Permit 86-C-033. Mr. Hyland seconded the motion, which was passed unanimously.

//

As there was no business to come before the Board, Chairman Smith adjourned the meeting at 3:20 p.m.

Betsy S. Hurtt
 Betsy S. Hurtt, Deputy Clerk
 Board of Zoning Appeals

Daniel Smith
 Daniel Smith, Chairman
 Board of Zoning Appeals

SUBMITTED: October 21, 1986

APPROVED: October 28, 1986

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 8, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland, Ann Day, Paul Hammack, Mary Thonen. John F. Ribble, III, was absent from the meeting.

Chairman Smith opened the meeting at 9:12 A.M., and Mrs. Day led the prayer.

//

Page [4] July 8, 1986, (Tape 1) Scheduled case of:

9:00 A.M. MR. AND MRS. ANGEL ANDREEV, VC 86-M-040, application under Section 18-401 of the Zoning Ordinance to permit building and deck additions to dwelling 13.0 feet from one side lot line and 9.0 feet from the other (15 ft. min. side yard req. by Sect. 3-207), located at 6504 Lakeview Drive on approximately 16,500 square feet of land, zoned R-2, Mason District, Tax Map 61-3((14))381.

Lori Greenlief, Staff Coordinator, presented the staff report.

Angel Andreev, the applicant, appeared before the Board and explained the request as outlined in the statement of justification. He noted the need for more space due to a growing family and the need for more storage space for office files.

Following questions from the Board, Mr. Andreev clarified that he was managing investment property and did not have an office in his home. Mr. Andreev also advised the Board that he had the support of the Barcroft Architectural Review Committee.

There being no speakers to this application, Chairman Smith closed the public hearing and turned to Mrs. Thonen for action on the case.

Mrs. Thonen stated that the applicant had met the required standards for variances and moved to accept the variance subject to the conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-040 by MR. AND MRS. ANGEL ANDREEV, under Section 18-401 of the Zoning Ordinance to permit building and deck additions to dwelling 13.0 feet from one side lot line and 9.0 feet from the other, on property located at 6504 Lakeview Drive, Tax Map Reference 61-3((14))381, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 8, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 16,500 square feet of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

147

147

4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Ribble absent from the meeting.

//

Page 148 July 8, 1986, (Tape 1) Scheduled case of:

9:10 A.M. FRANCES L. GROS - VC 86-D-031, application under Section 18-401 of the Zoning Ordinance to permit subdivision into two (2) lots, proposed Parcel A having width of 59.61 feet (70 ft. min. lot width req. by Sect. 3-406), located at 2313 Highland Avenue on approximately 24,168 square feet of land (0.5548 acres), zoned R-4, Draneville District, Tax Map Reference 40-4((10))(A)45, 46, 47, 48. (DEFERRED FROM 6/24/86)

Lori Greenlief, Staff Coordinator, presented the staff report, and noted that there were no significant environmental or transportation impacts.

Frances Gros, the applicant appeared before the Board and explained the request as outlined in the statement of justification.

Following a discussion, the Board questioned whether or not the applicant could remove either lot 45 or lot 48 from the existing building lot in order to allow construction on either of those two lots. The Board requested a written response from the Zoning Administrator.

Chairman Smith called for speakers in opposition to the proposal and William T. Austin, 2317 Island Avenue, and Brian C. Smith, 6906 Willow Street, appeared before the Board and expressed concern for the destruction of trees and invasion of privacy this subdivision would cause.

In rebuttal, Ms. Gros stated that she would take precautions to save as many trees as possible.

Mr. DiGiulian moved to defer decision on the subject application until a determination from the Zoning Administrator could be obtained on whether or not Lot 45 or 48 could be buildable lots.

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

Ms. Kelsey, suggested a date of July 15, 1986 at 11:45 A.M.

Mr. Hyland requested that the case be deferred to July 22, 1986 because he would not be able to attend the July 15, 1986 meeting. There being no objection, Chairman Smith so ordered. The new date would be July 22, 1986 at 9:00 P.M.

//

Page 149 July 8, 1986, (Tape 1) Scheduled case of:

9:30 A.M. HOUSE OF BROKERS REAL ESTATE CORPORATION - VC 86-M-038, application under Section 18-401 of the Zoning Ordinance to permit office in the R-2 District in an existing building located 22.3 feet from front lot line, (35 ft. minimum front yard required by Sect. 3-207), located at 6800 Little River Turnpike, zoned R-2, Mason District, Tax Map Reference 71-2((5))9-15.

Lori Greenlief, Staff Coordinator, presented the staff report. She advised the Board that the Board of Supervisors had approved a special exception for the use of this site as a real estate office, however the structure was too close to the lot line, therefore, a variance was necessary.

Charles Langen, representing the applicant, appeared before the Board and explained the request as outlined in the statement of justification. He provided a history of the site and noted that there had been no adverse reaction from the citizens concerning the use or the existing structures.

Chairman Smith pointed out that one of the conditions of the special exception was that the variance must be granted or the use could not be implemented.

There being no speakers to this application, no other comments or questions, Chairman Smith closed the public hearing and turned to Mrs. Day for action on the case.

Mrs. Day moved to grant the variance subject to the development conditions contained in the staff report. After a brief discussion among the Board, it was determined that development condition #3 was not necessary, therefore it was deleted.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-038 by HOUSE OF BROKERS REAL ESTATE CORPORATION, under Section 18-401 of the Zoning Ordinance to permit office in the R-2 District in that an existing building located 22.3 feet from front lot line, on property located at 6800 Little River Turnpike, Tax Map Reference 71-2((5))9-15, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 8, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 41,793 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. All applicable approved conditions of SE 85-M-071 shall be incorporated into this Variance approval.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

//

Page 150 July 8, 1986, (Tape 2) Scheduled case of:

9:45 A.M. TEMPLE BAPTIST CHURCH - SPA 85-D-009-1, application under Section 3-303 of the Zoning Ordinance to amend S-63-78 for church and related facilities and to amend SP 85-D-009 for private school of general education and child care center center, to permit additional building, 34 additional parking spaces, the relocation of the play area for these uses, the addition of a maximum of two trailers on site, and to incorporate all the church related operations and associated conditions under one special permit, located at 1545 Dranesville Road on approximately 6.0533 acres of land, zoned R-3, Dranesville District, Tax Map 10-2((1))7A.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that staff was recommending approval of the proposed application subject to the conditions contained in the staff report, as well as the conditions from the previous application.

David Barton, Pastor, Temple Baptist Church, representative for the applicant, appeared before the Board and stated that there was an existing five-foot wide gravel trail along a portion of the front lot line. He requested that the Board change condition #5 which called for an eight-foot wide trail to a five-foot wide trail.

Following questions from Mr. Hyland, Ms. Kelsey of the staff, stated that the requirements for the trail would be determined at site plan review. Mrs. Greenlief pointed out that the Trails Planner had recommended the eight-foot wide trail.

Responding to further questions from Mr. Hyland, Ms. Kelsey reported that the Office of Transportation had worked with a consultant to determine the number of parking spaces required for various uses. Those recommendations will be brought forward to the Board of Supervisors as a Zoning Ordinance amendment at some future date.

There being no speakers to this application, Chairman Smith closed the public hearing.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 85-D-009-1 by TEMPLE BAPTIST CHURCH, under Section 3-303 of the Zoning Ordinance to amend S-63-78 for church and related facilities and to amend SP 85-D-009 for private school of general education and child care center, to permit additional building, 34 additional parking spaces, the relocation of the play area for these uses, the addition of a maximum of two trailers on site, and to incorporate all the church related operations and associated conditions under one special permit, on property located at 1545 Dranesville Road, Tax Map Reference 10-2(1)7A, 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 8, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 6.0533 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-305 and 8-307 of the Zoning Ordinance.

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

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

151

151

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The Board recommends that the applicant be required to provide a five-foot asphalt trail along Dranesville Road in conformance with Article 17 of the Zoning Ordinance and the Countywide Trails Plan.
6. Handicapped spaces shall be provided in accordance with Article 11 of the Zoning Ordinance.
7. Before any ground-disturbing activities are undertaken, erosion and sediment controls, complying with Chapter 104 of the County Code, and Article 7 of the Public Facilities Manual, shall be in place, in order to protect the storm drainage easement located on the north side of the proposed improvements.
8. The maximum combined daily enrollment for the child care center/school of general education shall not exceed ninety-five (95) children, provided that the total number of children enrolled in programs which operate prior to 8:30 A.M. or after 4:00 P.M. shall not exceed thirty-five (35).
9. The approval of the child care center portion of the facility shall be for a period of three years to commence on May 14, 1985. This will allow time for the assessment of the need for a left turn deceleration lane. The continued use of the child care center shall then be subject to renewal in accordance with provisions of Sect. 8-013 of the Zoning Ordinance.
10. The maximum hours of operation for the child care center/school of general education use shall be 6:30 A.M. to 6:00 P.M.
11. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance. In addition, the island in the existing parking lot which is now without plantings shall also be planted in accordance with Article 13.
12. Peripheral parking lot landscaping shall be provided in the new parking lot in accordance with Article 13 of the Zoning Ordinance.
13. The existing vegetation along the northern lot line shall satisfy the transitional screening requirement. The area along the western lot line adjacent to the existing parking lot shall be supplemented with sufficient plantings to screen the lot. The type and location of these plantings shall be approved by the County Arborist at the time of site plan review.
14. There shall be a maximum of two temporary classroom trailers on site and these trailers shall be removed upon completion of the building addition requested in this application. These trailers shall also be placed so as not to disturb the mature tree in the proposed vicinity of the trailers.
15. Construction easements for public street purposes shall be required as determined by the Director, DEM at the time of site plan review.
16. Parking lot lighting, if provided, shall be on poles not to exceed twelve (12) feet in height and shall be shielded in such a manner as to direct light only onto the parking lot.
17. Storm water drainage management may be required, in accordance with Article 6 of the Public Facilities Manual.

These conditions incorporate all applicable conditions of the previous special permit approvals.

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

Page 153 July 8, 1986, (Tape 2), (SPA 85-D-009-1, Temple Baptist Church, continued from Page 150)

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

//

Page 153 July 8, 1986, (Tape 2) Scheduled case of:

10:00 A.M. PASCAL J. TASHJIAN, VC 86-M-043, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 3.3 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207), located at 4124 Watkins Trail on approximately 16,525 square feet of land, zoned R-2, Mason District, Tax Map Reference 61-3((15))74.

Lori Greenlief, Staff Coordinator, presented the staff report.

Pascal Tashjian, the applicant, appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application. He added that the neighbors supported the proposal.

There being no speakers to this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant the variance subject to the development conditions as contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-043 by PASCAL J. TASHJIAN, under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 3.3 feet from side lot line, on property located at 4124 Watkins Trail, Tax Map Reference 61-3((15))74, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 8, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-2.
- 3. The area of the lot is 16,525 square feet of land.

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

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

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

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

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

6. That:

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

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

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

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

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

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

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

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

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

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1 with Mr. Smith voting nay; Mr. DiGiulian not present for the vote; Mr. Ribble absent from the meeting.

//

Page 154 July 8, 1986, (Tape 1) Scheduled case of:

10:10 A.M. BRIAN R. McENANY, VC 86-P-042, application under Section 18-401 of the Zoning Ordinance to permit construction of an enclosed porch to 13.8 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 2002 Wolftrap Oaks Court on approximately 8,582 square feet of land, zoned R-3, Providence District, Tax Map 39-1((28))7.

Lori Greenlief, Staff Coordinator, presented the Staff Report.

Brian McEnany, the applicant, appeared before the Board and explained the request as outlined in the staff report. He noted that he had the support of the neighbors.

There being no speakers to the application, Chairman Smith closed the public hearing.

Mrs. Day moved to grant the variance subject to the conditions as contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-042 by BRIAN R. McENANY, under Section 18-401 of the Zoning Ordinance to permit construction of an enclosed porch to 13.8 feet from rear lot line, on property located at 2002 Wolftrap Oaks Court, Tax Map Reference 39-1((28))7, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

155
155

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 8, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 8,582 square feet of land.

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

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

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-1 with Mr. Smith voting Nay; Mr. Ribble absent from the meeting.

//

Page 156, July 8, 1986, (Tape 2) Scheduled case of:

10:30 A.M. LAUREL LEARNING CENTER - SP-86-C-027, application under Section 6-303 of the Zoning Ordinance to permit a child care center, located at 2355D Hunter Woods Plaza, on approximately 15.281 acres of land, zoned PRC, Centreville District, Tax Map 26-1((7))3A. (OUT-OF-TURN HEARING GRANTED)

Lori Greenlief, Staff Coordinator, presented the Staff Report. Mrs. Greenlief noted that the location of the child care center in this shopping center is an appropriate use for the space and would not adversely affect the surrounding area. She further stated that staff recommended approval of this application subject to the revised development conditions which had been distributed to the Board this date noting the following changes: Condition #4: the addition of square footage that had been approved by the Board of Supervisors and allocated 24 parking spaces for the use; Condition #5: a maximum of 90 children and 12 employees on the premises at any one time; and Condition #6: another inspection by the Fairfax County Health Department to approve the site for 90 children.

In response to questions from Mrs. Day and Mr. Hammack, Mrs. Greenlief recommended that the hours of operation be added as a condition; explained that the number of children to use the school was not stated in the advertisement so the additional children could be added without readvertising; and the recreational area was located 350 feet from the school and access would be through the shopping mall.

Deborah McCormick, representing the applicant, emphasized that this day care center served children from low and moderate income families and pointed out that time was of the essence since the center is presently renting from Reston Land who plans to replace the building they are now in with new office space. Therefore, they must vacate. Mrs. McCormick stated that she had been searching for a site for over 1 1/2 years and this was the only suitable site found.

Following questions from Mr. Hammack, Mrs. McCormick stated that the walk to the recreational area would not be difficult for the small children and there would be adequate supervision and access would be entirely within the mall.

Chairman Smith called for speakers either in support or in opposition to this application.

Cathy Murphy of 11033 Barton Hill Court, representing Hunterswood Village Condominiums, explained that she was not really opposing the application but was concerned with the additional traffic this school would generate and pointed out there was a day care facility in the shopping mall at the present time which creates traffic congestion and parking problems within their condominium development.

During a discussion with Chairman Smith, Ms. Murphy noted that the cars from the shopping center were parking in the condominium lot rather than parking in the lower part of the shopping center and walking up to the stores.

Ms. Kelsey, Branch Chief, explained that Staff was not aware of any other day care facility in this shopping mall so she could not respond to any of the questions concerning that center.

Chairman Smith called Ms. Murphy back to the podium to respond to questions. Ms. Murphy stated she believed the existing child care center might accommodate at least 60 children and it is located on the back of the shopping mall.

During rebuttal, Ms. McCormick replied to the concerns expressed by the speaker by stating that she was well aware of the problems and that Laurel Center had tried to resolve them to the best of their ability.

In response to questions from the Board members, Ms. McCormick explained that escorting the children into the center by the Center's employees was not feasible due to the children arriving throughout the day. The shopping center's employees had been told to park as far away as possible in the shopping center parking lot.

A lengthy discussion followed between the Board members and Ms. McCormick with regard to the adequacy of the parking.

As there were no further speakers or discussion, Chairman Smith closed the public hearing.

Before making the motion, Mr. Hammack stated he was sympathetic but could not support the application due to the traffic impact, the play area being too far from the school, and he did not feel the application met General Standards #4 and #7. Therefore, Mr. Hammack made a motion that the application be denied.

Mrs. Thonen seconded the motion and expressed concerns with the children having to walk the 300 feet through the mall to the center and the 350 feet to the recreational facilities.

Following a discussion between the Board members, Mr. Hyland offered a substitute motion that this application be deferred for a sufficient period of time to allow the applicant to resolve these concerns. Mrs. Day seconded the motion which carried unanimously with Mr. DiGiulian not present for the vote and Mr. Ribble absent from the meeting. Ms. Kelsey stated that the case could be heard on July 15, 1986, at 11:45 a.m. and the Board so ordered.

//

Page 157, July 8, 1986, (Tape 3) Scheduled case of:

10:45 A.M. DARLENE STREVEY - VC 86-D-055, application under Sect. 18-401 of the Zoning Ordinance to permit the dwelling to remain 15.5 feet from lot line formed by pipestem (25 feet required by Sect. 2-416) located at 1680 Chain Bridge Road on approximately 17,659 square feet of land, zoned R-3, Dranesville District, Tax Map 30-3((1))57A. (OUT-OF-TURN HEARING GRANTED)

Marilyn Anderson, Staff Coordinator, presented the Staff Report.

Robert McGinnis of 120 N. Lee Street represented the applicant and explained the use as stated in the letter of justification contained in the file. Mr. McGinnis stated that the house was 60 years old and if the porch were removed it would ruin the appearance of the house.

Chairman Smith called for speakers in support or in opposition and as no one came forward, the public hearing was closed.

Mrs. Thonen moved to grant the application as she felt the applicant met all criteria.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-055 by DARLENE C. STREVEY, under Section 18-401 of the Zoning Ordinance to permit dwelling to remain 15.5 feet from lot line formed by pipestem, on property located at 1680 Chain Bridge Road, Tax Map Reference 30-3((1))57A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 8, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 17,659 square feet of land.

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

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

- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

- 1. This variance is approved for the location of the dwelling shown on the plat included with this application and is not transferable to other land.

Mr. Hyland seconded the motion and the motion carried by a vote of 4-0; Mr. Hammack and Mr. DiGiulian not present for the vote; Mr. Ribble absent from the meeting.

//

Page 158, July 8, 1986, (Tape 3) Scheduled case of:

10:45 A.M. ROBERT O. HOLLIDAY, JR. - VC 86-M-026, application under Section 18-401 of the Zoning Ordinance to permit construction of addition to dwelling to 17.5 feet from front lot line, (35 ft. min. front yard req. by Sect. 3-207), located at 3408 Fiddlers Green on approximately 22,474 square feet of land, zoned R-2, Mason District, Tax Map Reference 61-1((11))695. (Deferred for decision only from 6/24/86 for additional information.)

Robert Holliday of 3408 Fiddlers Green, the applicant, appeared before the Board and requested another deferral to allow time to readvertise plat changes that had occurred from his meeting with the Architectural Review Board in his subdivision.

Mrs. Thonen moved to grant a deferral to a date certain of August 5, 1986. Mr. Hyland seconded the motion which passed unanimously with Messrs. Hammack and DiGiulian not present for the vote; Mr. Ribble absent from the meeting.

//

Page 158, July 8, 1986, (Tape 3) After Agenda Item, Action #1:

ALAN J. HOFFMAN - VC 84-D-123

Mr. Hyland moved to grant the request for Additional Time for Alan J. Hoffman, Variance Application 84-D-123. Mrs. Thonen seconded the motion, which passed unanimously with Messrs. Hammack and DiGiulian not present for the vote; Mr. Ribble absent from the meeting.

//

159

Page 159, July 8, 1986, (Tape 3) After Agenda Item, Action #2:

FIRST VIRGINIA BANK - VC 84-A-077

Mr. Hyland moved to grant the request for Additional Time for First Virginia Bank, Variance Application 84-A-077. Mrs. Thonen seconded the motion, which passed unanimously with Messrs. Hammack and DiGiulian not present for the vote; Mr. Ribble absent from the meeting.

//

Page 159, July 8, 1986, (Tape 3) After Agenda Item, Action #3:

MINUTES - FEBRUARY 4, 1986

Mr. Hyland moved approval of the February 4 minutes of the Board of Zoning Appeals as submitted. Mrs. Day and Mrs. Thonen seconded the motion which passed unanimously with Messrs. Hammack and DiGiulian not present for the vote; Mr. Ribble absent from the meeting.

//

There being no other business, Chairman Smith adjourned the meeting at 1:15 P.M.

Patti M. Hicks

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

Betsy S. Hurtt

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

Daniel Smith

Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: October 24, 1986 APPROVED: October 28, 1986

159

Blank



The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 15, 1986. The following Board Members were present: Daniel Smith, Chairman; John F. Ribble III; Gerald Hyland; Ann Day; Paul Hammack and Mary Thonen. John DiGiulian, Vice-Chairman and Paul Hammack were absent from the hearing.

Chairman Smith opened the meeting at 9:38 A.M., and Mrs. Day led the prayer.

//

Page 161, July 15, 1986, (Tape 1) Scheduled case of:

9:00 A.M. GREATER SPRINGFIELD VOLUNTEER FIRE DEPARTMENT - VC 86-L-048, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to fire station to 68 ft. from I-95 right-of-way (75 ft. min. distance from interstate R-O-W req. by Sect. 2-414), located at 7011 Backlick Road on approximately 88,157 square feet of land, zoned R-1, Lee District, Tax Map Reference 90-2((1))21-A. (OTH GRANTED)

Lori Greenlief, Staff Coordinator, presented the Staff Report and pointed out that on May 19, 1986, the Board of Supervisors had approved an addition to the fire station.

John Ryan, President of the Fire Department in Springfield, of 8203 Station House Court represented the applicant and stated the justification and agreed with the Staff Report and pointed out that previous variances had been approved due to the odd shape of the lot.

Jane Kelsey, Branch Chief, clarified for the record that this requirement was in the Zoning Ordinance in order to assure there would be no adverse impact on the development from the noise that would be generated from the interstate.

Chairman Smith called for speakers in support or in opposition and hearing no reply, closed the public hearing.

Mrs. Thonen moved to adopt this application and stated the applicant had met all requirements and noted the odd shape of the lot.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-048 by GREATER SPRINGFIELD VOLUNTEER FIRE DEPARTMENT, under Section 18-401 of the Zoning Ordinance to permit construction of addition to fire station to 68 ft. from I-95 right-of-way, on property located at 7011 Backlick Road, Tax Map Reference 90-2((1))21-A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 15, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 88,157 square feet of land.

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

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

161

161

162
2

162

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

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

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

6. That:

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

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. Acoustical treatment for new construction shall be provided. In order to achieve a maximum interior noise level of 45 dBA Ldn in all units located within that area impacted by highway noise having levels between 70 and 75 dBA Ldn, all units within this impacted area should have the following acoustical attributes:
 1. Exterior walls should have a laboratory sound transmission class (STC) of at least 45, and
 2. Doors and windows should have a laboratory sound transmission class (STC) of at least 37. If "windows" function as the walls, then they should have the STC specified for exterior walls.
 3. Adequate measures to seal and caulk between surfaces should be provided.
5. All applicable approved conditions of SEA 83-L-084-1 shall be incorporated into this variance approval.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Mr. Hyland not present for the vote; Messrs. DiGiulian and Hammack absent from the meeting.

//

9:10 A.M. ANTHONY JOHN DYER - VC 86-L-028, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 11.2 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 6714 Hackberry Street on approximately 41,800 square feet of land, zoned R-1, Lea District, Tax Map 91-1((2))151.

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Anthony John Dyer, the applicant, stated that he had lived in this location for 17 years and he did not feel this use would adversely affect the neighborhood.

In response to questions from Mr. Ribble, Mr. Dyer explained that this was the only feasible location for the addition.

Chairman Smith called for speakers and as there were none, closed the public hearing.

Mrs. Day moved to grant the application in part subject to the following revision: "to permit construction of garage addition to dwelling to 14.2 feet from side lot line."

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-028 by ANTHONY JOHN DYER, under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 11.2 feet from side lot line*, on property located at 6714 Hackberry Street, Tax Map Reference 91-1((2))151, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 15, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 41,800 square feet of land.

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

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

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

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

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. *A garage addition may be constructed up to 14.2 feet from lot line.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0 with Mr. Hyland not present for the vote; Messrs. DiGiulian and Hammack absent from the meeting.

//

Page 164, July 15, 1986, (Tape 1) Scheduled case of:

9:20 A.M. GLORIA A. SCHEINKMAN - VC 86-S-029, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 3 feet from side lot line such that side yards total 14 feet, (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located at 8517 Greeley Boulevard on approximately 11,621 square feet of land, zoned R-3 (C), Springfield District, Tax Map Reference 89-1((9))76.

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Gary Scheinkman, the applicant, explained the use as stated in the justification statement submitted and passed out photographs to the Board.

At this time Chairman Smith called for speakers in support or opposition and hearing no reply, closed the public hearing.

Mr. Ribble stated that he felt the applicant had met the nine standards and moved to grant in part application VC 86-S-029 with the following revisions:

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-S-029 by GLORIA A. SCHEINKMAN, under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 3 feet from side lot line such that side yards total 14 feet*, on property located at 8517 Greeley Boulevard, Tax Map Reference 89-1((9))76, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 15, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 11,621 square feet of land.

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

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

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time

165

165

is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.
4. *A 14 foot wide enclosure may be constructed up to within 8 feet from side lot line with side yards totaling 19.5 feet.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Mr. Hyland not present for the vote; Messrs. DiGiulian and Hammack absent from the meeting.

//

Page 1166, July 15, 1986, (Tape 1 and Tape 2) Scheduled case of:

9:30 A.M. DAVID R. AND DOLORES I. HAWKS & SMC - GREENCASTLE, INC., VC 86-P-037, application under Section 18-401 of the Zoning Ordinance to permit subdivision into three (3) lots, one lot having width of 15.51 feet (150 ft. min. lot width req. by Sect. 3-106), located at 10600 Marbury Road on approximately 6.62 acres of land, zoned R-1, Providence District, Tax Map Reference 47-2((1))1 & Outlot "C".

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Randy Minchew of Hazel, Beckhorn and Hanes represented the applicant and explained the use as stated in the justification statement submitted with the application and noted that the easternmost lot would be reconfigured to comply with the recommendations of the Comprehensive Plan.

In responding to questions from the Board, Mr. Minchew stated that the lots would be served by septic fields. He further stated that the applicant would not agree to subdividing into two lots rather than three as requested by some members of the Board.

Chairman Smith called for speakers in support of this application and David Hawks, the applicant, stated that he would be willing to modify the proposed subdivision plan, readjusting the lot lines in order to comply with the recommendations of the Comprehensive Plan.

Mr. Guinaw noted for the record that the subdivision adjacent to this site was an approved cluster subdivision which provided designated open space and other amenities as part of its development. In addition, with regard to the standards which must be considered in evaluating a variance application, he noted that there is no extraordinary situation or condition surrounding this property, that the applicant has not demonstrated any hardship, and the applicant currently has reasonable use of the land. The parcel could be subdivided into two lots without a variance, which would better maintain the character of the area and protect the environmentally sensitive features of the site.

At this time, Mr. Minchew requested a deferral so that the plats could be revised.

Mrs. Thonen moved to defer this case until September 16, 1986 at 9:00 A.M. Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. DiGiulian and Hammack absent from the meeting. Mr. Hyland not present for the vote.

Chairman Smith told the applicant if he decided to subdivide into two lots to notify staff as he would not need a variance to do this.

//

Page 1166 July 15, 1986, (Tape 2), Scheduled case of:

9:50 A.M. FRANKLIN D. AND IRENE Z. BURTON, VC 86-M-039, application under Section 18-401 of the Zoning Ordinance to permit construction of addition to dwelling to 10.3 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 6218 Everglades Drive on approximately 10,500 square feet of land, zoned R-3, Mason District, Tax Map Reference/61-4((6))(P)19.

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Franklin Burton, the applicant, explained the nature of the use as stated in the letter of justification submitted with the application. Mr. Burton stated that he wished to modify the plat.

Chairman Smith told the applicant that the Board did not consider anything but the variance request as presented in the application.

Following a discussion between Board members and the applicant, the applicant requested a deferral so that he could amend the plats and come back to the Board.

Chairman Smith made a motion to defer this case until September 30, 1986, at 9:00 A.M. and Mrs. Thonen seconded the motion with Mr. Hyland not present for the vote; Messrs. DiGiulian and Hammack absent from the meeting.

//

At this time Gary Scheinkman, the applicant of VC 86-S-029 that been heard earlier at this hearing, requested a waiver of the 12 month waiting period. Mr. Ribble moved to grant this request and Mrs. Thonen seconded the motion which passed 4-0 with Mr. Hyland not present for the vote; Messrs. DiGiulian and Hammack absent from the meeting.

//

Page 167, July 15, 1986, (Tape 2), Scheduled case of:

10:00 A.M. MEHRDAD YAVARI & CARRIE B. YAVARI - VC 86-M-045, application under Section 18-401 of the Zoning Ordinance to permit construction of a six (6) foot high fence along front lot line (4 ft. max. height for fence in front yard limited by Sect. 10-104), located at 5008 Philip Road on approximately 1.1726 acres of land, zoned R-1, Mason District, Tax Map 71-3((2))13.

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Barry A. Schneiderman of Kincheloe and Schneiderman represented the applicant and explained the justification for the request.

In response to questions from Board members, Mr. Schneiderman stated that there are many small children in the neighborhood and did not feel this would detract from the neighborhood.

Chairman Smith called for speakers and Ms. Mary Sugdo of 5100 Kenwood Drive came forward and opposed the application because she felt this would set a precedent in the neighborhood.

During his rebuttal, Mr. Schneiderman explained this road did have fast moving traffic and did not feel this would set a precedent in the neighborhood.

Since there were no further speakers, Chairman Smith closed the public hearing.

Prior to making his motion, Mr. Ribble stated that he felt the applicant did not meet the standards and did feel this did not create a hardship for the applicant.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-045 by MEHRDAD YAVARI AND CARRIE B. YAVARI, under Section 18-401 of the Zoning Ordinance to permit construction of a (6) six foot high fence along front lot line, on property located at 5008 Philip Road, Tax Map Reference 71-3((2))13, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 15, 1986; and

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

167
167

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 1.1726 acres of land.

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

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

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

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

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

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Mr. Hyland not present for the vote; Messrs. DiGiulian and Hammack absent from the meeting.

//

Page 168, July 15, 1986, (Tape 2), Scheduled case of:

10:10 A.M. FAIRFAX CHURCH OF CHRIST, SP 86-C-022, application under Section 3-103 of the Zoning Ordinance to permit nursery school building addition to existing church and related facilities, located at 3901 Rugby Road on approximately 3.68 acres of land, zoned R-1, Centreville District, Tax Map 45-2((2))33, 34.

Kevin Guinaw, Staff Coordinator, presented the staff report. Mr. Guinaw pointed out that the church had received DEM's approval in 1983 for a development plan for additional parking which called for a 15 foot screening boundary, yet only a 5 foot yard had been provided. In addition, no internal parking lot landscaping had been provided.

Mr. Hyland asked staff if these concerns had been discussed with the applicant and Mr. Guinaw replied that they had.

Michael LeMay of 1201 East Evanton Drive represented the applicant and explained the nature of the use as stated in the justification statement submitted with the application.

Chairman Smith called for speakers in support of the application and Michael Root of 4101 Mount Echo Lane, minister of the church, came forward and stated that he had pastored the church for seven years and pointed out the growth of both the church and community in that time.

During closing comments, Mr. LeMay stated this would make only a minimal impact on the surrounding neighborhood; the total seating capacity including floor and mezzanine was 400; the additional parking spaces were requested due to the overlap of activities; and to meet the parking lot landscaping requirement would result in a loss of approximately 11 parking spaces and cost \$17,000 to \$18,000.

Following questions from the Board, Mr. Guinaw stated that to add the landscaping would not be as disruptive as indicated by the applicant and the applicant had been made aware of this requirement prior to today.

Ms. Kelsey, Branch Chief, pointed out that the parking requirement for this use had been based on 240 seats, as noted in the application, and an increase in the number of seats was not considered since staff did not know there were 400 seats. The pastor of the church indicated that the 400 seats were added in 1979 and they did not know they needed Special Permit approval.

//

REVISED

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-022 by FAIRFAX CHURCH OF CHRIST, under Section 3-103 of the Zoning Ordinance to permit building addition to existing church and related facilities, on property located 3901 Rugby Road, Tax Map Reference 45-2((2))33,34, 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 15, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 3.68 acres of land.

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

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

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

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

170

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

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The seating capacity of the main worship area shall not exceed 400.
6. The minimum number of parking spaces provided shall be 100.
7. Interior parking lot landscaping shall be provided in accordance with Article 13 as long as it can be designed without loss of parking spaces.
8. Hours of operation shall be those of normal church activities.
9. A trail shall be provided in accordance with the Countywide Trails Plan at the time of site plan review.
10. Transitional Screening 1 shall be provided on all lot lines with the following modifications:
 - o existing screening yards shall be deemed to satisfy the yard requirements on the southern and western boundaries.
 - o on the northern boundary, a 15 foot transitional screening yard shall be provided.
 - o existing vegetation shall be used where to satisfy screening requirements, and supplemented where necessary, as determined by the County Arborist.
 - o Along the front lot line, plantings within the transitional screening yard shall be modified to allow landscape plantings to soften the visual impact of the building from the adjacent residential properties and streets. The size, type, and amount of such plantings shall be determined by the County Arborist.

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mr. DiGiulian and Mr. Hammack absent from the meeting.

//

Page 170, (Tape 3), July 15, 1986, Scheduled case of:

10:30 A.M. LIVING SAVIOR LUTHERAN CHURCH, SP 86-S-023, application under Section 3-C03 of the Zoning Ordinance to permit nursery school, church and related facilities, located at 5540 Ox Road on approximately 3 acres of land, zoned R-C & WSP0D, Springfield District, Tax Map Reference 68-3((1))50A.

Mr. Guinaw reported that the applicant had requested a deferral to resolve transportation issues. Ms. Kelsey advised that staff was recommending a new public hearing date of July 31, 1986 at 11:30 a.m.

Mrs. Thonen moved to defer SP 86-S-023, Living Savior Lutheran Church to a date certain of July 31, 1986 at 11:30 a.m. The motion carried by a vote of 4-0 with Mr. Hyland not present for the vote; Messrs. DiGiulian and Hammack absent from the meeting.

//

Page 171, July 15, 1986, (Tape 3), Scheduled case of:

11:45 A.M. LAUREL LEARNING CENTER, SP 86-C-027, application under Section 6-303 of the Zoning Ordinance to permit a child care center, located at 2355D Hunter Woods Plaza, on approximately 15.281 acres of land, zoned PRC, Centreville District, Tax Map 26-1((7))3A. (DEFERRED FROM 7/8/86)

Lori Greenlief, Staff Coordinator, advised the Board that staff had been working with the applicant to resolve the issue of parking. The Board had been presented with an Addendum to the staff report with revised development conditions.

Bill Grady, the landlord for Laurel Learning Center, appeared before the Board and informed it that he would be willing to provide a designated parking area for the Laurel Learning Center. Following a question from Mrs. Thonen, Mr. Grady stated that there would be no additional parking along the curb and reiterated that parents would be picking-up and dropping-off their children in the designated parking area. Mr. Grady added that parents/adults must accompany the children from their vehicle to the school.

There being no other comments or questions, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant the special permit for the Laurel Learning Center, subject to the revised conditions contained in the staff report.

//

COUNTY OF FAIRFAX VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-027 by LAUREL LEARNING CENTER, under Section 6-303 of the Zoning Ordinance to permit a child care center, on property located at 2355D Hunter Woods Plaza, Tax Map Reference 26-1((7))3A, 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 15, 1986; and

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

1. That the applicant is the contract purchaser/lessee.
2. The present zoning is PRC.
3. The area of the lot is 15.281 acres of land.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require

a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit. This approval should not be construed to prevent unrelated community activity associated with the Reston Interfaith Corporation within this space when the child care center is not in operation.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The Laurel Learning Center shall occupy the space in the Hunter's Woods Village Shopping Center which was originally allocated to the Fairfax County Library and converted to 4,092 square feet of retail sales area plus approximately 1,140 square feet of additional area which was not originally allocated to the Library. Thus, the twenty-four (24) parking spaces allocated for the retail area shall be reallocated to serve the child care center.
5. This approval is for a maximum of 90 children and 12 employees.
6. The applicant shall obtain Fairfax County Health Department approval for a maximum of 90 children.
7. The play area shall be fenced in accordance with Fairfax County Health Department standards.
8. The hours of operation for the Laurel Learning Center shall be from 7:00 a.m. to 6:30 p.m., Monday through Friday.
9. The applicant shall implement a sign-in program whereby parents will be required to register their child or children each time they are brought to the Center.
10. The applicant shall enter into a written agreement with the employees of the Laurel Learning Center which indicates that they will park in the outskirts of the parking lot of the Hunter's Woods Village Shopping Center.
11. The applicant shall restrict entry through the back door to the center during the hours the children are dropped off and picked up.

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

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

Mrs. Day seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hammack absent from the meeting.

//

Page 172, July 15, 1986, (Tape 3), Scheduled case of:

10:50 A.M. CHARLES W. & CAROL A. PETERSEN, SP 86-S-025, application under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit dwelling to remain 21.6 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-C07), located at 4410 Carrier Court on approx. 13,261 square feet of land, zoned R-C, Springfield District, Tax Map Reference 33-4((2))378.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that the source of the error was unclear. He indicated he had requested additional information from the applicant but had not received it; therefore, staff did not make a recommendation.

William (Mac) Arnold, of Cowles, Rinaldi and Arnold, representing the applicant, appeared before the Board and explained how the error occurred.

There being no speakers to speak to this application, Chairman Smith closed the public hearing.

173
173

Mrs. Thonen moved to grant SP 86-S-025 subject to the development conditions contained in the staff report.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-025 by CHARLES N. & CAROL A. PETERSON, under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit dwelling to remain 21.6 feet from rear lot line, on property located at 4410 Carrier Court, Tax Map Reference 33-4((2))378, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 15, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-C.
3. The area of the lot is 13,261 square feet of land.

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

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

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

1. This approval is granted only for the location of the garage indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land. Any structure erected on top of the garage shall comply with all applicable Zoning Ordinance provisions.
2. An amended Building Permit reflecting location of the garage shall be submitted and approved.
3. A row of evergreen plantings shall be provided between the dwelling and the rear lot line to screen the view of the structure from adjacent lots.

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

//

Page 173, (Tape 3), July 15, 1986, Scheduled case of:

11:10 A.M. HERBERT & BEATRICE KREINIK - VC 86-D-006, application under Section 18-401 of the Zoning Ordinance to permit a six (6) ft. high fence to remain in the front yard abutting a pipestem driveway (4 ft. max. height for fence in any front yard req. by Sect. 10-104), located at 9375 Robnel Place on approximately 13,000 square feet of land, zoned R-2 Cluster, Dranesville District, Tax Map 19-4((20))18. (WAIVER OF THE 12 MONTH LIMITATION)

Mr. Hyland moved to grant the request for waiver of the 12 month limitation on rehearing VC 86-D-006, Herbert & Beatrice Kreinik.

Mr. Ribble seconded the motion which passed by a vote of 3-2 with Messrs. Hammack and DiGiulian absent from the meeting.

//

114
Page 174 (Tape 3), July 15, 1986, Scheduled case of:

11:30 A.M. LINDA SELIGMAN - SP 85-L-065, application under Section 3-303 of the Zoning Ordinance to permit a Home Professional Office (Counseling), located at 6114 Lynley Terrace on approximately 11,153 square feet, zoned R-3 & HC, Lee District, Tax Map 81-4((23))18. (WAIVER OF THE 12 MONTH LIMITATION)

Mr. Nyland moved to grant the request for waiver of the 12 month limitation on rehearing SP 85-L-065, Linda Seligman.

The motion failed by a vote of 2-3 with Mr. Hammack and Mr. DiGiulian absent from the meeting.

//

Page 174 (Tape 3) July 15, 1986, AFTER AGENDA ITEM 1

Additional Time Request for Barcroft Bible Church
SP 83-A-092

Mrs. Day moved to grant a three month extension for the Barcroft Bible Church.

Mrs. Thonen seconded the motion which passed unanimously with Messrs. DiGiulian and Hammack absent from the meeting.

//

There being no other business, Chairman Smith adjourned the meeting at 1:30 P.M.

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

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

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: October 21, 1986 APPROVED: October 28, 1986

174

175

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 22, 1986. The following Board Members were present: Daniel Smith; Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack. Mary Thonen and John F. Ribble, III were absent from the meeting.

Chairman Smith opened the meeting at 8:22 P.M., and Mrs. Day led the prayer.

//

Mr. Hyland announced that with regard to the scheduled case at 9:00, Church of Jesus Christ of Latter Day Saints, SP 86-C-037, an appeal had been filed to challenge the Zoning Administrator's decision that the special permit had expired. Therefore the case could not be heard and would have to be deferred.

Ms. Kelsey of the staff announced that the next available date for the appeal would be October 7, 1986 at 9:00 A.M. and SP 86-C-037 could be heard at 9:15 A.M. also on October 7, 1986.

James Rees, attorney representing The Church of Jesus Christ of Latter Day Saints, was present to answer questions of the Board.

Mr. Hyland so moved and Mrs. Day seconded the motion which passed unanimously with Mr. Ribble and Mrs. Thonen absent from the meeting.

//

Page 175 July 22, 1986, (Tape 1), Scheduled case of:

8:00 P.M. INTERNATIONAL TOWN AND COUNTRY CLUB, INCORPORATED - SPA 82-C-037-2, application under Section 3-103 of the Zoning Ordinance to amend S-82-C-037 for a country club to permit lighting on existing tennis courts to remain and change hours of operation to 9:00 A.M. until 10:45 P.M. daily for seven months a year, located at 13200 Lee Jackson Highway on approximately 240.87 acres of land, zoned R-1, Centreville District, Tax Map 45-1((1))11. (DEFERRED FROM 4-22-86).

Marilyn Anderson, Staff Coordinator, presented the staff report and advised the Board that staff's original concerns were the 50 foot high poles for lighting. She added that staff had recommended that the height only be 25 feet but that the applicant had requested an opportunity to contact the manufacturer to see if there was some way to shield the lights. The applicant has now installed shields for the lights. Mrs. Anderson reported that she had inspected the site and that there was no longer a glare from the lights and that staff was now recommending a change to condition number eight: That the height of poles for lighting be changed to 50 feet.

George Ragland, attorney representing the applicant, was available for questions by the Board.

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

Mr. Hammack moved to grant SPA 82-C-037-2, International Town and Country Club, Inc., subject to the conditions contained in the staff report with the staff recommended change to condition number eight: That the height of the poles for lighting be changed to 50 feet.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 82-C-037-2 by INTERNATIONAL TOWN AND COUNTRY CLUB, under Section 3-103 of the Zoning Ordinance to amend S-82-C-037 for a country club to permit lighting on existing tennis courts to remain and change hours of operation to 9:00 A.M. until 10:45 P.M. daily for seven months a year, on property located at 13200 Lee Jackson Highway, Tax Map Reference 45-1((1))11, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 22, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 240.87 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening 1 shall be modified to allow the existing vegetation to satisfy this requirement.
6. The existing chain link fence shall remain as it is currently located and the remaining barrier requirement along all other lot lines shall be waived.
7. There shall be two hundred (200) parking spaces.
8. All lighting for this use shall be directed on-site and shielded, if necessary, to prevent light or glare from projecting off of the application property. Lighting for the tennis courts shall be in accordance with the following:
 - o The combined height of the light standards and fixtures shall not exceed fifty (50) feet.
 - o The lights shall be a low-intensity design which directs the light directly onto the facility.
 - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the courts and parking lot areas.
9. All noise shall be in accordance with Chapter 108 of the Fairfax County Code.
10. The hours of operation for the tennis courts and tennis pro shop shall be 9:00 A.M. to 10:45 P.M., April 1 through October 31 annually.
11. The applicant shall make available the needed land should service road construction become necessary in the future.

The above conditions incorporate all applicable conditions of the previous approvals.

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

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

177

Mr. Hyland seconded the motion.

The motion carried by a vote of 5-0 with Mr. Ribble and Mrs Thonen absent from the meeting.

//

Page 177, July 22, 1986, (Tape 1), Scheduled case of:

8:15 P.M. VICTOR O. AND SURAYA MONDINO - SP 86-P-028, application under Section 3-103 of the Zoning Ordinance to permit a child care center located at 2159 Chain Bridge Road, on 20,991 square feet of land, zoned R-1 & HC, Providence District, Tax Map Reference 39-1((3))19A.

Marilyn Anderson, Staff Coordinator, presented the staff report and advised the Board that due to a number of concerns, staff was recommending denial of the proposal. These concerns involved transportation issues, lack of the required transitional screening, intensity of the use on the small site, and that the existing structure does not meet the floor area ratio (FAR) for the lot. In addition, the building does not meet the yard requirement along the side lot line, to the rear of the building. A variance was approved previously to allow a single family dwelling to be constructed closer to the side lot line. However, the Zoning Administrator has ruled that since this is a change in the use, a variance will be necessary to implement this use in this dwelling..

Bernard Fagelson, attorney representing the applicant, appeared before the Board and explained the use as outlined in the statement of justification. Mr. Fagelson submitted a petition from the citizens on Horseshoe Drive in support of the application. He added that the structure did not exceed the maximum allowable FAR. With regard to the service drive, Mr. Fagelson suggested that at such time as the State requires the service drive, that the special use permit would expire because the service drive would take most of their lot. At this time, Mr. Fagelson introduced Steven Peterson, traffic consultant to address the transportation issues.

Steven Peterson, traffic consultant for the applicant, appeared before the Board and disagreed with staff's analysis of the traffic situation and added that not all of the trips generated would come from Horseshoe Drive. Mr. Peterson suggested that the U-turn was not dangerous due to a traffic signal on Route 123 to the north which would allow gaps in traffic. He added that there was room to stack four cars in the left turning lane, therefore the use was not unreasonable from a traffic standpoint.

Chairman Smith called for speakers in support of the proposal and the following people came forward: Kent Carson, 2119 Twin Mill Lane, appeared before the Board in support of the application and expressed the opinion that there would be no traffic impacts due to the proposal. Karen Speroni, 1100 Maple Avenue, and C.E. Clark, 102 Patrick Street, also appeared before the Board in support of the proposal. Arlene Mabrey, 2404 Cedar Lane, and Linda Long, Parakeet Drive, also appeared in support of the application..

Chairman Smith then called for speakers in opposition to the proposal and Fred Wood, representative for Westbriar Civic Association, 1005 Fairway Drive, and E. Ross Buckley, 108 St. Andrews Drive, and Richard Bier, 1951 Horseshoe Drive, came forward and expressed concern for traffic impacts. Mr. Buckley suggested that the Board defer the case to allow the Town of Vienna an opportunity to review the case.

In rebuttal, Mr. Peterson reiterated his position concerning the traffic impacts.

As there were no other speakers, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant the application subject to the conditions submitted by the staff and revised by the Board.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-028 by VICTOR O. AND SURAYA MONDINO, under Section 3-103 of the Zoning Ordinance to permit a child care center, on property located at 2159 Chain Bridge Road, Tax Map Reference 39-1((3))19A, 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, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1 and HC.
- 3. The area of the lot is 20,991 square feet of land.

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

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

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
- 5. This approval is not valid until a variance of the minimum yard requirement is obtained to permit the building to be located within a minimum front yard and a minimum side yard.
- 6. The maximum daily enrollment shall be 39 children.
- 7. The maximum hours of operation shall be 6:30 a.m. to 6:30 p.m., Monday through Friday.
- 8. Transitional Screening shall be as shown on the plat submitted with this application.
- 9. A minimum/maximum of eight (8) parking spaces shall be provided.
- 10. If parking lot lighting is installed, such lighting shall be the low intensity type on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.
- 11. Signs shall be in accordance with the provisions of Article 12, Signs.
- 12. The maximum F.A.R. shall be 0.15.
- 13. The applicant will dedicate the required right-of-way for the service drive along Chain Bridge Road at such time as VDH&T is prepared to construct the service drive through this property as well as the property immediately to the north.

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

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

179
179

Mr. Hyland seconded the motion which *failed by a vote of 2-3 with Mrs. Day, Messrs. Hammack and Mr. Smith voting nay; Mr. Ribble and Mrs. Thonen absent from the meeting.

//

Page 179 July 22, 1986, (Tape 1) Scheduled case of:

8:30 P.M. RONALD DERR - SP 86-V-015, application under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit 12 foot high disk antenna to remain on a side lot line, and 15.9 foot high shed to remain 1.9 feet from side lot line and 2.0 feet from rear lot line (10 ft. min. side yard for both structures, 15.9 ft. min. rear yard for shed req. by Sects. 3-407 and 10-104), located at 6103 Bangor Drive on approximately 6,595 square feet of land, zoned R-4(HC), Mount Vernon District, Tax Map 83-3((9))(4)2. (DEFERRED FROM 6/10/86 TO RECEIVE ADDITIONAL INFORMATION)

Marilyn Anderson, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the application subject to the conditions contained in the staff report.

Ronald Derr, the applicant, appeared before the Board and explained that he was unaware of the minimum yard requirements.

Edward Fetterall, 2601 Fairhaven Avenue, appeared before the Board in support of the application.

As there were no other comments or questions, Chairman Smith closed the public hearing.

Mrs. Day expressed the opinion that the error had been made in good faith and therefore, moved to grant the special permit subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-V-015 by RONALD DERR, under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit 12 foot high disk antenna to remain on a side lot line, and 15.9 foot high shed to remain 1.9 feet from side lot line and 2.0 feet from rear lot line, on property located at 6103 Bangor Drive, Tax Map Reference 83-3((9))(4)2, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 22, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-4(HC).
3. The area of the lot is 6,595 square feet of land.

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

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

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

1. This special permit is granted for the location of the dish antenna and the shed indicated on the plat submitted with this application and is not transferable to other structures on the same land.
2. Building Permits shall be obtained for the dish antenna and for the shed.

Mr. Hyland seconded the which carried by a vote of 4-1 with Mr. Smith voting no; Mr. Ribble and Mrs. Thonen absent from the meeting.

//

8:40 P.M. ROBERT L. ADAMS - VC 86-D-021, application under Section 18-401 of the Zoning Ordinance to permit subdivision into 3 lots, 2 of which have proposed lot width of 5 feet each (80 ft. min. lot width req. by Sect. 3-306), and to permit existing dwelling to remain 15.1 feet from the contiguous pipestem driveway (25 ft. min. front yard req. by Sect. 2-416), located at 1686 Chain Bridge Road on approximately 1.336 acres of land, zoned R-3, Dranesville District, Tax Map Reference 30-3(1)58. (DEF. FROM 6/10/86)

Marilyn Anderson, Staff Coordinator, presented the staff report. She reminded the Board that the case had been deferred by the Board of Zoning Appeals who had directed the applicant to submit a new site plan which showed the driveway easement sharing the first 140 feet with lot 5A. She added that the Department of Environmental Management would approve the site plan. Mrs. Anderson also pointed out that there were revised development conditions and number four was corrected to note that the driveway was to be shared with lot 57A for a distance of 140 feet and the driveway easement must be recorded with deed to the property to issue future access to these lots via a common driveway.

Chairman Smith noted that the public hearing had been completed for this application and that the case had been deferred for questions and answers.

Robert Adams, the applicant, appeared before the Board to answer questions.

There being no other comments or questions, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant the variance subject to the revised development conditions.

Note: See master file for a copy of the verbatim excerpt.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-021 by ROBERT L. ADAMS, under Section 18-401 of the Zoning Ordinance to permit subdivision into 3 lots, 2 of which have proposed lot width of 5 feet each and to permit existing dwelling to remain 15.1 feet from the contiguous pipestem driveway on property located at 1686 Chain Bridge Road, Tax Map Reference 30-3(1)58, 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 1.336 acres of land.

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

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

181
181

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

6. That:

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

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

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

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

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

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

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

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

1. This variance is approved for the subdivision of one (1) lot into three (3) lots, with a minimum lot width of not less than five (5) feet for Lots 6B and 6C. This approval is for the subdivision as shown on the plat except that minor lot line adjustments which do not affect the approved variance shall be permitted.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The subdivision of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code, and other applicable requirements of the Public Facilities Manual.
4. Access to all three (3) lots shall be via the pipestem driveway from Chain Bridge Road and adequate sight distance must be demonstrated and approved by VDM&T at this location. It is understood that this driveway is shared with lot 57A for a distance of 140 feet and the driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway. The driveway shall be constructed in accordance with the Public Facilities Manual.
5. Dedication of right-of-way for public street purposes shall be provided to accommodate the improvement of Chain Bridge Road. The amount of dedication and alignment shall be determined by the Director, Department of Environmental at the time of subdivision plat review. In addition, the applicant shall provide temporary grading easements for future road improvements.
6. A four (4) foot concrete sidewalk shall be provided along the Chain Bridge Road frontage of the property as determined by DEM at the time of subdivision plat approval.
7. The existing dwelling on Lot 6A shall be permitted to remain 15.1 feet from the contiguous pipestem driveway.
8. All three (3) lots shall be served by public sewer and water.

This variance is approved for the subdivision of one (1) lot into three (3) lots, with a minimum lot width of not less than five (5) feet for Lots 6B and 6C. This approval is for the subdivision as shown on the plat except that minor lot line adjustments which do not affect the approved variance shall be permitted.

Mr. DiGiulian seconded the motion.

The motion *failed by a vote of 3-2, 4 affirmative votes being necessary to approve a variance application. Mrs. Day and Mr. Smith voting nay; Mr. Ribble and Mrs. Thonen absent from the meeting.

At this time, Mr. Adams requested a waiver of the 12 month limitation on rehearing VC 86-D-021.

Chairman Smith called for speakers to determine if there was any opposition to the request and George Atkisson, 10194 Hillington Court, Marty De La Vega, 1686 Chain Bridge Road, and Michael Markovic, 1684 Chain Bridge Road, supported the request.

Mr. Hyland then moved to grant the request for waiver of the 12 month limitation on rehearing VC 86-D-021.

The motion was seconded by Mr. DiGiulian and passed by a vote of 3-2 with Mrs. Day and Mr. Smith voting nay; Mr. Ribble and Mrs. Day absent from the meeting.

//

Page 182, July 22, 1986, (Tape 2), Scheduled case of:

9:00 P.M. FRANCES L. GROS - VC 86-D-031, application under Section 18-401 of the Zoning Ordinance to permit subdivision into two (2) lots, proposed Parcel A having width of 59.61 feet (70 ft. min. lot width req. by Sect. 3-406), located at 2313 Highland Avenue on approximately 24,168 square feet of land (0.5548 acres), zoned R-4, Dranesville District, Tax Map Reference 40-4((10))(A)45, 46, 47, 48. (DEF. FROM 6/24 & 7/8/86)

Jane Kelsey, Branch Chief, presented the staff report and advised the Board that a public hearing had been held and the application had been deferred to obtain further information from the Zoning Administrator as to whether or not two existing lots (lot 48 and lot 45) could be removed from the building lot and therefore available for construction of a new dwelling. She added that the Zoning Administrator indicated that the two lots could be removed and if a dwelling could be constructed which would meet the Zoning Ordinance requirements then a building permit could be issued.

Following a question from Mr. DiGiulian, Ms. Gros noted that the side yard requirements were 10 feet on each side.

Chairman Smith clarified for Ms. Gros that she could build on three lots by right provided she could meet the Zoning Ordinance requirements or could pursue the variance request.

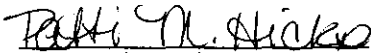
Ms. Gros requested a deferral to allow her time to evaluate her choices.

Chairman Smith called for speakers and Carleen Esposito, 6906 Willow Street, appeared before the Board in opposition to the application. She reiterated that the neighbors were opposed to the development of undersized lots.

Ms. Kelsey suggested a new hearing date of September 9, 1986 at 9:00 A.M. There being no objection, Chairman Smith so ordered.

//

There being no other business, Chairman Smith adjourned the meeting at 11:13 P.M.


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


Daniel Smith, Chairman
Board of Zoning Appeals

October 21, 1986
Date Submitted

October 23, 1986
Date Approved

183

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 29, 1986. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland, Ann Day, Paul Hammack, Mary Thonen and John F. Ribble, III; John DiGiulian, Vice Chairman, was absent from the meeting.

Chairman Smith opened the meeting at 9:51 A.M. and Mrs. Day led the prayer.

//

Page 183, July 29, 1986, (Tape 1), Scheduled case of:

9:00 A.M. DONALD T. & GABRIELLE H. WILLIAMSON, A 86-L-005, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that an accessory structure on the subject property is in compliance with the Zoning Ordinance, located at 6362 Brampton Court on approximately 2,208 square feet of land, zoned R-12, Lee District, Tax Map Reference 72-3((26))25. NOTICES NOT IN ORDER

As notices were not in order in this case, the Board deferred the public hearing to October 14, 1986, at 9:00 A.M.

//

9:40 A.M. MARGARET J. (MILLER) MOWBRAY, VC 86-L-041, application under Section 18-401 of the Zoning Ordinance to permit construction of a roofed deck 10 feet from side lot line and a porch 34.5 feet from front lot line (30 ft. min. side yard, 40 ft. min. front yard req. by Sect. 3-107), located at 6282 Wills Street on approximately 11,220 square feet of land, zoned R-1 & HC, Lee District, Tax Map Reference 91-1((6))4. NOTICES NOT IN ORDER

As the notices were not in order in this case, the Board deferred the public hearing to October 14, 1986, at 9:30 A.M.

//

9:50 A.M. THOMAS EDWARD MELHUISH - VC 86-C-046, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 10.2 feet from side lot line (20 ft. min. side yard required by Section 3-107), located 1642 Irvin Street, on approximately 21,781 square feet of land, zoned R-1, Centreville District, Tax Map 28-4((10))39.

Lori Greenlief, Staff Coordinator, presented the staff report and stated this request is to extend the existing carport and convert it into a garage.

Tom Melhuish of 1642 Irvin Street, the applicant, explained the nature of the request as stated in the justification statement submitted with the application and informed the Board there were other two car garages in the neighborhood.

Chairman Smith called for speakers either in support or in opposition to this application and hearing no reply, closed the public hearing.

Before making her motion, Mrs. Thonen stated that the garage could not be located elsewhere on the property and most of the houses in the neighborhood have 10-foot setbacks.

Mrs. Greenlief clarified that the R-3 zoning to the east does have a smaller setback of either 10 or 12 feet.

Mrs. Thonen further stated that she did not feel this application would have an adverse affect on the neighborhood, would not change the zoning district, and she would therefore move to grant this application.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-C-046 by THOMAS EDWARD MELHUISH, under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 10.2 feet from side lot line, on property located at 1642 Irvin Street, Tax Map Reference 28-4((10))39, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 29, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 21,781 square feet of land.

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

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

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

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

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

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

Mrs. Day and Mr. Hyland seconded the motion.

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

//

184

10:00 A.M. POOR SISTERS OF ST. JOSEPH, INC., SPA 80-M-078-1, application under Section 3-303 of the Zoning Ordinance to amend S-80-M-078 for a child care center to permit additions to building and playground and increase in maximum number of children from 59 to 99, located at 4319 Sano Street on approximately 4.62 acres of land, zoned R-3, Mason District, Tax Map Reference 72-2((1))20.

185

Lori Greenlief, Staff Coordinator, presented the staff report and stated that staff was concerned with the traffic impact generated by the increased number of children and was requesting that road improvements be provided by the applicant.

In response to questions from Mr. Hyland, Ms. Kelsey, Branch Chief, noted that to her knowledge staff has not recommended approval of any day care centers for more than 75 children on a local street.

William F. Enderle of 200 N. Glebe Road represented the applicant and pointed out that the architect and the administrator of the school, Mother Carmen, were both present to respond to questions. Mr. Enderle stated that he felt the day care center was the best he had ever seen and did not agree with staff's concerns regarding transportation. He entered into the record letters in support from parents whose children are presently attending the school and a petition signed by some of the surrounding neighbors.

Following a lengthy discussion regarding transportation, Mr. Enderle stated that many of the children for the day care center came from Queen Apostle School adjacent to the center and some families had more than one child attending the day care center. He did agree to a condition with regard to car pooling which he explained that was already encouraged by the school.

Chairman Smith called for speakers in support and Peter A. Juampere, the architect, came forward and pointed out that the road improvements requested by staff would be too costly for the school.

Christine Haapala of 630 Merle Place told the Board that she had two children who presently attended the school and asked them to approve the increase in the number of children as it was needed to accommodate those on a waiting list.

As there were no other speakers, Chairman Smith entered into the record a letter from Paul Gesalman of 6301 Hillcrest Place who was opposed to the increase in the number of children and then Chairman Smith closed the public hearing.

Mrs. Day moved to adopt the application with the following changes: Condition #8 the number of children should be changed from 75 to "99" and the ages should be "2 to 12 years"; the southern driveway becomes the "northern" driveway; and, Condition #12 should be reworded as follows, "The applicant shall contact the Board of Zoning Appeals Support Branch by letter two years after issuance of the NON-RUP for the expanded use in order for staff to review the need for realignment of the northern driveway with Hillcrest Road and shall realign that driveway 'within four months' if accident experience indicates that such realignment is desirable."

Mrs. Greenlief and Mrs. Ichter requested that a condition be added to reflect that the day care center be required to perform a traffic study to ensure that the daily vehicle trips per day would not exceed the maximum number. Mrs. Day agreed with this and therefore added a condition to that effect.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 80-M-078-1 by POOR SISTERS OF ST. JOSEPH, under Section 3-303 of the Zoning Ordinance to amend S 80-M-078 for a child care center to permit additions to building and playground and increase in maximum number of children from 59 to 99, on property located at 4319 Sano Street, Tax Map Reference 72-2((1))20, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 29, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 4.62 acres of land.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The applicant shall submit a landscape plan to the County Arborist for review and approval at the time of site plan review. The plan shall include adequate plantings in the area of the front playground to screen the playground from the neighborhood across Sano Street.
6. The applicant shall provide additional right-of-way for the reconstruction of Sano Street as determined to be needed by the Director, DEM at the time of site plan review.
7. The applicant shall construct curb and gutter along Sano Street from the southern-most entrance of the site to the southern lot line.
8. The total enrollment for the child care center shall be 99 children, ages 2 to 12. Applicant shall pursue car pooling to the maximum possible with an established car pool program so that the maximum trips do not exceed 375 per day. Applicant also shall complete a traffic study two years after issuance of the NON-RUP for the expanded use to verify that this trip generation number is not being exceeded.
9. The hours of operation shall be from 7:00 a.m. to 6:00 p.m.
10. The additional playground area shall be fenced in accordance with Fairfax County Health Department standards.
11. The entrances shall be marked appropriately with "One-way" and "Do Not Enter" signs.
12. The applicant shall contact the Board of Zoning Appeals Support Branch by letter two years after issuance of the NON-RUP for the expanded use in order for staff to review the need for realignment of the northern driveway with Hillcrest Road and shall realign that driveway within four months if accident experience indicates that such realignment is desirable.

Mr. Hyland seconded the motion.

The motion carried by a vote of 4-2 with Chairman Smith and Mrs. Thonen voting nay; Mr. DiGiulian absent from the meeting.

//

181
187

10:20 A.M. LEESBURG PIKE COMMUNITY CHURCH - SPA 85-D-014-1, application under Section 3-103 of the Zoning Ordinance to amend SP 85-D-014 for a church and related facilities to permit church services in tents, lighted field parking, storage trailer and use of existing dwelling for church purposes, located at 11022 Leesburg Pike on approximately 33.013 acres of land, zoned R-1, Dranesville District, Tax Map Reference 12-1((1))35. CONCURRENT W/VARIANCE APPLICATION VC 86-D-065

and

10:20 A.M. LEESBURG PIKE COMMUNITY CHURCH - VC 86-D-065, application under Section 18-401 to allow use for church purposes of building which is 15 feet from front lot line (40 min. front yard req. by Sects. 3-107 and 8-303) located at 11022 Leesburg Pike on 33.013 acres of land, zoned R-1, Dranesville District, Tax Map 12-1((1))35. CONCURRENT WITH SPECIAL PERMIT AMENDMENT SPA 85-D-014-1

Lori Greenlief, Staff Coordinator, presented the staff report and stated that on July 9, 1985, the Board of Zoning Appeals had approved this site for a church and related facilities.

Ms. Kelsey, Branch Chief, in response to a question from Mr. Hammack clarified that all roads have to be paved unless a waiver has been granted by the Director of the Department of Environmental Management. This applicant does not request a modification to the dustless surface requirement.

Mrs. Greenlief noted that the temporary special permit approved by the Zoning Administrator gave the church permission to hold meetings on Friday, Saturday and Sunday for a 21-day period which expired July 28, 1986.

David Houston of the law firm of Boothe, Prichard and Dudley represented the applicant and explained that the church had almost reached the maximum seating capacity of 350 and upon expiration of the temporary special permit would meet in a school until the permanent building is constructed. He stated that the conditions set by the Board a year ago had not changed, the application was in harmony with the R-1 zoning and surrounding neighborhood, landscaping and screening would be provided when the final church is built, and they plan to request a waiver from DEM from the dustless surface requirement. Mr. Houston requested that the conditions be amended to allow the existing framehouse to be used for offices for the pastor and small group meetings.

Chairman Smith called for speakers in support of this application and Pastor Arlie Whitlow of 151 Kale Avenue, Pastor of the church, came forward and asked to be allowed to use the existing house for an office and for counseling purposes. He stated that the church had been approached about restoring the house and leaving it as a monument to the founding family.

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

Mr. Hammack moved to approve both SPA 85-D-014-1 and VC 86-D-065 as he felt the applicant met all standards for the special permit use and variance. He moved to approve with the following modification to Special Permit Amendment Condition #9 and Variance Condition #2: "the existing dwelling may be used for church office purposes and for group meetings of not more than six persons including the pastor until such time as the new church building is completed and occupied."

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 85-D-014-1 by LEESBURG PIKE COMMUNITY CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 85-D-014 for a church and related facilities to permit church services in tents, lighted field parking, storage trailer and use of existing dwelling for church purposes, on property located at 11022 Leesburg Pike, Tax Map Reference 12-1((1))35, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 29, 1986; and

188

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 33.013 acres of land.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. All entrances and exits onto Leesburg Pike shall be closed and barricaded.
5. All surfaces designated as "field parking" on the submitted plat will be paved in accordance with standards in the Public Facilities Manual or the applicant shall request a waiver of the dustless surface requirement from the Director of DEM.
6. The adult tent, youth tent, children's shelter, storage trailer, portable toilets, and lights for the field parking shall be removed within 15 days after October 8, 1986.
7. All lighting shall be directed onto the site and shall meet the glare performance standards in Sect. 14-901 of the Zoning Ordinance.
8. Approval of the special permit amendment shall not relieve the applicant from any conditions which were approved in conjunction with SP 85-D-014.
9. The existing dwelling may be used for church office purposes and for group meetings of not more than six persons including the pastor until such time as the new church building is completed and occupied.
10. Grading easements shall be provided along the proposed right-of-way on Leesburg Pike as deemed necessary by VDM&T at such time as future improvements are needed.

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

Mr. Ribble seconded the motion.

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

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-065 by LEESBURG PIKE COMMUNITY CHURCH, under Section 18-401 of the Zoning Ordinance to allow use for church purposes of building which is 15

feet from front lot line, on property located at 11022 Leesburg Pike, Tax Map Reference 12-1(1)35, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 29, 1986; and

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

1. That the applicant is the owner of the land
2. The present zoning is R-1.
3. The area of the lot is 33.013 acres of land.

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

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

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

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

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

1. This variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. The existing dwelling may be used for church office purposes and for group meetings of not more than six persons including the pastor until such time as the new church building is completed and occupied.

Mr. Ribble seconded the motion.

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

//

189

10:40 A.M. KOREAN CENTRAL BAPTIST CHURCH - SP 86-L-026, application under Section 3-303 of the Zoning Ordinance to permit church and related facilities, located at 6320 Franconia Road on approximately 3.8660 acres of land, zoned R-3, Lee District, Tax Map Reference 81-3((1))32.

190

Lori Greenlief, Staff Coordinator, presented the staff report and informed the Board that staff was recommending denial of this application due to transportation problems that have not been resolved and it appears these problems cannot be resolved since there is no median break on Franconia Road in front of the church property that can provide access to the site for traffic in both directions. Mrs. Greenlief stated that George Phillips of the Office of Transportation was present to answer questions.

Moon S. Song, the applicant, came forward and requested that Howard Kim be allowed to speak for him.

Howard Kim, Coordinator for Korean Language Ministry, of 4731 Kirkdale Drive came forward and stated that the applicant did not agree with the transportation requests by staff as the church did not have the finances available to make the road improvements.

Mrs. Thonen pointed out that the Board had denied another application, Glad Tidings Church, located right across the street for exactly the same problems as noted in this application.

In response to a question from Mr. Hyland, Mr. Kim explained that it would cost approximately \$200,000 to purchase parcel "A" in order to provide access to an existing median break.

Chairman Smith asked if the applicant would like to defer this to allow additional time to try to resolve these issues.

Sok Song of 8622 Lukens Lane, Deacon of the church, stated that he understood the County's concerns, agreed with the deferral and requested a temporary permit for 2 to 3 years. Chairman Smith pointed out that it was not possible to grant a temporary permit but could grant a deferral.

James Dawson III, Director of Education of Mount Vernon Baptist Association, of 2851 Hunter Road spoke in support of the application and agreed with the deferral. Mr. Dawson informed the Board that he would work with the applicant to obtain an attorney due to the communication problems.

As there were no further speakers in support of the application, Chairman Smith called for speakers in opposition and Michael Tedros of 6316 Rosa Drive stated that he did not oppose the church but was concerned with the additional traffic and the noise that would be generated.

Chairman Smith deferred this case until October 21, 1986 at 8:15 P.M.

//

11:00 A.M. PETER J. BILLS - VC 86-D-024, application under Section 18-401 of the Zoning Ordinance to permit construction of a garage addition to dwelling to 6.3 feet from side lot line (8 ft. min. side yard req. by Sect. 3-307), located at 1305 Cold Harbor Court on approximately 9,353 square feet of land, zoned R-3 (C), Dranesville District, Tax Map Reference 6-3((5))36.

Lori Greenlief, Staff Coordinator, presented the staff report.

Peter J. Bills of 1305 Cold Harbor Court explained the nature of the request as stated in the justification statement submitted with the application.

Chairman Smith called for speakers in support or in opposition to this application and hearing no reply, closed the public hearing.

Mr. Hyland moved to approve this application as he felt the applicant had met all standards.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-024 by PETER J. BILLS, under Section 18-401 of the Zoning Ordinance to permit construction of a garage addition to dwelling to 6.3 feet from side lot line, on property located at 1305 Cold Harbor Court, Tax Map Reference 6-3((5))36, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

191

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 29, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 9,353 square feet of land.

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

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

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

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

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-1 with Chairman voting nay; Mr. DiGiulian absent from the meeting.

//

192

OUT-OF-TURN HEARING REQUEST FOR BARBARA DAVIS
Special Permit - SP 86-P-039

Mr. Hyland noted that this application had been denied due to the number of Board members present.

Ms. Kelsey pointed out this application was presently scheduled for September 30, 1986.

Mrs. Thonen recommended the Out-of-Turn Hearing be denied, Mr. Ribble seconded the motion which passed by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

//

Mrs. Thonen moved to approve February 18, 1986, March 4, 1986 and March 25, 1986 Minutes of the Board of Zoning Appeals. Mr. Hammack seconded the motion which passed by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

//

There being no other business, the Board voted to adjourn the meeting at 12:15 P.M.

//

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

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

October 21, 1986
Date Submitted

October 28, 1986
Date Approved

193

The special meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, July 31, 1986. The following Board Members were present: Daniel Smith; Chairman; John F. Ribble, III; Gerald Hyland; Ann Day; Paul Hammack and Mary Thonen. John DiGiulian, Vice-Chairman was absent from the meeting.

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

//

Page 193 July 31, 1986, (Tape 1) Scheduled case of:

9:00 A.M. CHARLES H. KIMSEY - A 86-S-004, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that a lot in a subdivision may not be subdivided if the subdivision as a whole is nonconforming as to maximum density, located at Tax Map 89-1((5))688 on approximately 42,525 square feet of land, zoned R-2(C), Springfield District.

Jane Gwinn, Zoning Administrator, appeared before the Board and stated that the staff report on the Appeal sets forth her position.

Thomas Dugan, representative of the applicant, appeared before the Board and expressed the opinion that there was no such thing as a nonconforming subdivision. He added that developers in Orange Hunt had been permitted to subdivide by borrowing density from other sections of Orange Hunt where there had been excess density. Mr. Dugan stated that when a subdivision was recorded the rights and privileges of the owner become vested, therefore, the Ordinance that applied at the time the subdivision was recorded and not the current amended Ordinance is applicable now.

Ms. Gwinn noted that it was her position that the original lots were grandfathered but that "grandfathering" does not apply to future lots. She reiterated that the subdivision was a nonconforming subdivision.

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

Mrs. Thonen moved to uphold the Zoning Administrator's decision in application A 86-S-004, Charles H. Kimsey.

Mrs. Day seconded the motion which passed unanimously with Mr. DiGiulian absent from the meeting.

//

At this time, Ms. Kelsey, Branch Chief, Board of Zoning Appeals Support Branch, introduced to the Board, Mr. James Zook, the new Director of the Office of Comprehensive Planning. Mr. Zook expressed an interest in working with the Board in the future and expressed his appreciation for the work the Board is doing and the volume of applications it must hear.

//

Page 193 July 31, 1986, (Tape 1), Scheduled case of:

9:40 A.M. MONTESSORI SCHOOL OF FRANCONIA, INC., SPA 80-L-033-1, application under Section 3-403 of the Zoning Ordinance to amend S-80-L-033 for school of general education to permit addition of land area, building addition, temporary classroom trailer, child care center, nursery school and increase in number of children to *95 (the number of children was changed to 75), ages toddlers to 11 years, located at 6300 Florence Lane on approximately 3.6293 acres of land, zoned R-4, Lee District, Tax Map 82-4((1))17A & pt. 17B; 82-4((36))A.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that staff still had some concerns regarding transportation. He stated that staff therefore, recommends that the maximum number of children enrolled at the school be 75 instead of 95 in accordance with the development conditions set forth in the staff report.

Mr. Hyland announced that the representative for the applicant, Bernard Fagelson had made a campaign contribution to his political campaign for Supervisor of the Mount Vernone District of more than \$50.00.

Bernard Fagelson, representative of the applicant, appeared before the Board and explained the use as outlined in the statement of justification submitted with the application. He added that the applicant would accept all of the staff's recommended conditions.

Mrs. Thonen suggested that the applicant provide a program which would enable all the children to participate in a van pool. She also suggested that the wording in condition number 12 be changed from "It is highly recommended that the applicant conduct a soils survey . . ." to "The applicant shall conduct a soils survey . . ." With regard to condition number 16, Mrs. Thonen recommended that the fence around the swimming pool be 6 (six) feet high instead of 5 (five) feet high.

Mr. Fagelson stated that the applicant would be willing to leave out the swimming pool at this time, if requested.

Chairman Smith called for speakers and Ken Satlin, 6189 Branford Court, appeared before the Board in support of the proposal.

The next speaker, Jay Elliott, Huntington Forest Homeowners Association, appeared before the Board in opposition to the proposal. He expressed concern for parking on the street, trash removal, the substandard road, parking for the pool and clearing of the wooded lot.

Robert Decker, 6212 Florence Lane, appeared before the Board in opposition to the proposal and expressed the opinion that the proposal would not be in conformance with the character of the neighborhood.

Melanie Riley, 6272 Gentle Lane, appeared before the Board in opposition to the proposal, expressing the same concerns as the previous citizens.

In rebuttal, Mr. Fagelson reiterated that the applicant was willing to give up the pool at this time and would not clear the wooded area proposed for the pool. He added that the applicant would encourage the parents to use the van pool.

As there were no other speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant the proposal subject to the conditions in the staff report as revised.

With regard to condition 14, Mr. Hyland suggested the following amendment: That the applicant shall conduct a survey of the number of trips per day and submit this survey in three months from the date the operation commences.

After a brief discussion Mr. Hammack revised his proposed condition 14 as follows: The applicant shall provide three (3) vans for transporting students to and from the site and shall develop and implement a formal van pool and car pool program. The maximum number of vehicle trips per day generated by this use shall be limited to 140 vehicles per day. Monitoring to be conducted once in the fall term within three (3) months of the school opening and once in the spring term for a one week period each and at such time when the school is at maximum enrollment.

Mr. Hyland's amendment failed due to the lack of a second.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 80-L-033-1 by MONTESSORI SCHOOL OF FRANCONIA, INC., under Section 3-403 of the Zoning Ordinance to amend S-80-L-033 for school of general education to permit addition of land area, building addition, temporary classroom trailer, child care center, nursery school and increase in number of children to 95, (75 approved)* ages toddlers to 11 years, on property located at 6300 Florence Lane, Tax Map 82-4((1))17A & pt. 17B; 82-4((36))A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 31, 1986; and

195
195

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

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 3.6293 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-305 and 8-307 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. This is not approval for the construction of the swimming pool which is shown on the plat. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The hours of operation shall be from 8:00 A.M. to 6:00 P.M.
6. The maximum daily enrollment shall be * seventy-five (75) students, ages toddlers to 11 years.
7. There shall be a maximum of twelve (12) employees on the site at one time.
8. Fifteen (15) on-site parking spaces shall be provided. The applicants must request a modification of the dustless surface requirement from the Director of the Department of Environmental Management for the existing Phase I parking area. Phase II parking shall be constructed and maintained with a dustless surface in accordance with Par. 14 of Sect. 11-102 of the Zoning Ordinance and the Public Facilities Manual.
9. Transitional Screening 1 shall be provided on all lot lines. Existing vegetation shall be used where possible, and supplemented where necessary, to satisfy this requirement. The degree and nature of supplementary plantings shall be determined by the County Arborist. Screening on the front property line shall be designed in such a manner so as not to interfere with the provision of adequate sight distance at the property's entrance.
10. Interior parking lot landscaping shall be provided in accordance with Article 13.
11. The applicant shall work with the County Arborist to determine the boundaries of tree clearance and shall develop a plan to preserve and protect existing trees. The plan shall be submitted to the County Arborist for approval, prior to the submission of a grading plan or the undertaking of any site clearance activity.
12. The applicant shall conduct a soils survey. If marine clay or shrink-swell clays are present, a geotechnical engineering study may be required by the Director of DEM at site plan stage.
13. The site entrance shall be constructed to meet all applicable VDH&T standards, and shall be located to match, as nearly as possible, the centerline of Wooden Valley Court.

- 14. The applicant shall provide three (3) vans for transporting students to and from the site and shall develop and implement a formal van pool and car pool program. The maximum number of vehicle trips per day generated by this use shall be limited to 140 vehicles per day. Monitoring to be conducted once in the fall term within three (3) months of the school opening and once in the spring term for a one week period each and at such time when the school is at maximum enrollment.
- 15. An outdoor play area shall be provided in accordance with Sect. 8-305, and shall be fenced as required by the Health Department.
- 16. A temporary classroom trailer shall be allowed in the location shown on the submitted plat for a period of nine (9) months.
- 17. All trash shall be stored on-site in appropriate containers.

These conditions incorporate all applicable provisions of the two prior special permit approvals.

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

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

Mr. Hyland seconded the motion.

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

//

Page 196 July 31, 1986, (Tape 1), Scheduled case of:

10:00 A.M. EARLY YEARS MONTESSORI CENTER, INC. - SPA 78-D-231-1, application under Section 8-014 of the Zoning Ordinance to amend S-231-78 for a private school of general education to permit change of permittee, located at 8980 Brook Road on approximately 5 acres of land, zoned R-1, Dranesville District, Tax Map Reference 19-4((4))A-1.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Mr. Bogollogama, representative of the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application.

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

Mr. Hammack moved to grant SPA 78-D-231-1 subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Special Permit Application SPA 78-D-231-1 by EARLY YEARS MONTESSORI CENTER, INC., under Section 8-014 of the Zoning Ordinance to amend S-231-78 for a private school of general education to permit change of permittee, on property located at 8980 Brook Road, Tax Map Reference 19-4((4))A-1, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

171
197

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 31, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. This special permit is granted only until such time as the Providence Baptist Church obtains a Non-Residential Use Permit to occupy the site.
6. No additional landscaping and screening shall be required for this interim use.
7. The maximum number of students enrolled shall be 120.
8. The hours of operation shall be 7 A.M. to 6 P.M., Monday through Friday. Parent/teacher meetings may be until 9 P.M., Monday through Friday.
9. The number of parking spaces shall be 20.

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

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

Mrs. Day and Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

//

As Chairman Smith was about to recess the meeting for a lunch-break, Mr. Kevin Kelly, representing the applicant, Charles Rayburn, Jr., VC 86-M-047, came forward and requested a deferral to allow the applicant to reduce his request for a variance.

Chairman Smith polled the audience to determine whether or not there was any opposition to the deferral request and the following citizens came forward in opposition to the request: Viki Jones, Assistant to Supervisor Davis, Keith Taggart, 4004 Patricia Street, Annandale, Virginia, Evan Brooks, 4008 Patricia Street, Annandale, Virginia.

Following testimony from the citizens, Mrs. Thonen moved to deny the applicant's request for deferral.

The motion was seconded by Mrs. Day and carried with Mr. Hyland not present for the vote and Mr. Hammack voting nay; Mr. DiGiulian absent from the meeting.

Mr. Kelly then requested that the subject application be withdrawn.

Mrs. Thonen moved to allow the withdrawal of VC 86-M-047.

Mr. Hammack seconded the motion which passed with Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

At 12:20 P.M., the meeting was recessed for a lunch break and reconvened at 1:25 P.M.

//

Page 198 July 31, 1986, (Tape 1), Scheduled case of:

10:20 A.M. DARWIN TARAS - VC 86-L-044, application under Section 18-401 of the Zoning Ordinance to permit enclosure of existing carport/screened porch 10.2 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207), located at 3418 Collard Street on approximately 11,890 square feet of land, zoned R-2, Lee District, Tax Map Reference 92-2((19))33.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Darwin Taras, the applicant appeared before the Board and explained the request as outlined in the statement of justification as submitted with the application.

There being no speakers, comments or questions, Chairman Smith closed the public hearing.

Mrs. Day moved to grant the variance subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-044 by DARWIN TARAS, under Section 18-401 of the Zoning Ordinance to permit enclosure of existing carport/screened porch 10.2 feet from side lot line, on property located at 3418 Collard Street, Tax Map Reference 92-2((19))33, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 31, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 11,890 square feet of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;

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

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

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

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

//

Page 199, July 31, 1986, (Tape 2), Scheduled case of:

11:00 A.M. EUGENE M. DUTCHAK - VC 86-P-050, application under Section 18-401 of the Zoning Ordinance to permit construction of a garage addition to dwelling to 4.2 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 8403 Stonewall Drive on approximately 12,163 square feet of land, zoned R-3, Providence District, Tax Map 49-1((11))15.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Eugene Dutchak, the applicant appeared before the Board and explained the request as outlined in the statement of justification submitted with the application.

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

Mr. Ribble moved to grant the variance subject to the development conditions contained in the staff report.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-050 by EUGENE M. DUTCHAK, under Section 18-401 of the Zoning Ordinance to permit construction of a garage addition to dwelling to 14.2 feet from side lot line, on property located at 8403 Stonewall Drive, Tax Map Reference 49-1((11))15. Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 31, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3.
- 3. The area of the lot is 12,163 square feet of land.

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

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

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

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

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

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

3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1 with Mr. Smith voting no; Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

//

Page 201 July 31, 1986, (Tape 2), Scheduled case of:

11:10 A.M. HUNTERBOROUGH/JOINT VENTURE - SP 86-S-029, application under Section 3-303 of the Zoning Ordinance to permit community swimming pool and recreation facilities, located at 13633 Springstone Drive on approximately 2.37 acres of land, zoned R-3, Springfield District, Tax Map 66-1(1)) part of parcel 11.

Kevin Guinaw, Staff Coordinator, presented the staff report. He advised that staff was concerned about the tot lot being located in the southwestern corner of the property. He added that staff was recommending that the tot lot be relocated to the northwest or southwest corner of the site and that the applicant had agreed to relocating it. Mr. Guinaw pointed out that staff was also concerned that the pool might not be large enough to accommodate the 910 memberships proposed. In conclusion, Mr. Guinaw stated that staff was recommending approval of the special permit subject to the development conditions.

John Cahill, representative for the applicant noted that following discussions with other developers and the Park Authority, it was determined that the size of the pool was adequate. He also suggested the following amendment to the condition #15: "If the tot lot is constructed it will be located in the northwest corner of the site." Mr. Cahill reported that the applicant was requesting the barrier requirement be waived around the site and in lieu of a fence around the tot lot he suggested a barrier of shrubs. He pointed out that the barrier of shrubs would be located between the tot lot and adjacent driveway which would be less confining to the children.

Mr. Guinaw pointed out the play area should be fenced from the driveway to the north and Mr. Cahill agreed.

There being no speakers, comments or questions, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 86-S-029 subject to the development conditions as revised.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-029 by HUNTERBOROUGH/JOINT VENTURE, under Section 3-303 of the Zoning Ordinance to permit community swimming pool and recreation facilities, on property located at 13633 Springstone Drive, Tax Map Reference 66-1(1))part of parcel 11, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 31, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3 & WSP0D.
3. The area of the lot is 2.37 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only. However, upon conveyance of the property to the Little Rocky Run Homeowners Association, this approval will transfer to the association. This approval is for the location indicated on the application and is not transferable to other land.

202

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of employees shall be ten (10).
6. The maximum number of family memberships shall be 910 from the Little Rocky Run Homeowners Association.
7. There shall be fifty-one (51) parking spaces provided.
8. After hour parties for the swimming pool shall be governed by the following:
 - o Limited to six (6) per season.
 - o Limited to Friday, Saturday and pre-holiday evenings.
 - o Shall not extend beyond 12:00 midnight.
 - o The applicant shall provide a written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
 - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
9. If lights are provided for swimming pool and parking lot, they shall be in accordance with the following:
 - o The combined height of the light standards and fixtures shall not exceed twelve (12) feet.
 - o The lights shall be a low-intensity design which focuses the light directly onto the facility.
 - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.
10. The hours of operation for the pool shall be from 8:00 A.M. to 9:00 P.M.
11. Swim meets shall be conducted between hours of 9:00 A.M. to 9:00 P.M.
12. The use of loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code and shall not be waived.
13. Transitional Screening 1 shall be provided along the northern, eastern and southern lot lines. Additional landscaping shall be provided around the pool and bathhouse and along the western boundary, as determined by the County Arborist.
14. Interior parking lot landscaping shall be provided in accordance with Article 13.
15. If a tot lot is constructed on the site, it will be located in the northwest corner of the site.
16. Stormwater management measures shall be provided as deemed appropriate by the Director, DEM.
17. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. This agency will make a determination as to whether proper neutralization of these pool waters has been completed.

203
203

18. A soil survey shall be completed prior to pool construction. If high water table soils or unstable soils resulting from uncompacted fill, resource removal or any other circumstance resulting in instability are found in the immediate vicinity of the pool, then the pool shall be engineered and constructed to ensure pool stability, including the installation of hydrostatic relief valves and other appropriate measures.
19. Bicycle racks shall be provided for a minimum of twenty (20) bicycles.
20. The barrier requirement shall be waived providing that fencing around the facility is provided as shown on the submitted plat and a barrier of shrubs and a fence is provided between the tot lot and the adjacent street. (Driveway).
21. The hours of operation for the community center meeting room and offices shall be from 8:00 A.M. to 11:00 P.M.

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

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

Mrs. Day seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

//

Page 203 July 31, 1986, (Tape 2), Scheduled case of:

11:30 A.M. LIVING SAVIOR LUTHERAN CHURCH, SP 86-S-023, application under Section 3-C03 of the Zoning Ordinance to permit nursery school, church and related facilities, located at 5540 Ox Road on approximately 3 acres of land, zoned R-C & WSP0D, Springfield District, Tax Map Reference 68-3(1)50A. (DEF. FROM 7/15/86)

Kevin Guinaw, Staff Coordinator, presented the staff report and noted that the application had been deferred from July 15, 1986 to allow the applicant time to work out transportation problems. He added that a revised plat had been submitted which addressed the transportation issues. Mr. Guinaw reported that there were only two remaining outstanding issues: design of the entrance driveway should be moved towards Ox Road so that it would align with the service drive; and, the service drive is shown as a future service drive and staff was recommending that it be constructed at the time of approval. In conclusion, Mr. Guinaw advised that staff was recommending approval of the proposed application subject to development conditions.

Michael Lemay, representative of the applicant, appeared before the Board and stated that the applicant had agreed to the development conditions with the following minor changes:

"A service drive shall be provided in the future when the northern service drive is constructed from the site entrance to the northern property line."

Condition #6: "There shall be a minimum of 53 parking spaces provided with an expansion of 15 spaces."

The Board discussed the issue of postponing the construction of the service drive to which staff opposed. Chairman Smith suggested a date be set for the completion of the service drive.

There being no speakers, comments, or questions, Chairman Smith closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-023 by LIVING SAVIOR LUTHERAN CHURCH, under Section 3-C03 of the Zoning Ordinance to permit nursery school, church and related facilities, on property located at 5540 Ox Road, Tax Map Reference 68-3(1)50A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 31, 1986; and

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

- 1. That the applicant is the owner of the land.
2. The present zoning is R-C & WSP0D.
3. The area of the lot is 3 acres of land.

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

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

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the revised plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The seating capacity of the main worship shall not exceed 200.
6. There shall be a minimum of fifty-three parking spaces provided with a potential of expanding to sixty-eight spaces.
7. Transitional Screening 1 shall be required along all lot lines with the following modifications:
o existing vegetation shall be used where possible and supplemented, as determined by the County Arborist, to provide screening equivalent to Transitional Screening 1.
o Along the front property line, landscape plantings shall be provided which will soften the impact of the church development and effectively screen parking areas from adjacent properties. The degree and nature of required plantings shall be determined by the County Arborist. Screening yards shall be provided outside the area dedicated for road improvements or utility easements.
8. The applicant shall work with the County Arborist to determine the boundaries for tree clearance before approval of a building permit or undertaking any site clearance or construction activity. Existing trees shall be preserved except where removal is necessary to accommodate construction.

205
205

9. Interior parking lot landscaping shall be provided in accordance with Article 13.
10. The site entrance shall be constructed to meet VDH&T design and sight distance standards.
11. A crossover shall be provided within the Route 123 median. The centerline of this crossover shall be located approximately 65 feet south of the northern property line.
12. A left turn lane within the Route 123 median shall be provided.
13. A right turn lane into the site entrance shall be provided as directed by VDH&T.
14. A standard shoulder along the site's Route 123 frontage shall be provided.
15. A service drive shall be provided from the site entrance to the northern property line by the year 1990 or earlier if there is a connecting service drive (to the north).
16. Best Management Practices (BMP) designed to protect the Occoquan Watershed as determined by the Director, Department of Environmental Management shall be provided.
17. A barrier wooden stockade fence shall be provided along the southern and western boundaries of the property.
18. An outdoor recreation area shall be provided in accordance with Section 8-305 and located on the northwestern side of the church.
19. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.
20. Signs shall be permitted in accordance with Article 12, Signs.
21. There shall be a maximum daily enrollment of forty (40) children in the nursery school.
22. Right-of-way for road improvements, as determined by the Director at the time of site plan review, shall be dedicated.
23. At the time of site plan review, the entrance driveway shall be designed to align with the service drive.

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

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

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

''

There being no other business, the Board adjourned at 2:40 P.M.

Patti M. Hicks

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

October 21, 1986
Date Submitted

Daniel Smith

Daniel Smith, Chairman Board of Zoning Appeals

October 28, 1986
Date Approved

Blank



207
207

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, August 5, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian; Vice-Chairman John F. Ribble III; Gerald Hyland; Ann Day; and Mary Thonen. Paul Hammack was absent from the meeting.

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

//

Page 207 August 5, 1986, (Tape 1) Scheduled case of:

9:00 A.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, SPA 84-D-059-1, application under Section 3-103 and 3-203 of the Zoning Ordinance to amend SP 84-D-059 for a church and related facilities to permit the addition of a storage shed, tower, satellite dish, and flag pole, located at 2034 Great Falls Street on approximately 5.9448 acres of land, zoned R-1 & R-2, Dranesville District, Tax Map 40-2((1))8, Pt. 6, Pt. 7.

Marilyn Anderson, Staff Coordinator, presented the staff report and advised the Board that the proposed tower would not receive or transmit signals nor would the satellite dish send any signals. With regard to the height of the flagpole and spotlighting of the pole, Mrs. Anderson stated that there had been some citizen concern; however, she indicated that there would be no spotlighting of the pole or building. In conclusion, Mrs. Anderson advised that staff was recommending approval of the proposed application subject to the development conditions contained in the staff report.

Charles Shumate, 10521 Judicial Drive, attorney representing the applicant, appeared before the Board and advised that there were no transportation or environmental impacts. Mr. Shumate reiterated that there would be no transmitting of signals from the satellite dish or tower. He added that the applicant was not proposing to light the flagpole and would agree to restrict the size of the flag to 5 feet by 8 feet.

Chairman Smith called for speakers and Mark Alger, 2044 Great Falls Street, Falls Church, Virginia, appeared before the Board and submitted a statement which expressed concern about the height of the flagpole. Mr. Alger stated that the citizens did not object to the proposal subject to the development conditions, however they preferred a flagpole that was only 20-25 feet in height. The Board discussed this issue at length.

There being no other speakers, comments, or questions, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant the special permit subject to the development conditions.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 84-D-059-1 by CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, under Section 3-103 and 3-203 of the Zoning Ordinance to amend SP 84-D-059 for a church and related facilities to permit the addition of a storage shed, tower, satellite dish, and flagpole, on property located at 2034 Great Falls Street, Tax Map 40-2((1))8, Pt. 6, Pt. 7, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 5, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1 & R-2.
3. The area of the lot is 5.9448 acres of land.

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

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

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

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

208

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of seats shall be 357, with a corresponding minimum of 90 parking spaces. The maximum number of parking spaces shall be 300.
6. Transitional Screening 1 shall be provided along all lot lines without modification except that, along the frontage of Great Falls Street, the twenty-five (25) foot undisturbed transitional screening strip shall be provided and the planting requirement may be modified to provide a lawn area landscaped with evergreen shrubs and other low level plantings. The amount and type of plantings shall be determined by the Director, Department of Environmental Management (DEM). Driveway entrances, required sidewalks and trails, and necessary utility work shall be permitted within the transitional screening strips.
7. The County Arborist shall be consulted to determine the limits of clearing and grading to preserve existing trees.
8. Parking lot lighting shall be the low intensity type, on standards not to exceed twelve (12) feet in height, and shielded in a manner that would prevent light or glare from spilling onto adjacent residential properties.
9. The number of conferences shall be limited to six (6) per year on Sundays only. The folding doors to the gymnasium may be opened on these six (6) occasions to increase the seating to a maximum of 1200 seats.
10. Storm water management and Best Management Practices shall be provided to the satisfaction of the Director, Department of Environmental Management to insure that the development does not exacerbate existing drainage problems.
11. Right turn deceleration lanes shall be provided for all entrances to the site.
12. Dedication of right-of-way to thirty feet from the centerline of Great Falls Street for the full frontage of the site shall be provided. Construction of improvements along Great Falls Street and Idylwood Road shall be provided at the discretion of the Director, DEM.
13. An eight (8) foot wide asphalt trail shall be constructed to provide pedestrian access from Greenwich Street to Idylwood Road. Trails shall be provided along the full frontage of Great Falls Street and Idylwood Road.
14. Interior parking lot landscaping shall be provided in excess of the minimum required in Article 13. Such landscaping shall include the provision of substantial planting islands in a manner that will soften the visual impact of the parking areas and building as determined by the Director, DEM. Landscaping shall be provided in accordance with a landscape plan submitted to and approved by the Director, DEM at the time of site plan review.
15. There shall be no communication nor radio signals of any kind transmitted from the tower or the satellite dish.
16. There will be no spotlighting of the Church or flag.
17. The flag flown from the flagpole shall not exceed 5 (five) by 8 (eight) feet in size. The height of the flagpole shall be limited to 25 feet.

These conditions incorporate all applicable conditions of the previously approved SP 84-D-059.

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

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mr. Hammack absent from the meeting.

//

Page 209 August 5, 1986, (Tape 1), Scheduled case of:

9:20 A.M. REYNALDO C. PASA, SP 86-M-018, application under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirement based on error in building location to permit 10 foot high shed to remain 2.3 feet from side lot line and 2.75 feet from rear lot line (10 ft. min. side & rear yard req. by Sects. 3-407 & 10-104), located at 7112 Falcon Street on approximately 9,375 square feet of land, zoned R-4, Mason District, Tax Map Reference 71-1((16))(3)26.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that the applicant had questioned whether or not a building permit was required and was informed by the Department of Environmental Management that a building permit was not necessary. Subsequent to the time that the Building Inspector visited the site, a Zoning Inspector was called to the site in response to a complaint and a violation was issued in January. In conclusion, Mr. Guinaw stated that it was staff's opinion the applicant had acted in good faith.

Mrs. Thonen noted that there was a petition in support of the application and one letter in support as well as one letter in opposition.

Mr. Pasa, the applicant, appeared before the Board and explained that the error had been made in good faith and added that he was willing to provide additional landscaping to screen the shed.

Robert Hiltz, 7109 Falcon Street, appeared before the Board in support of the proposal.

As there were no other speakers, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant the special permit subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-M-018 by REYNALDO C. PASA, under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirement based on error in building location to permit 10 foot high shed to remain 2.3 feet from side lot line and 2.75 feet from rear lot line, on property located at 7112 Falcon Street, Tax Map Reference 71-1((16))(3)26, 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 9,375 square feet of land.

210

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

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

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

1. This approval is for the location of the shed as indicated on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. The applicant shall plant and maintain Arborvitae or Skyrocket Juniper between the shed and the side and rear lot lines. Plantings shall be a minimum of six (6) feet in height and spaced three (3) feet apart in the area extending ten (10) feet to the east and fifteen (15) feet to the south from the northwest corner of the property.

Mr. Ribble seconded the motion. The motion carried by a vote of 5-1 with Mr. Smith voting nay; Mr. Hammack absent from the meeting.

//

Page 210, August 5, 1986, (Tape 1), Scheduled case of:

9:40 A.M. SCARBOROUGH CORPORATION, SP 86-S-030, application under Section 3-803 of the Zoning Ordinance to permit community swimming pool, located at 6855 Flamborough Road on approximately 2.3525 acres of land, zoned R-8, Springfield District, Tax Map 65-3((3))B.

9:40 A.M. SCARBOROUGH CORPORATION, VC 86-S-067, under Section 18-401 of the Zoning Ordinance to allow 11 foot high fence in front yard of community swimming pool (4 ft. max. height for fence in any front yard req. by Sect. 10-104) located at 6855 Flamborough Road, zoned R-8, Springfield District, Tax Map 65-3((3))B.

Marilyn Anderson, Staff Coordinator, presented the staff report and noted that the Board of Supervisors had recently approved a Proffered Condition Amendment which would change the recreational facilities by permitting a pool, bath house and deleting a previously proposed multi-purpose court (PCA 79-S-030-1 approved 6/30/86). Mrs. Anderson added that staff was recommending approval of the special permit subject to the conditions in the staff report.

Mark Bettius, 10521 Judicial Drive, attorney representing the applicant, appeared before the Board and reported that the applicant would agree to the staff recommended conditions.

There being no speakers to this application and no other comments or questions, Chairman Smith closed the public hearing.

Mrs. Day moved to grant the Special Permit and the Variance subject to the conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-030 by SCARBOROUGH CORPORATION, under Section 3-803 of the Zoning Ordinance to permit community swimming pool, on property located at 6855 Flamborough Road, Tax Map Reference 65-3((3))B, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 5, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-8.
3. The area of the lot is 2.3525 acres of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-403 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only. However, upon completion of the Crofton Commons development, this approval may transfer to the Crofton Commons Homeowners Association. This approval is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of family memberships shall be 263.
6. The hours of operation shall be from 9:00 A.M. to 9:00 P.M.
7. There shall be nineteen (19) parking spaces.
8. Transitional Screening 1 shall be provided in the areas indicated on the plat with the following modifications and with the approval of the County Arborist.
 - o In the front yards adjacent to Centreville and Flamborough Roads, the 6 to 8 foot Oak trees shall be supplemented with evergreen underplantings so as to screen the parking lot and the use from the residential properties across the streets.
 - o No plantings shall be located within any easement.
9. The barrier requirement shall be waived except for the fencing around the pool. The fencing around the pool within the two front yards shall be no higher than eleven (11) feet at its highest point.
10. The dumpster shall be relocated so that it does not open to the street and it's side shall face Flamborough Road. Fencing and landscaping shall be provided so as to screen it from the adjacent residential properties.
11. After-hour parties for the swimming pool shall be governed by the following.
 - o Limited to six (6) per season.
 - o Limited to Friday, Saturday and pre-holiday evenings.
 - o Shall not extend beyond 12:00 midnight.
 - o A written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
 - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
12. All noise shall be regulated in accordance with the provisions of Chapter 108 of the Fairfax County Code.
13. Any signs on the property shall comply with Article 12 of the Zoning Ordinance.

211
211

14. Lighting for the pools shall be in accordance with the following:
- o The combined height of the light standards and fixtures shall not exceed twelve (12) feet.
 - o The lights shall be a low-intensity design which directs the light directly on the facility.
 - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the pool area.
15. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. This agency will make a determination as to whether proper neutralization of these pool waters has been completed.

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

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mr. Hammack absent from the meeting.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-S-067 by SCARBOROUGH CORPORATION, under Section 18-401 of the Zoning Ordinance to to allow 11 foot high fence in front yard of community swimming pool, on property located at 6855 Flamborough Road, Tax Map Reference 65-3((3))B, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 5, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-8.
3. The area of the lot is 2.3525 acres of land.

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

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

6. That:

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

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

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

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

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

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

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

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

1. This approval is granted to the applicant only. However, upon completion of the Crofton Commons development, this approval may transfer to the Crofton Commons Homeowners Association. This approval is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of family memberships shall be 263.
6. The hours of operation shall be from 9:00 A.M. to 9:00 P.M.
7. There shall be nineteen (19) parking spaces.
8. Transitional Screening 1 shall be provided in the areas indicated on the plat with the following modifications and with the approval of the County Arborist.
 - o In the front yards adjacent to Centreville and Flamborough Roads, the 6 to 8 foot Oak trees shall be supplemented with evergreen underplantings so as to screen the parking lot and the use from the residential properties across the streets.
 - o No plantings shall be located within any easement.
9. The barrier requirement shall be waived except for the fencing around the pool. The fencing around the pool within the two front yards shall be no higher than eleven (11) feet at its highest point.
10. The dumpster shall be relocated so that it does not open to the street and it's side shall face Flamborough Road. Fencing and landscaping shall be provided so as to screen it from the adjacent residential properties.

214

11. After-hour parties for the swimming pool shall be governed by the following.
 - o Limited to six (6) per season.
 - o Limited to Friday, Saturday and pre-holiday evenings.
 - o Shall not extend beyond 12:00 midnight.
 - o A written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
 - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
12. All noise shall be regulated in accordance with the provisions of Chapter 108 of the Fairfax County Code.
13. Any signs on the property shall comply with Article 12 of the Zoning Ordinance.
14. Lighting for the pools shall be in accordance with the following:
 - o The combined height of the light standards and fixtures shall not exceed twelve (12) feet.
 - o The lights shall be a low-intensity design which directs the light directly on the facility.
 - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the pool area.
15. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. This agency will make a determination as to whether proper neutralization of these pool waters has been completed.

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

Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mr. Hammack absent from the meeting.

//

At this time Ms. Kelsey, Branch Chief, introduced Ms. Barbara Byron the new Director of the Zoning Evaluation Division. Ms. Bryon thanked the Board for allowing her time to speak to them and stated that she would like to meet with them in September to ascertain ways that she can be of help to the Board in meeting their new time limitations regarding public hearings. She stated that in the last six months she has worked closely with Ms. Kelsey and her staff and has been extremely impressed with them and anticipates and hopes to lend all the support that she can and would welcome any suggestions that the Board might have.

//

Page 214, August 5, 1986, (Tape 1) Scheduled case of:

10:00 A.M. ROBERT O. HOLLIDAY, JR., VC 86-M-026, application under Section 18-401 of the Zoning Ordinance to permit construction of two additions to dwelling, one to 27.0 feet from front lot line, the other to 30.0 feet from the front lot line, (35 ft. min. front yard req. by Sect. 3-207), located at 3408 Fiddlers Green on approximately 22,474 square feet of land, zoned R-2, Mason District, Tax Map Reference 61-1(11)695.
(DEFERRED FROM 7/15/86)

215

215

Jane Kelsey, Branch Chief, presented the staff report in the absence of Lori Greenleaf, Staff Coordinator. Ms. Kelsey outlined briefly the background of this application by stating that this case had been deferred from July 15 in order for the applicant to submit revised plats, to allow time for readvertising due to the changes in the plat, and to obtain the approval of the Lake Barcroft Architectural Review Committee (ARC). She stated that the applicant has submitted revised plats to staff just this morning and he was now requesting a single addition to his dwelling rather than two additions as had been advertised. Ms. Kelsey noted that since this was a lesser variance than had been advertised it did not need to be readvertised. She stated there was a form from the Lake Barcroft ARC which stated they had given conditional approval subject to the applicant providing architectural drawings describing details of the addition and the granting of the variance by the Board of Zoning Appeals. Ms. Kelsey stated that she had talked with Mr. DeVito from the ARC and he stated that they had approved an addition 10 feet wide and 57.1 feet long as long as it was a one story addition and not a two story.

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

Mr. Hyland moved to approve this application.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-026 by ROBERT O. HOLLIDAY, JR., under Section 18-401 of the Zoning Ordinance to permit construction of an addition to dwelling to 30.0 feet from front lot line* (as amended at the public hearing), on property located at 3408 Fiddlers Green, Tax Map Reference 61-1(11)695, 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, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 22,474 square feet of land.

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

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

- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-0 with Mr. Hammack absent from the meeting.

//

10:30 A.M. LONG FENCE COMPANY, representative to meet with Board of Zoning Appeals to respond to questions concerning fences in Fairfax County being erected in violation of Zoning Ordinance provisions.

Jane Kelsey, Branch Chief, informed the Board that Larry Friedman, Vice President of Long Fence Company, was present to respond to questions from the Board which arose during a public hearing concerning an error in the location of a fence. She pointed out that Marilyn Anderson, who did the background work; William Shoup, from the Zoning Administrator's Office; and Mary Burton, Zoning Inspector, were present to respond to questions.

In response to a question from Mr. Hyland, Ms. Kelsey explained that in her research she had found no indication that Long Fence Company had been involved in prior cases involving pipestem lots. Mrs. Anderson pointed out there was a case involving the Orchard residence located on Edwards Street that had been included in the packet distributed to the Board, but it did not involve a pipestem.

Following questions from Mr. Hyland, Ms. Kelsey estimated there had been at least ten to fifteen cases involving fence heights in the last several years but not all had involved Long Fence Company. She further stated that the Board had denied the Orchard Variance and the case was cleared as a result of litigation brought by the Zoning Enforcement Branch. Responding to questions from Chairman Smith, Ms. Anderson explained that following the Court action the applicant had been directed by the Court to bring the fence into compliance.

In response to questions from Mr. Hyland, Ms. Burton replied there had been cases in which the contractor knew the fence was not in compliance but had continued with construction and cited a specific case involving 9367 Robnell Place which she discovered during a site inspection at 9375 Robnell Place.

In response to questions from Mr. Hyland as to whether or not these were located on front yards, Ms. Burton replied that she had provided plats showing the front yard areas as well as the provisions of the Ordinance and those were included in the Board's package on this issue.

Ms. Kelsey stated that on September 19, 1985 all fence contractors had been notified by the Zoning Administrator of front yard requirements on pipestem lots and a copy of that letter was included in the package.

As there were no further questions of staff at this time, Chairman Smith asked Mr. Friedman to come forward.

Larry Friedman, Vice President of Long Fence Company, of 8627 Lee Highway stated that Joe Kassimer, attorney for Long Fence Company, and Jim McCrory, Sales Manager for Long Fence Company, was present to answer questions if needed and began his presentation by responding to questions from the Board.

Chairman Smith pointed out the Board's concern regarding the number of cases which have come before the BZA for variances where Long Fence Company had installed fences at the request of the property owner knowing the fence height was not in compliance. Mr. Friedman responded by saying it was not their intent to ever be in violation but it was unclear to both he and his staff as to the regulations for fences adjacent to pipestem lots. He did point out that they subcontract much of their work but when they are dealing with property owners they make the homeowner more aware of the problems involved and distribute pamphlets listing the requirements as stipulated by Fairfax County. He pointed out that a memorandum had been distributed to his staff regarding pipestem and corner lots sometime in 1985. With regard to the fences situated on Robnell Place, Mr. Friedman stated that the Krienik's fence had already been erected when the violation was issued but the Charski's told them to continue working as they were going to file a variance as the Krienik's had done.

Mr. Hyland pointed out that Long Fence Company knew the Charski's fence was in violation and he could not understand why the work continued. Joe Kassimer of the law firm of Kassimer & Ittig, 2110-D Gallows Road, pointed out that Long Fence Company was not denying this had occurred but stated that since that time the company had taken steps to ensure that this would not reoccur and that the fence in question was now in compliance.

Mr. Hyland commented that citizens had been before the Board stating that they knew nothing about the County's front yard limitation on the height of fences and shifted the burden to the fence company. He stated that a solution needed to be found to prevent this from happening in the future and pointed out that if these violations continue then action on the part of the County Attorney may be necessary.

Mr. Friedman stated that his company did about 8,000 jobs a year with about 2,300 in Fairfax County and with the large number of employees which they have it is difficult to keep track of everyone and to keep an eye on every job. Since the violations had been brought to his attention, he has taken affirmative action to educate his staff and homeowners.

Chairman Smith pointed out that some of the fences in question were not pipestem lots and stated that over the years Long Fence Company had installed more fences in front yards in violation of the County Code than other companies. He stated that he did understand how there could be some confusion but noted that he felt there should be a zoning review process by the fence company on the contracts received.

Mr. Friedman stated that there would be a review process implemented and asked that the Board consider a permit requirement for fencing. Chairman Smith told Mr. Friedman that this is an issue that had been discussed and would have to be looked into by staff. Mr. Hyland did not agree with requiring a permit for a fence because it would slow down the process, would entail more expense, and require additional staff.

William Shoup stated that the Zoning Administrator had given some thought to issuance of permits for fences but determined that it might be overreacting to a small problem. He stated that consideration had been given to issuing permits for corner lots or pipestems where there is an unusual situation and the potential for a problem or possibly requiring a permit for a fence which would exceed the 4 foot height limitation which would preclude issuing permits for every fence erected. Chairman Smith said he felt that if a fence permit was required it should be required for everyone not just a few. Mr. Hyland pointed out that this would control the problem of building fences in excess of 4 feet. Mr. Shoup explained this would not be a building permit but rather a zoning approval to erect a fence.

As there were no further questions or comments, Chairman Smith, on behalf of the Board, thanked Mr. Friedman for coming and stated he hoped the Board would see no further violations or at least a decrease in violations on the part of Long Fence Company. The Board took no further action on this issue.

//

217

217

Page 218, August 5, 1986, (Tape 2) After Agenda Item, Action #1:

THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS APPEAL - A 86-C-007

Mrs. Thonen moved to set the public hearing date for the Appeal of The Church of Jesus Christ of Latter Day Saints, A 86-C-007, for October 7, 1986. Mr. DiGiulian seconded the motion which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. Hammack absent from the meeting.

//

Page 218, August 5, 1986, (Tape 2) After Agenda Item, Action #2:

REQUEST FOR ADDITIONAL TIME
HARVESTER PRESBYTERIAN CHURCH - SP 83-S-102

Mrs. Thonen moved to grant an additional six months to Harvester Presbyterian Church, SP 83-S-102 to begin construction. Mr. DiGiulian seconded the motion which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. Hammack absent from the meeting.

//

Page 218, August 5, 1986, (Tape 2), After Agenda Item, Action #3:

APPROVAL OF MARCH 11, MARCH 18, AND APRIL 8, 1986 MINUTES

Mrs. Thonen moved to approve the minutes of March 11, March 18 and April 8, 1986 as presented. Mrs. Day seconded the motion which passed by a vote 5-0 with Mr. Ribble not present for the vote; Mr. Hammack absent from the meeting.

//

Page 218, August 5, 1986, (Tape 2) After Agenda Item #4:

OUT-OF-TURN HEARING
MOTHER OF GOOSE DAY CARE CENTER, INCORPORATED - SP 86-P-040

Mr. DiGiulian moved to deny the request for an out-of-turn hearing for Mother of Goose Day Care Center, Incorporated, SP 86-P-040, as the application had just been accepted on July 16, 1986. Mrs. Thonen seconded the motion which passed by a vote of 3-2 with Mrs. Day and Mr. Hyland voting Nay. Mr. Ribble not present for the vote; Mr. Hammack absent from the meeting.

//

Page 218, August 5, 1986, (Tape 2) After Agenda Item, Action #5:

SEVEN CORNERS CORPORATION APPEAL - A 86-M-006

Mrs. Thonen moved to set the public hearing date for the Appeal of Seven Corners Corporation, A86-M-006, for September 30, 1986. Mr. DiGiulian seconded the motion which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. Hammack absent from the meeting.

//

Page 218, August 5, 1986, (Tape 2 and Tape 3) After Agenda Item #6:

APPLICATION FOR APPEAL BY UNITED ARTISTS COMMUNICATIONS, INC.

Ms. Kelsey, Branch Chief, stated that a packet had been distributed to the Board regarding this Appeal and informed the Board that Mr. Marzouk, attorney for United Artists, had submitted a rebuttal to Jane Gwinn's, Zoning Administrator, memorandum to the Board. Mr. Marzouk's memorandum was distributed to the Board at the meeting.

Chairman Smith asked if an Executive Session was necessary and Ms. Kelsey informed the Board that J. Patrick Taves, Assistant County Attorney, was present. Mr. DiGiulian moved to adjourn into Executive Session. Following a discussion between Ms. Kelsey and Mr. Taves, it was determined that since Mr. Taves represented the Board of Supervisors and Ms. Gwinn, it would be proper to advise the Board without going into Executive Session.

Mr. Hyland stated that he felt the only remaining issue was the removal of the sign since the Zoning Administrator's decision had been upheld by the Supreme Court and the Circuit Court. Mr. Taves stated he was representing both the Board of Supervisors and the Zoning Administrator in the lawsuits that were pending regarding the sign. He stated that it became apparent that United Artists, even though United Artists lost its case in the Circuit Court and Supreme Court, would not voluntarily remove the sign and thus the need arose to file an injunction suit.

The Supreme Court denied the Appeal filed by United Artists last June and within a week the Zoning Administrator and the Board of Supervisors filed an injunction suit. Mr. Taves argued that the whole basis for this appeal is to play "stall ball" and the Board of Supervisors and the Zoning Administrator have the right to file a lawsuit. The issues that United Artists are asking the Board of Zoning Appeals to deal with will be dealt with by the Court. He explained that the whole basis of the appeal was the appellant's desire for the Board of Zoning Appeals to overrule the Zoning Administrator so there would be no lawsuit filed and no request for injunctive relief. Ms. Gwinn had agreed not to file suit or take any action until the Supreme Court had either disposed of the petition for appeal or granted the petition for appeal and the Supreme Court has decided not to hear the case, thus the Circuit Court ruling stands.

In response to questions from Mr. Hyland, Mr. Taves explained that if United Artists had prevailed in their Appeal a suit would not have been filed by Ms. Gwinn. He further stated that the Board of Supervisors made an individual determination to file suit and to join in the suit. Mr. Taves concluded by saying that if this had been a decision appealable to the Board of Zoning Appeals the effect of that would be that the Zoning Administrator could never obtain an injunction from the Circuit Court because every time she attempted to file suit the appellant would appeal to the Board of Zoning Appeals. Copies of the Answer and the Cross Bill were supplied to the members of the Board by Mr. Taves.

Toby Marzouk, attorney for United Artists Communications, Inc., began by stating that the applicant had complied with the Ordinance as interpreted by the Court and the Zoning Administrator was seeking to enforce this particular Ordinance in a discriminatory manner. He stated that prior actions of the Zoning Administrator with respect to other shopping centers under identical Zoning Ordinances evidences a discriminatory enforcement. The Court has determined that an individual enterprise could not advertise itself on a sign and United Artists has changed the wording on the sign and pointed out that the sign is precisely the same sign as exists in Skyline Mall for which a permit was obtained in the same manner.

Mr. Hyland pointed out that the Courts concluded that the Zoning Administrator was right and that United Artists was not entitled to a free-standing sign where it is presently located.

Mr. Taves informed the Board that Ms. Gwinn confirmed that a date had been set by the Board for public hearing on the previous appeal. He stated that two wrongs do not make a right and that filing of a lawsuit was not an appealable decision. He noted that the sign had been changed by removing the words "The Movies at Fair Oaks" and replaced them with "Fair Oaks Mall" with a listing of the movies underneath but argued this still advertises an individual enterprise and that Mr. Marzouk is attempting to appeal a decision that has not been made.

In response to a question from Mr. Hyland, Mr. Taves explained that the issue before the Supreme Court and Circuit Court was if the applicant could have a free-standing sign advertising an individual enterprise within a mall and the Court said no. The Courts reversed the decision by the Board of Zoning Appeals to grant the special permit and the permit is now null and void.

Following a discussion between Mr. Hyland and Mr. Marzouk, Mr. Hyland pointed out that the Courts had upheld the Zoning Administrator's decision and the sign should be removed. Chairman Smith agreed that this sign should be removed based upon the Court's decision as the permit was now null and void. Mr. Taves explained that the sign had been granted based on special permit grant and the Courts had determined that this was reversed, null and void and United Artists has no right to a sign.

Chairman Smith pointed out the only issue before the Board was the question of whether or not the injunctive action taken by the Zoning Administrator and the Board of Supervisors was appealable to the Board of Zoning Appeals.

Mr. Hyland stated he felt there are two issues before the Board: (1) does the Zoning Administrator's decision to file a lawsuit amount to a decision that is appealable to the Board of Zoning Appeals; and, (2) would a decision by the Zoning Administrator to bring a lawsuit be an appealable matter to the Board when essentially the same issues have already been litigated and decided by the Courts.

Mr. DiGiulian moved that it be the Board's determination that this was not an appealable decision to the Board of Zoning Appeals. Mrs. Thonen seconded the motion which passed by a vote of 4-1 with Mrs. Day voting nay; Mr. Hammack absent from the meeting.

//

adu

In response to a question from Mrs. Thonen, Ms. Gwinn replied that the Reconsideration Amendment would be submitted at the first meeting in September and explained that allowing an additional two weeks to reconsider necessitates an application be scheduled in less than 90 days after it is filed which is difficult due to the 90-day time limitation on hearing applications. Ms. Kelsey pointed out the time which will be cut out will be in the negotiations between the applicant and staff while trying to resolve an outstanding issue.

220

//

There being no other business, the Board voted to adjourn the meeting at 12:27 P.M.

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

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

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: October 24, 1986 APPROVED: October 28, 1986

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 9, 1986. The following Board Members were present: Daniel Smith; Chairman; Paul Hammack; John F. Ribble III; Gerald Hyland; Ann Day; and Mary Thonen. John DiGiulian, Vice-Chairman was absent from the meeting.

Chairman Smith opened the meeting at 9:35 A.M., and Mrs. Day led the prayer.

//

Page 221, September 9, 1986, (Tape 1) Scheduled case of:

9:00 A.M. FRANCES L. GROS - VC 86-D-031, application under Section 18-401 of the Zoning Ordinance to permit subdivision into two (2) lots, proposed Parcel A having width of 59.61 feet (70 ft. min. lot width req. by Sect. 3-406), located at 2313 Highland Avenue on approximately 24,168 square feet of land (0.5548 acres), zoned R-4, Dranesville District, Tax Map Reference 40-4(10)(A)45, 46, 47, 48. (DEF FROM 6/24/86, 7/8/86 and 7/22/86)

Jane Kelsey, Branch Chief, informed the Board that the applicant had requested a deferral of this application until January 20, 1987, at 8:00 P.M and the Board voted unanimously indicated agreement to defer. Mr. DiGiulian was absent from the meeting.

//

Page 221, September 9, 1986, (Tape 1) Scheduled case of:

9:10 A.M. EVELYN ELIZABETH WOOD AND NINA CATHERINE WOOD - VC 86-D-049, application under Section 18-401 of the Zoning Ordinance to permit subdivision into a lot and a parcel, proposed Lot 1 having width of 191.46 feet (200 ft. min. lot width req. by Sect. 3-E06), located at 831 Seneca Road on approximately 8.4389 acres of land, zoned R-E, Dranesville District, Tax Map Reference 6-2((1))28.

Lori Greenlief, Staff Coordinator, presented the staff report which expressed several concerns by this application in addition to the reasonable issue; the need for a trail along the frontage of the property; the environmental concerns involving floodplain soils in the rear of the site; and, the lack of adequate sight distance. The Office of Transportation indicates the only solution to this issue would be for the applicant to regrade the crest of the hill which was very costly. She noted that in the staff report under "Subdivision Plan Analysis" the sight distance for Seneca Road should be 300 feet rather than 350 feet.

Michael Miller, with Leigh and Leigh Attorneys of 3989 Chain Bridge Road, represented the applicants and stated that he felt all the requirements for a variance had been met. He explained that the applicants would use the proceeds from the sale of Lot 2 as their means of support and they had no objection to providing a trail as requested.

Following a discussion among the Board, Mrs. Greenlief explained that if the Board wished, the word "asphalt" could be deleted from condition #6 regarding the trail.

Susan Pesner, attorney with Peterson and Pesner, of 8214-B Old Courthouse Road, stated the contract purchaser was ready, willing, and able to comply with whatever conditions were placed on the applicants. She pointed out that Scarborough Corporation was presently developing an adjoining tract of land and had not been required to do any grading to improve sight distance.

Mrs. Greenlief explained that Scarborough Corporation's property was located at the crest of the hill and there was no sight distance problem involved.

Chairman Smith called for speakers either in support or in opposition and hearing no reply, closed the public hearing.

Mrs. Thonen stated she felt the applicants had met all the standards, especially #1, #2A and #2D, #4, #8, and #9. She moved approval of this application and revised condition #6 by deleting the word "asphalt."

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-049 by EVELYN ELIZABETH WOOD AND NINA CATHERINE WOOD, under Section 18-401 of the Zoning Ordinance to permit subdivision into a lot and a parcel, proposed Lot 1 having width of 191.46 feet, on property located at 831 Seneca Road, Tax Map Reference 6-2((1))28, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 9, 1986; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-E.
3. The area of the lot is 8.4389 acres of land.

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

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

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

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

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

1. This variance is approved for the subdivision of one lot into two (2) lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. Only one (1) entrance to both lots shall be allowed from Seneca Road. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway.

4. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual including the provision of adequate sight distance.
5. All structures shall be located outside of the designated floodplain soils on the site, in accordance with Sect. 2-903 of the Zoning Ordinance.
6. A trail and corresponding easement shall be provided along Seneca Road. The width and exact location shall be determined at the time of subdivision plan review.
7. The applicant shall dedicate right-of-way to 50 feet from the centerline of Seneca Road as shown on the plat. In addition, temporary grading easements shall be provided at such time as Seneca Road is improved.

Messrs. Hyland and Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

//

Page 223, September 9, 1986, (Tape 1) Scheduled case of:

9:30 A.M. ARNOLD A. AND ELIZABETH K. BEMENT - VC 86-V-051, application under Section 18-401 of the Zoning Ordinance to permit construction of a dwelling 47.25 feet from front lot line (50 ft. min. front yard req. by Sect. 3-R07), located on Mallow Trail on approximately 22,500 square feet of land, zoned R-E, Mount Vernon District, Tax Map 119-4((2))(21)51-59.

Lori Greenlief, Staff Coordinator, presented the staff report.

Arnold Bement of 14503 Brad Street, Woodbridge, the applicant, explained that he had purchased the land in January, 1986 and in March had put a deposit on a house. Mr. Bement stated that the only size that would be architecturally suitable to the site would be 28 feet x 48 feet and to do this he is requesting the variance. He added that he was totally unaware of the setback requirements when he purchased the land.

Chairman Smith called for speakers either in support or in opposition of the application and hearing no reply, closed the public hearing.

Mrs. Day stated the applicant met the rear and side yard requirements but the lot was narrow which made it difficult to meet the frontage requirements and therefore moved to grant a 2.75 feet variance.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-V-051 by ARNOLD A. AND ELIZABETH K. BEMENT, under Section 18-401 of the Zoning Ordinance to permit construction of a dwelling to 47.25 feet from front lot line, on property located on Mallow Trail, Tax Map Reference 119-4((2))(21)51-59, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 9, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 22,500 square feet of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;

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

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

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

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

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

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

//

Page 224 September 9, 1986, (Tape 1) Scheduled case of:

9:40 A.M. JOHN E. BURRIS AND SALLY S. BURRIS - VC 86-D-052, application under Section 18-401 of the Zoning Ordinance to permit enclosure of carport into a garage 6.1 feet from side lot line (10 ft. min. side yard req. by Sect. 3-407), located at 2332 North Oak Street on approximately 9,237 square feet of land, zoned R-4, Dranesville District, Tax Map 40-4(15)9.

Lori Greenlief, Staff Coordinator, presented the staff report.

John Burris, the applicant, of 2332 North Oak Street, stated this would not be an expansion of the use and would not be detrimental to the character of the neighborhood.

Chairman Smith called for speakers either in support or in opposition to this application and hearing no reply, closed the public hearing.

Mr. Hyland moved to grant the variance as he felt the applicant met all the required standards.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-052 by JOHN E. BURRIS AND SALLY S. BURRIS, under Section 18-401 of the Zoning Ordinance to permit enclosure of carport into a garage 6.1 feet from side lot line, on property located at 2332 North Oak Street, Tax Map Reference 40-4(15)9, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 9, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 9,237 square feet of land.

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

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

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

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

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

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

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

//

Page 226 September 9, 1986, (Tape 1) Scheduled case of:

9:50 A.M. DONALD L. AND BARBARA M. DAVIS - VC 86-L-053, application under Section 18-401 of the Zoning Ordinance to permit construction of an addition to an existing detached garage 9.6 feet from a side lot line (20 ft. min. side yard req. by Sect. 3-107 and Sect. 10-104), located at 6505 Joyce Road on approximately 22,470 square feet of land, zoned R-1, Lee District, Tax Map 91-2((2))20.

Lori Greenlief, Staff Coordinator, presented the staff report and stated that the original garage was built in the early 1950's and was in compliance with the provisions of the Zoning Ordinance in effect at that time. She further stated that the Zoning Administrator's office had reviewed at this application and had no objection to the size of the structure but noted this should not be construed as support of the location of the structure.

Donald Davis, the applicant, of 6505 Joyce Road, explained that he wished to expand the existing garage to house three 1932 Fords that was his hobby and to allow room for a work shop. He pointed out there was an existing wooden shed which would be removed and replaced with a cinder block structure.

In response to questions from the Board, Mr. Davis explained that the garage would not be used for any commercial business.

Chairman Smith called for speakers either in support or in opposition to this application and hearing no reply, closed the public hearing.

Mr. Ribble felt the applicant had met all the required standards and moved approval of VC 86-L-053.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-053 by DONALD L. AND BARBARA M. DAVIS, under Section 18-401 of the Zoning Ordinance to permit construction of an addition to an existing detached garage 9.6 feet from a side lot line, on property located at 6505 Joyce Road, Tax Map Reference 91-2((2))20, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 9, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 22,470 square feet of land.

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

- 227
1. That the subject property was acquired in good faith.
 2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
 4. That the strict application of this Ordinance would produce undue hardship.
 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
 7. That authorization of the variance will not be of substantial detriment to adjacent property.
 8. That the character of the zoning district will not be changed by the granting of the variance.
 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

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

Mr. Hyland seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

//

Page 227 September 9, 1986, (Tape 1) Scheduled case of:

10:00 A.M. OLEG AND NADYA EFREMOV - VC 86-D-054, application under Section 18-401 of the Zoning Ordinance to allow construction of a swimming pool in a front yard of a corner lot (accessory structure or use may not be located in any front yard according to Sect. 10-104), located at 1823 Dalmation Drive on approximately 14,011 square feet of land, zoned R-3, Dranesville District, Tax Map 40-2((25))31.

Lori Greenlief, Staff Coordinator, presented the staff report and noted that no accessory use, except a statue or flag pole, may be located in any minimum required front yard as stated in Section 10-104. Mrs. Greenlief noted that Appendix 4 which had been distributed to the Board at this meeting had been inadvertently left out of the staff report.

In response to a question from Mr. Hyland, Mrs. Greenlief stated there was no distinction made regarding accessory structures in two front yards. They cannot be located in either.

Nadya Efremov, the applicant, of 1823 Dalmation Drive explained that she was requesting the variance for the pool due to her arthritis and her work hours prevented her from using community pools. She explained that this was only the place that the pool could be located.

Mr. Ribble informed Mrs. Efremov of the letters of opposition that the Board had received. The Board granted Mrs. Efremov time to review the letters.

In response to questions from the Board, Mrs. Efremov explained there are two retaining walls in terraces in the back yard and contractors had not recommended putting the pool in this area.

A discussion took place among the Board members concerning granting a variance for pools for medical reasons and stated this was not a justification or a hardship. Ms. Kelsey, Branch Chief, pointed out to the Board that a 6 foot high fence may have to be erected in the front yard around this pool since the 4 foot fence required around a pool would be on top of a 4 foot retaining wall which would be an effective height of 6 feet. A 6 foot fence in the front yard would be in violation of the Zoning Ordinance.

Chairman Smith called for speakers in support of this application. Henry Rosenthal, of Anthony Swimming Pools, felt that not granting this variance would be discriminating towards people who buy odd shaped lots. Chairman Smith pointed out that if Mr. Rosenthal wished the Zoning Ordinance changed his comments should be addressed to the Board of Supervisors.

At this time, Chairman Smith called for speakers in opposition to this application. Robert Drake, 1833 Dalmation Drive, came forward and stated he felt this would not be in harmony with the character of the neighborhood and pointed out that the applicant lived only two blocks from two community pools which were heated. He pointed out that he was not one of the property owners who had been notified.

Thomas O'Hara of 1835 Dalmation Drive, agreed with the remarks of the previous speaker and stated he would like the neighborhood to stay the way it is at present.

During her rebuttal, Mrs. Efremov noted that the requirements had been met regarding notification of the surrounding property owners. She did not feel this would be detrimental to the neighborhood and added that landscaping would be provided for screening around the pool. She further stated that she could not use the community pools due to the irregular hours that were involved in her work.

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

Mr. Hammack moved to deny this application based on the concerns raised in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-054 by OLEG AND NADYA EFREMOV, under Section 18-401 of the Zoning Ordinance to permit construction of a swimming pool in a front yard of a corner lot, on property located at 1823 Dalmation Drive, Tax Map Reference 40-2((25))31, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 9, 1986; and

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

228

227

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 14,011 square feet of land.

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

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

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

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

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

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1 with Mr. Hyland voting nay; Mr. Hammack not present for the vote; and Mr. DiGiulian absent from the meeting.

//

Page 229, September 9, 1986, (Tape 2), Scheduled case of:

10:20 A.M. LANCE V. FOSTER - SP 86-P-031, application under Sect. 3-103 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow 12 foot high shed to remain 8.7 feet from side lot line and 5.4 feet from rear lot line (20 ft. min. side yard and 12 ft. min. rear yard req. by Sects. 3-107 and 10-104), located at 3837 Prince William Drive on approximately 22,729 square feet of land, zoned R-1, Providence District, Tax Map 58-4((10))7.

Chairman Smith announced that the notices for SP 86-P-031 were not in order and asked staff to suggest a deferral date for the case. Lori Greenlief, Staff Coordinator, suggested October 14, 1986 at 9:45 A.M.

Ms. Kelsey pointed out that the applicant was in violation of the Zoning Ordinance which was why staff was recommending an early date for the case to be heard.

Chairman Smith stated that the applicant should be notified that unless they take advantage of the application process to the BZA, the violation would be referred to Zoning Enforcement for action.

Mr. Hyland made a motion to include the following: "There will be no further deferrals in connection with this case." Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack not present for the vote and Mr. DiGiulian absent from the meeting.

//

Page 230, September 9, 1986, (Tape 2), Scheduled case of:

BURKE COMMUNITY CHURCH - SPA 77-S-269-1, application under Section 3-103 of the Zoning Ordinance to amend S-269-77 for a church and related facilities to permit change of permittee and to increase land area, located at 9998 Pohick Road on approximately 7.44 acres of land, zoned R-1, Springfield District, Tax Map 88-1((1))pt. 6 and pt. 7.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that there was an error in the staff report on page 1 under the Description of the Application. The staff report indicated that the Burke Community Church is the owner of the property but actually the Church is the contract purchaser. Ms. Greenlief concluded that staff was recommending approval subject to the development conditions.

In response to a question from Mr. Hammack, Ms. Kelsey, Branch Chief, explained that the applicant determines how much of his property is to be considered under special permit. She added that staff recommended that the land be increased because the applicant was using some of the land that was not originally included in the special permit and additional screening is needed.

Ronald Bianchi, resident of the Cherry Run Subdivision, member of the Building Committee of the Burke Community Church, represented the Church and provided a brief history of the Church and explained the request as set forth in the statement of justification.

Following a question from Mr. Hammack, Mr. Bianchi clarified that the Church was purchasing the entire site of 12.44 acres. He added that the five acres that was unused was presently wooded and that the plans for it depends on the plans for the Springfield Bypass.

Responding to questions from Mr. Hammack, Mr. Bianchi reported that there was no offsite parking. He added that there was land adjacent to the paved parking lot that could be used for overflow.

Ms. Kelsey noted that should there be any physical changes to the Church or parking in connection with the Church, the applicant would have to come back before the BZA and amend the special permit.

There being no speakers, questions or comments, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant the special permit subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 77-S-269-1 by BURKE COMMUNITY CHURCH, under Section 3-103 of the Zoning Ordinance to amend S-269-77 for a church and related facilities to permit change of permittee and to increase land area, on property located at 9998 Pohick Road, Tax Map Reference 88-1((1))pt. 6 and pt. 7, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 9, 1986; and

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

1. That the applicant is the contract purchaser.
2. The present zoning is R-1.
3. The area of the lot is 7.44 acres of land.

230

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. Since there are no site improvements proposed and no building permits are required, this use shall not be subject to the provisions set forth in Article 17, Site Plans.
5. The existing vegetation along all Special Permit boundary lines shall be deemed to satisfy the transitional screening requirement. The barrier requirement shall be waived.
6. At such time as the Springfield Bypass is constructed, the site entrance shall be relocated to Old Keene Mill Road at a point at least 1000 feet from the intersection of Old Keene Mill Road and Pohick Road.
7. The maximum number of seats shall be 500. The existing 105 parking spaces were approved on a previous site plan.
8. The hours of operation shall be the hours for normal church operation.

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

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

//

Page 231, September 9, 1986, (Tape 3) Scheduled case of:

11:00 A.M. ST. MATTHEW'S UNITED METHODIST CHURCH - SPA 80-A-087-1, application under Section 3-103 of the Zoning Ordinance to amend S-80-A-087 for church and related facilities to permit addition of new sanctuary, additional parking spaces, and a new entrance located at 8617 Little River Turnpike on approximately 5.321 acres of land, zoned R-1, Annandale District, Tax Map 59-3((10))13-19 & 22-28.

Lori Greenlief, presented the staff report and provided a history of the application. She stated that staff has some concerns with regard to screening on the west and southern lot line lines and transportation issues. Ms. Greenlief noted that there was an agreement between the Board of Supervisors and the applicant made in 1981 which purports to waive the requirement of the church to make any road improvements in the future. She added that Karen Harwood, Assistant County Attorney, had been contacted and it was determined that the agreement was invalid. In conclusion, Ms. Greenlief stated that staff was recommending approval of the application subject to the development conditions contained in the staff report.

232

The Board, staff, and Assistant County Attorney, Karen Harwood discussed at length the agreement and Ms. Harwood reiterated that the agreement was invalid.

Ms. Kelsey pointed out that originally the Board of Zoning Appeals had approved parking spaces in the area where staff was now requesting 15 feet of transitional screening. She added that according to the previously approved plat, a gravel driveway was shown with only four parking spaces towards the front. Ms. Kelsey further pointed out that if the applicant had constructed in accordance with the plat approved by the Board of Zoning Appeals, the transitional screening area would already be there.

John Herrington, Office of Transportation, appeared before the Board and advised that a right-turn deceleration lane into Wakefield Drive from Little River Turnpike should be provided. He added that Wakefield Drive should also be improved.

Bernard Burnette, Chairman, Building Committee, St. Matthew's Church, appeared before the Board as the representative of the applicant and objected to Paragraph 2 of Condition 5 of the recommended Development Conditions. He reported that the applicant was suggesting that two entrances to the church be closed along the front lot line and that 15 feet of screening be provided instead of 25 feet which staff was recommending. Mr. Burnette also stated that the applicant objected to Conditions 7 and 8.

Following a discussion among the Board, Mr. Burnette and staff, it was determined that 15 feet of screening (Condition 5, Paragraph 2 - 25 feet of screening 50 feet into the site and 15 feet around the curve) would be provided instead of the full 25 feet which staff was recommending.

Mr. Burnette provided a history of the development of the church site and objected to conditions number 7 and 8 concerning the right-turn deceleration lane on Wakefield Drive and the requirement for construction of road improvements along Virginia Avenue. He felt that since the church had contributed \$5000 for the construction of the bike trail several years ago, that that should relieve them of responsibility for any future transportation improvements.

John Herrington, Office of Transportation, reiterated that the roads in the area were already inadequate and the addition to the church would only add to the problems.

After further discussion concerning these conditions, with regard to condition number 8, Ms. Kelsey, suggested the following change: "The applicant shall widen Wakefield Drive along the frontage for one-half section for a width of 12 feet and plus a shoulder of eight (8) feet." Mr. Harrington agreed with this recommended wording.

As there were no other comments or questions, Chairman Smith closed the public hearing.

Mrs. Day moved to grant the special permit amendment subject to the conditions as amended. (Revise Paragraph 2 of Condition 5, delete conditions 7 & 8)

Mr. Hyland moved to amend the motion by including condition 8, to read as follows: "The applicant shall widen Wakefield Drive and in a fashion that one-half section would be provided along Wakefield Drive which would include a 12 foot section plus an eight (8) foot shoulder.

Mr. Ribble seconded the amendment to the motion which failed by a vote of 3-3; Mrs. Thonen, Hyland and Ribble voting aye; Mr. Hammack, Smith and Day voting nay; Mr. DiGiulian absent from the meeting. The main motion made by Mrs. Day, passed unanimously with Mr. DiGiulian absent from the meeting.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 80-A-087-1 by ST. MATTHEW'S UNITED METHODIST CHURCH, under Section 3-103 of the Zoning Ordinance to amend S-80-A-087 for church and related facilities to permit addition of new sanctuary, additional parking spaces, and a new entrance, on property located at 8617 Little River Turnpike, Tax Map Reference 59-3((10))13-19 and 22-28, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 9, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5.321 acres of land.

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

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

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening 1 shall be provided as follows:
 - o Transitional Screening 1 shall be provided along the southern lot line with a modification to 17 feet in width in the area of the existing parking lot. An appropriate reduction in the number of plantings should be made in this 17 foot area.
 - o Twenty-five (25) feet of Transitional Screening 1 type plantings shall be provided along the northern edge of pavement of the proposed driveway, approximately 50 feet into the property and, beginning at the curve, will diminish to 15 feet parallel to the new addition.
 - o The Transitional screening yard shall be modified to 15 feet along the western property line with a corresponding modification in the number of plantings. Included in this area will be an evergreen hedge extending the length of the parking lot.
 - o The existing vegetation shall be deemed to satisfy the Transitional Screening requirement along the northern and eastern property lines.

The barrier requirement shall be waived on all lot lines.

6. The maximum number of seats shall be 470 and the maximum number of parking spaces shall be 178.
7. The hours of operation will be those normal to church operation.

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

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

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

//

Page 234

AFTER AGENDA ITEM #1
REQUEST FOR NAME CHANGE FOR THE ISLAMIC CENTER OF NORTHERN VIRGINIA, INC. - SP 85-S-005.

Mr. Hammack moved to grant the request for a name change for the Islamic Center of
Northern Virginia, Inc. - SP 85-S-005.

Mr. Hyland seconded the motion which passed unanimously with Mr. Ribble not present for
the vote; Mr. DiGiulian absent from the meeting.

//

AFTER AGENDA ITEM #2
APPROVAL OF MINUTES

Page 234

Mr. Hyland moved to approve Minutes for April 22, May 6, May 20, June 3, 10, 17, 24 and
July 1, 1986.

Mrs. Day seconded the motion which passed unanimously with Mr. Ribble not present for
the vote; Mr. DiGiulian absent from the meeting.

//

There being no other business, Chairman Smith adjourned the meeting a 1:20 P.M.

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

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

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 10/28/86

APPROVED: 11/6/86

234

235
235
The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 16, 1986. The following Board Members were present: Daniel Smith, Chairman; Paul Hammack; John F. Ribble III; Gerald Hyland; Ann Day; and Mary Thonen. John DiGiulian, Vice-Chairman was absent from the meeting.

Chairman Smith opened the meeting at 9:10 A.M., and Mrs. Day led the prayer.

//

Page 235 September 16, 1986, (Tape 1) Scheduled case of:

9:00 A.M. DAVID R. AND DOLORES I. HAWKS & SMC - GREENCASTLE, INC., VC 86-P-037, application under Section 18-401 of the Zoning Ordinance to permit subdivision into three (3) lots, one lot having width of 15.51 feet (150 ft. min. lot width req. by Sect. 3-106), located at 10600 Marbury Road on approximately 6.62 acres of land, zoned R-1, Providence District, Tax Map Reference 47-2((1))1 & Outlot "C". (DEFERRED FROM 7/15/86)

Kevin Guinaw, Staff Coordinator, presented the staff report and reminded the Board that the subject application had been deferred from July 15, 1986 to allow the applicant time to submit a revised plat. However, Mr. Guinaw stated that the application still did not satisfy Paragraphs 2, 4, 6 or 9 of Section 18-404 of the Zoning Ordinance.

Randall Minchew, 4084 University Drive, Fairfax, Virginia, attorney representing the applicant, appeared before the Board and noted the exceptional narrowness of the lot. He added that the proposed easternmost lot was increased in size in order to bring it into compliance with the planned density provisions of the Comprehensive Plan. The proposed middle lot was decreased in size.

Mrs. Thonen informed the applicant that she could not support the application because the nine standards required for Variances had not been met, thus giving the applicant the opportunity to withdraw the application rather than be denied by the Board.

Mr. Minchew advised the Board that subdivision into two lots would not be acceptable to the applicant.

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

Mrs. Thonen moved to deny VC 86-P-037 noting that the criteria for a variance had not been met.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-037 by DAVID R. & DOLORES I. HAWKS AND SMC-GREENCASTLE INC., under Section 18-401 of the Zoning Ordinance to permit subdivision into three (3) lots, one lot having width of 15.51 feet, on property located at 10600 Marbury Road, Tax Map Reference 47-2((1))1 & Outlot "C", Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 16, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 6.62 acres of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;

236

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

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

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0-1; Mr. Hyland abstaining; Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

//

Page 236, September 16, 1986, (Tape 1), Scheduled case of:

9:20 A.M. GILBERT & CHERYL COLON - VC 86-S-057, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 12.2 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-507) located at 6824 Stringer Court on approximately 5,157 square feet of land, zoned R-5, Springfield District, Tax Map 90-1((13))8.

Chairman Smith announced that the applicant for VC 86-S-057 had requested that their application be withdrawn.

Mr. Hyland moved to accept the request for withdrawal of VC 86-S-057, Gilbert & Cheryl Colon. The motion passed unanimously with Messrs. Hammack and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

//

Page 236, September 16, 1986, (Tape 1), Scheduled case of:

9:30 A.M. JAMES M. JONES, JR. - VC 86-S-058, application under Section 18-401 of the Zoning Ordinance to allow enclosure of carport into a garage and storage area 7.2 feet from side lot line such that side yards total 15.5 feet (8 ft min., 20 ft. total min. side yard required by Section 3-307) located at 5906 Ridge Ford Drive on approximately 8,532 square feet of land zoned R-3(C), Springfield District, Tax Map 78-4((8))132.

Kevin Guinaw, Staff Coordinator, presented the staff report.

James and Barbara Jones, 5906 Ridge Ford Drive, the applicants, appeared before the Board and explained that their family had outgrown the house and they needed more storage area.

Chairman Smith suggested that the storage shed be moved closer to the house thus requiring a lesser variance.

Mr. and Mrs. Jones explained that if they moved the shed closer to the house it would block the only light into the basement where two children had bedrooms. They added that to relocate the shed in the backyard would result in trees being removed.

As there were no speakers Chairman Smith closed the public hearing.

Mrs. Day moved to grant the variance as requested subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-S-058 by JAMES M. JONES, JR., under Section 18-401 of the Zoning Ordinance to allow enclosure of carport into a garage and storage area 7.2 feet from side lot line such that side yards total 15.5 feet, on property located at 5906 Ridge Ford Road, Tax Map Reference 78-4((8))132, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 16, 1986; and

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

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3(C).
- 3. The area of the lot is 8,532 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-401 of the Zoning Ordinance:

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

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

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

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

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

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

//

9:40 A.M. TEK BUILDERS, CORP. - VC 86-M-060, application under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 25 having width of 20 feet (100 ft. min. lot width req. by Sect. 3-206) located at 4609 Brookside Drive on approximately 2.7216 acres of land, zoned R-2, Mason District, Tax Map 72-1((6))25.

Kevin Guinaw, Staff Coordinator, presented the staff report, and advised the Board that there were a number of environmental constraints that affected the proposed subdivision of the parcel. The majority of the rear lot is in the EQC (Environmental Quality Corridor) which is designated in the Comprehensive Plan to remain as open space.

Mr. Guinaw added that subdivision of the parcel as proposed would set a precedent and change the character of the area. In conclusion, Mr. Guinaw reported that the applicant does not did not satisfy Paragraphs 4, 6 or 9 of Section 18-404 of the Zoning Ordinance.

Karlene and William Webster, 9048 Brook Ford Road, the applicants appeared before the Board and advised that they would locate the proposed houses near the front of the lots so that existing vegetation and slopes would be preserved.

Chairman Smith called for speakers and the following citizens appeared in opposition: John Winner, 4608 Brookside Drive; Leonard Wilson, 4601 Brookside Drive; Mary Wilson McMay, 4601 Brookside Drive; Mr. Sargeant, 4616 Brookside Drive; Harry Day, 6500 Pinecrest Court, appeared before the Board in opposition to the proposal. They expressed concern for the character of the neighborhood and environmental concerns.

In rebuttal, Mr. Webster disagreed with staff that the proposal would set a precedent because many of the lots in the area had already been subdivided. He added that he would be willing to work with the Arborist to preserve as much of the area as possible.

Mr. Hyland stated that he could not support the application in its present form and asked the applicant if he would like the opportunity to withdraw the application, revise it and resubmit at a later time. Mr. Webster requested that the application be withdrawn.

Mr. Hyland moved that the Board accept the request for withdrawal of VC 86-M-060, TEK Builders Corporation. Mr. Ribble seconded the motion which passed with by a vote of 5-1 with Mr. Smith voting nay; Mr. DiGiulian absent from the meeting.

Mr. Hyland further moved to waive the 12 month limitation on rehearing the application. Mr. Hammack seconded the motion which passed by a vote of 4-2 with Mrs. Day and Mr. Smith voting nay; Mr. DiGiulian absent from the meeting.

//

10:00 A.M. MICHAEL W. MCGURK - VC 86-V-062, application under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9.6 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307) located at 6420 15th Street on approximately 9937 square feet of land, zoned R-3, Mount Vernon District, Tax Map Reference 93-2(8)(9) 30, 31, 32.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Michael McGurk, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He indicated that he needed more space to accommodate his growing family.

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

Mr. Hammack moved to grant the variance subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-V-062 by MICHAEL W. MCGURK, under Section 18-401 of the Zoning Ordinance to permit allow construction of addition to dwelling to 9.6 feet from side lot line, on property located at 6420 15th Street, Tax Map Reference 93-2(8)(9)30, 31, 32, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 16, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 9937 square feet of land.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion which carried by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

//

Page 240, September 16, 1986, (Tape 2), Scheduled case of:

10:10 A.M. JOHN KABAL AND KAROLINA E. KABAL - SP 86-D-032, under Section 3-103 of the Zoning Ordinance to permit a home professional office located at 10316 Georgetown Pike on approximately 42,691 square feet of land, zoned R-1, Dranesville District, Tax Map 12-2((1))6 and 12-2((2))15.

Kevin Guinaw, Staff Coordinator, advised the Board that the applicant was requesting a deferral to allow time to revise the site plan, however staff did not support the request.

Michael Miller, Leigh & Leigh Attorneys, 3989 Chain Bridge Road, appeared before the Board and requested that a deferral to allow the applicant time to meet with the citizens to address their concerns.

Chairman Smith called for speakers to address the issue of granting or not granting the deferral and Martha Harris, 10605 Springvale Court, and Mr. Keeperman, 420 Chesapeake Drive, appeared before the Board in support of the deferral.

E.K. Donaldson, 762 Elsworth Avenue, appeared before the Board to ask questions about the application but Chairman Smith informed him that he was calling for speakers to address the issue of the deferral.

At this time Chairman Smith asked the audience for a show of hands of those in support of the deferral and the majority of the interested citizens raised their hands.

Mr. Hyland moved to defer the application and Mrs. Thonen seconded the motion which passed by a vote of 3-2 with Mrs. Day and Mr. Smith voting nay; Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting. The Board then moved to defer the application to November 18, 1986 at 8:00 P.M.

//

Page 240, September 16, 1986, (Tape 2), Scheduled case of:

10:30 A.M. COLLABORATIVE PHASE ONE (CPI) SP 86-C-033, under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow garage to remain 12.4 ft. from public street R.O.W. line (15 ft. min. distance req. by Section 6-307) on approximately 8,068 square feet, zoned PRC, Centreville District, Tax Map 11-3((8))21.

Kevin Guinaw, Staff Coordinator, presented the staff report. Mr. Guinaw explained that the error in building location had occurred in a series of events which began on September 9, 1985 when a stakeout sheet prepared by the project engineer and submitted to CPI for review showed the garage to be located 17.7 feet from the front lot line. After reviewing the stakeout sheet, CPI modified the garage location to 14 feet from the front lot line and the house was recomputed to take this change into account. However, the project engineer failed to check the new location against the 15 foot setback

requirement and when on October 4, 1985 the garage was staked with the 13.6 foot setback there was a slight discrepancy between 12.4 feet shown on the survey and 13.6 feet which exists. Mr. Guinaw stated that staff felt the subject use would not adversely impact the surrounding area, the applicant met the required standards for this special permit use, and consequently staff would recommend approval of this application if the applicant could satisfactorily explain the discrepancy. Mr. Guinaw pointed out to the Board that a modification needed to be made to the viewgraph as the garage was attached to the dwelling as the revised plats indicated.

P. D. Gravett, 1451 Beulah Road, stated the CPI was a design and building firm and were developers for the entire subdivision and lots 1 and 2 were used as model homes. He explained that construction had commenced prior to the development of the roads by Reston Land Corporation. Mr. Gravett stated that the property corners were not in when excavation began on lot #1 and they hit an underground spring and changes had to be made and when it came time for footings stakeouts there was an error made in the stakeout at that time. He pointed out that this house did not differ from any of the others other than its location and has a contract pending at this time.

In response to questions from Board members, Mr. Gravett stated that the garage was attached to the house by beams with a covered walkway approximately 4 feet in width similar to the other garages in the neighborhood with a separation distance of approximately 6 feet.

As there were no speakers and no further discussion, Chairman Smith closed the public hearing.

Mrs. Day moved to grant the special permit subject to the development conditions contained in the staff report as this was the only error noted in the subdivision.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-033 by COLLABORATIVE PHASE ONE (CPI), under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow garage to remain 12.4 feet from public street R.O.W. line, Tax Map Reference 11-3(8)(2)1, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 16, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is PRC.
3. The area of the lot is 8,068 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location of the dwelling indicated on the plat submitted with this application and is not transferable to other land or structures on the same land.
2. An amended Building Permit reflecting the location of the existing dwelling shall be submitted and approved.

Mrs. Thonen seconded the motion which carried by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

//

The Board went into executive session to discuss some legal matters.

//

241

241

10:50 A.M. MINNIE W. WILLINGHAM, VC 86-P-063, under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, proposed lot 12B having width of 6 ft. (150 feet minimum lot width required by Section 3-106) located at 3900 Glenbrook Road on 2.0313 acres of land, zoned R-1, Providence District, Tax Map 58-4((9))12. 242

Kevin Guinaw, Staff Coordinator, presented the staff report and stated that this application did not meet the guidelines for a pipestem lot set forth by the Office of Comprehensive Planning. He also pointed out that many lots in this vicinity are vacant and undeveloped and staff felt if this variance were granted it would set a precedent in the neighborhood. Mr. Guinaw stated that he did not feel the applicant had met Paragraphs #2, #4 or #6 of Section 18-401 of the Zoning Ordinance.

Minnie M. Willingham, the applicant, 3900 Glenbrook Road, stated that she wished to subdivide her lot for financial reasons and that she still planned to live in her house on the front lot.

Mr. Guinaw informed the Board that there had been a contract agreement on the lot but the sale had not taken place.

Jane Kelsey, Branch Chief, informed the Board that a detailed justification statement was provided in the staff report.

Jean Massey, 3903 Glenbrook Road, supported the application and stated that a precedent had already been set in the neighborhood, with regard to subdividing lots, as she presently lived on an adjacent lot to the subject property which had been subdivided six years ago.

Following a discussion among the Board and Ms. Massey, Ms. Kelsey pointed out that the Zoning Ordinance standards had been brought more in line with the State Code regarding standards for variances. Chairman Smith explained to Ms. Massey that the hardship had to be related to the land itself and not a financial hardship.

Ms. Kelsey responded to questions from Mrs. Day by stating that the 25 foot setback requirement applied to pipestems serving more than one lot.

Mrs. Ross A. Close, owner of lots #22, #23, and #24, supported the application and explained that she had a similar application pending to subdivide her three lots into four two acre lots having 150 foot frontage on each to allow her daughters to build on these sites.

As there were no additional speakers or comments, Chairman Smith closed the public hearing.

Mr. Hyland stated he was torn in this application due to the particular circumstances by the applicant but that the guidelines used to grant a pipestem lot do not exist in this case; and neither does the application meets the standards for a variance.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-063 by MINNIE M. WILLINGHAM, under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, proposed lot 12B having width of 6 feet, on property located at 3900 Glenbrook Road, Tax Map Reference 58-4((9))12, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 16, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 2.0313 acres of land.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;

- B. Exceptional shallowness at the time of the effective date of the Ordinance;
- C. Exceptional size at the time of the effective date of the Ordinance;
- D. Exceptional shape at the time of the effective date of the Ordinance;
- E. Exceptional topographic conditions;
- F. An extraordinary situation or condition of the subject property, or
- G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.

5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

6. That:

- A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
- B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0 with Mr. Ribble not present for the vote; and, Mr. DiGiulian absent from the meeting.

//

Page 243 September 16, 1986, (Tape 2), Scheduled case of:

11:10 A.M. FULL GOSPEL FIRST KOREAN CHURCH OF WASHINGTON - SP 86-M-035, under Section 3-103 of the Zoning Ordinance to permit a Church and related facilities located at 7218 Braddock Road on approximately 4.35 acres of land, zoned R-1, Mason District, Tax Map 71-3((8))14, 15, 16.

Kevin Guinaw, Staff Coordinator, presented the staff report and recommended denial of this application based on transportation issues that had not been resolved.

John Bonds, Fairfax Station, agent for the applicant submitted revised plats showing a change in the transitional screening.

Ms. Kelsey told the Board that staff had not reviewed the plats as they were just submitted this morning but stated that staff's position remained the same.

Chairman Smith refused to accept the revised plats as staff had not had sufficient time to review them and pointed out to Mr. Bonds that the Board could only consider the plats which was before it at the present time.

Mr. Bonds withdrew the revised plats and stated that he did not feel this application should be denied due to the lack of a median break.

A lengthy discussion followed between the Board members and staff regarding the transportation issues.

Mrs. Casey, 7218 Braddock Road, spoke in support of this application and stated that this was not a heavily traveled roadway and pointed out two existing driveways on the site at present.

Lewis Wagner, 7205 Homestead Place, Springfield, Virginia, representing North Springfield Civic Association stated he did not object the church being built there but did agree with the concerns regarding the transportation issues.

Luke S. Chung, Washington, D.C., a member of the church spoke in support of this application and asked that the Board grant this application.

Chairman Smith called for speakers in opposition to this application and Harrison Butturff, 7225 Wilburdale Drive, Springfield, Virginia, represented the Wilburdale Civic Association and asked that the Board deny this application. (A copy of his prepared statement may be found in the master file.)

During his rebuttal comments, Mr. Bonds stated that he would work diligently with staff to resolve any outstanding issues.

As there were no further speakers or comments, Chairman Smith closed the public hearing.

Mr. Hammack moved to deny this application based on the transportation issues.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-M-035 by FULL GOSPEL FIRST KOREAN CHURCH OF WASHINGTON, under Section 3-103 of the Zoning Ordinance to permit a church and related facilities on property located at 7218 Braddock Road, Tax Map Reference 71-3((8))14, 15, 16, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 16, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the contract purchaser/lessee.
- 2. The present zoning is R-1.
- 3. The area of the lot is 4.35 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting Nay; Mr. Ribble not present for the vote; and, Mr. DiGiulian absent from the meeting.

//

Page 244 (Tape 3) After Agenda Item #1:

THE SOUTHLAND CORPORATION APPEAL

Jane Kelsey, Branch Chief, distributed to the Board a memorandum from the Zoning Administrator concerning two Appeals by The Southland Corporation. Ms. Kelsey pointed out that the appellant was not requesting a public hearing dates be set at this time as they hoped a resolution could be reached but had

Page 245, September 16, 1986, (Tape 2), (The Southland Corporation Appeal, Continued from Page 244)

filed the appeals due to the 30-day time limit. Chairman Smith, on behalf of the Board, accepted the Appeals and deferred scheduling until requested by the appellant.

245

//

As there was no further business, the Board adjourned at 1:15 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the Board of Zoning Appeals

Betsy S. Hurr
Betsy S. Hurr, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 10/25/86

APPROVED: 11/6/86

Black



247

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 23, 1986. The following Board Members were present: Daniel Smith, Chairman; Paul Hammack; Ann Day; Mary Thonen; and Gerald Hyland. Messrs. DiGiulian and Ribble were absent from the meeting.

Chairman Smith opened the meeting at 8:12 P.M., and Mrs. Day led the prayer.

//

Page 247 September 23, 1986, (Tape 1) Scheduled case of:

8:00 P.M. KINDER-CARE LEARNING CENTERS, INC., SP 86-S-034, under Section 3-103 of the Zoning Ordinance to permit child care center on approximately 43,233 square feet located at 8600 Center Road, zoned R-1, Springfield District, Tax Map 79-3(6)4A. (DEFER TO DECEMBER 16, 1986, TO COMPLY WITH 12-MONTH TIME LIMITATION SET FORTH IN SECT. 18-108 OF THE ZONING ORDINANCE)

At the request of the applicant and staff, the Board deferred SP 86-S-034 to December 16, 1986 by a vote of 4-0 with Mrs. Thonen not present for the vote; Messrs. DiGiulian and Ribble absent from the meeting. Staff explained that it had not been twelve months since the applicant withdrew the previous similar application on this same property, thus this application cannot be heard until after that twelve month period had expired. A hearing date of December 16, 1986 will meet that requirement.

//

As there was a few minutes before the next scheduled case, Jane Kelsey, Branch Chief, brought the Board up-to-date on the status of the Jesus Christ of Latter Day Saints Appeal and stated that the case was scheduled for October 7, 1986. She explained that everyone involved in the case was working together with the owner of the adjacent property so that access could be obtained through his property to a median break which would eliminate the need for interparcel access. If this transportation issue could be resolved, the applicant would agree to the Special Permit Amendment and drop the appeal. Chairman Smith said he would like to see this case resolved to eliminate having to go to court.

//

A discussion took place between the Board and Ms. Kelsey about the proposed amendments to the Zoning Ordinance with regard to the 90-day rule which would bring it more in line with the State Code. She explained that if the applicant and staff both agree to a deferral this would not affect the 90-day rule but that the State Code does not address the issue as to what happens if the applicant requests a deferral. Chairman Smith pointed out he felt this issue should be addressed. However, Mr. Kelsey stated that it is staff's position that this does not present a problem provided the applicant makes the request. She brought to the Board's attention a memorandum dated August 5, 1986 from the Zoning Administrator listing the changes recommended by the County Attorney which would require all requests for scheduling beyond the 90-day time period be brought to the Board of Zoning Appeals for scheduling.

//

Page 247 (Tape 1) Scheduled case of:

8:20 P.M. GEORGE NIXON SUMMERS, VC 86-D-061, application under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 10 feet from front lot line (50 ft. min. front yard req. by Sect. 3-E07) located at 1020 Millwood Road on approximately 2.4 acres of land, zoned R-E, Dranesville District, Tax Map 13-3(5)C1.

Jane Kelsey, Branch Chief, presented the staff report in the absence of Marilyn Anderson, Staff Coordinator. Ms. Kelsey stated that other property owners in this area had been granted variances to construct their houses closer to their property line due to the steep slope in the rear of the lots.

George Summers, the applicant, explained this was the only location on the site the house could be built due to an extreme slope in the rear of the lot. Mr. Summers submitted aerial photographs, and a sketch of the slope in relation to the proposed dwelling to the Board to substantiate his comments.

A lengthy discussion followed regarding the discrepancy between the aerial photographs and the plat prepared by the applicant's surveyor. The Board members felt that perhaps the surveyor needed to be present to respond to questions concerning this discrepancy.

At this time Chairman Smith called for speakers in support and hearing no reply called for speakers in opposition. Felix Aragas, 1023 Millwood Road, Great Falls, appeared before the Board and opposed the application as he felt this would lower the value of his property and invade his privacy.

248

During rebuttal, Mr. Summers stated he did not think this variance would affect Mr. Aragas' privacy as Mr. Aragas could not see Mr. Summers' site from his property and questioned whether Mr. Aragas had opposed the other variances that had been granted near the applicant's property.

As there were no additional speakers or further discussion, Chairman Smith closed the public hearing.

Mr. Hammack moved to defer this case, for decision only, for one week so that he could view the site and to allow time for the plats to be reviewed. Mr. Hyland requested that it be deferred two weeks as he would not be able to attend the next meeting. By unanimous consent, the Board agreed to defer this case to October 7, 1986 at 11:30 A.M.

//

Page 248 (Tape 1) Scheduled case of:


8:40 P.M. CANH QUANG TRAN, SP 86-M-036, under Section 3-303 of the Zoning Ordinance to permit a home professional office located at 3841 Gallows Road on approximately 13,400 square of land, zoned R-3, Mason District, Tax Map 60-3(31)1. TO BE WITHDRAWN

At the request of the applicant, Mr. Hyland moved to withdraw the application. Mrs. Thonen and Mr. Hammack seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

In response to questions from Mr. Hyland, Ms. Kelsey explained that the applicant had met the filing requirements but at staffing it was determined that there were problems with the application and after discussing these issues with the applicant, he decided to withdraw his application.

//

As there were no other business to come before the Board, the meeting was adjourned at 9:07 P.M.


Betsy S. Hurr, Deputy Clerk to the Board of Zoning Appeals


Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 10/28/80

APPROVED: 11/6/80

249

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 30, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Paul Hammack; Ann Day; and Mary Thonen. Messrs. Hyland and Ribble were absent from the meeting.

Chairman Smith opened the meeting at 9:23 A.M., and Mrs. Day led the prayer.

//

Page 249, September 30, 1986, (Tape 1) Scheduled case of:

9:00 A.M. SEVEN CORNERS CORPORATION, A 86-M-006, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's revocation of Special Use Permit #117, located at 6309 Leesburg Pike on approximately 14,179 square feet of land, zoned C-8, Mason District, Tax Map Reference 51-3((13))39.

Following a discussion between the Board, appellant and the Zoning Administrator, this case was deferred to later in the agenda to allow time for Mr. Hammack to arrive.

//

At this time, the Board proceeded to take action on the After Agenda Items.

Page 249, September 30, 1986, (Tape 1) After Agenda Item #1:

BARCROFT BIBLE CHURCH, SP 83-A-092
REQUEST FOR ADDITIONAL TIME

Mrs. Thonen moved to grant the request for additional time for one year. Mr. DiGiulian seconded the motion which passed unanimously with Mr. Hammack not present for the vote; Messrs. Hyland and Ribble absent from the meeting. The new expiration date is October 31, 1987.

//

Page 249, September 30, 1986, (Tape 1) After Agenda Item #2:

REBECCA ANN CRUMP, SP 84-S-079
REQUEST FOR ADDITIONAL TIME

Mrs. Thonen moved to grant the request for additional time. Mrs. Day seconded the motion which passed unanimously with Mr. Hammack not present for the vote; Messrs. Hyland and Ribble absent from the meeting.

//

Page 249, September 30, 1986, (Tape 1) Scheduled case of:

9:30 A.M. GROVETON PRESCHOOL, INCORPORATED - SPR 79-L-308-1, application under Section 3-303 of the Zoning Ordinance to renew S-308-79 for a nursery school to permit the continuation of the use, and modification to the dustless surface requirement, located at 6130 Old Telegraph Road on approximately 4.9421 acres of land, zoned R-3, Lee District, Tax Map 82-4((1))3.

Lori Greenlief, Staff Coordinator, presented the staff report and stated that staff recommended approval of this application subject to the development conditions contained in the staff report.

Amanda Schmitt, 4434 Flintstone Road, Alexandria, Virginia, Treasurer for Groveton Preschool, Incorporated, explained that the school was owned and operated by the parents of the students and had been in existence since 1979. Mrs. Schmitt agreed with the development conditions set forth in the staff report and stated that she was not aware of any opposition to the school by the surrounding neighbors.

As there were no speakers either in support or in opposition, Chairman Smith closed the public hearing.

Mrs. Thonen moved that this application be granted based on testimony presented by the applicant and subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPR 79-L-308-1 by GROVETON PRESCHOOL, INCORPORATED, under Section 3-303 of the Zoning Ordinance to renew S-308-79 for a nursery school to permit the continuation of the use, and modification to the dustless surface requirement, on property located at 6130 Telegraph Road, Tax Map Reference 82-4((1))3, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 30, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the contract purchaser/lessee.
2. The present zoning is R-3.
3. The area of the lot is 4.9421 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-307 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. Since there are no site improvements proposed and no building permits are required, this use shall not be subject to the provisions set forth in Article 17, Site Plans at this time.
5. The existing vegetation shall be deemed to satisfy the Transitional Screening requirement on all lot lines. The barrier requirement shall be waived.
6. The maximum number of children shall be 50, preschool age.
7. The hours of operation shall be 9:00 A.M. to 12:15 P.M., Monday through Friday.
8. All gravel surfaces shall be maintained in good condition at all times, so as to prevent surface erosion and nuisance dust impacts on surrounding areas.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Mr. DiGiulian seconded the motion.

Page 251, September 30, 1986, (Tape 1), (Groveton Preschool, Incorporated, SPR 79-L-308-1, continued from Page 250)

The motion carried by a vote of 4-0 with Mr. Hammack not present for the vote; Messrs. Ribble and Hyland absent from the meeting.

//

Page 251, September 30, 1986, (Tape 1), Scheduled case of:

9:00 A.M. SEVEN CORNERS CORPORATION, A 86-M-006, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's revocation of Special Use Permit #117, located at 6309 Leesburg Pike on approximately 14,179 square feet of land, zoned C-8, Mason District, Tax Map Reference 51-3((13))39.

Jane Gwinn, Zoning Administrator, informed the Board that she had no comments other than those stated in her September 23, 1986 memorandum concerning this appeal.

John C. Testerman, attorney with Hansbarger and Testerman, 10523 Main Street, Fairfax, Virginia, represented the appellant and stated that in 1960 the appellant had been issued a permit to allow him to rent trucks. Mr. Testerman explained that this was not an expansion of the use but only the appellant relocating a part of his business to his present site.

Frank Burke, co-owner, 13809 Lowrey Drive, Chantilly, Virginia, testified under oath that he had been in business since 1959 and had always been allowed, by permit, to rent trucks. Mr. Burke submitted photos to the Board and stated that the purpose of the photographs was to substantiate his comments.

Chairman Smith noted a complaint had been filed concerning the rental trucks being parked on the street in a residential subdivision and Mr. Testerman stated this violation had existed but had now been corrected.

As there were no additional speakers in support of the appellant, Chairman Smith called for speakers in opposition. Richard Garcity, 6315 Buffalo Ridge Road, Falls Church, Virginia, spoke on behalf of the Buffalo Hills Subdivision and stated that trucks were still being parked on the streets of the subdivision and asked the Board to uphold the Zoning Administrator's decision.

During his rebuttal, Mr. Testerman stated he felt his client is in compliance with the Zoning Ordinance.

Chairman Smith pointed out to Mr. Testerman that vehicles were not to be parked outside the screening wall and that the special permit had been issued for trailer rentals only. He then closed the public hearing.

Mr. DiGiulian moved to uphold the Zoning Administrator's decision. Mrs. Thonen seconded the motion which passed unanimously with Messrs. Hyland and Ribble absent from the meeting.

Mr. Hammack stated he had voted in favor of the Zoning Administrator's decision but felt that the appellant had submitted photos to back up his testimony and that this was a very close case.

Mrs. Thonen pointed out that the appellant had expanded the use and believed the Zoning Administrator has the right to enforce the permit especially when it impacts upon neighborhoods such as this case does.

//

Page 251, September 30, 1986, (Tape 1) Scheduled case of:

9:40 A.M. JOHN KARANIKAS, VC 86-L-064, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.0 ft. from side lot line (12 feet required by Section 3-307) located at 5733 Overly Drive on approximately 11,315 square feet of land, zoned R-3, Lee District, Tax Map 82-1((6))(J)3.

Lori Greenlief, Staff Coordinator, presented the staff report.

John Karankias, 5733 Overly Drive, Alexandria, Virginia, explained that he was requesting this variance in order to make his dwelling more in character with the surrounding neighborhood. He noted the garage could not be located in the rear yard due to the expense involved to add retaining walls because of the slope in the yard.

251

As there were no speakers either in support or in opposition, Chairman Smith closed the public hearing.

Mrs. Day pointed out it would not be economically feasible to locate elsewhere on the lot and she felt the applicant had met all the standards and therefore moved to grant this application.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-064 by JOHN KARANIKAS, under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 5.0 feet from side lot line, on property located at 5733 Overly Drive, Tax Map Reference 82-1((6))(J)3, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 30, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 11,315 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

252

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion which carried by a vote of 4-1 with Chairman Smith voting nay; Messrs. Hyland and Ribble absent from the meeting.

//

Page 253, September 30, 1986, (Tape 1) Scheduled case of:

9:50 A.M. FRANKLIN D. AND IRENE Z. BURTON, VC 86-M-039, application under Section 18-401 of the Zoning Ordinance to permit construction of addition to dwelling to 10.3 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 6218 Everglades Drive on approximately 10,500 square feet of land, zoned R-3, Mason District, Tax Map Reference 61-4((6))(P)19. (DEFERRED FROM 7/15/86)

Jane Kelsey, Branch Chief, presented the staff report in the absence of Kevin Guinaw, Staff Coordinator, and explained this case had been deferred at the applicant's request from July 15, 1986 in order to allow the applicant time to revise the plats.

Mr. DiGiulian informed the Board that he had prepared the plats in this case and therefore would not participate in the public hearing due to a conflict of interest.

Mr. Hammack asked the applicant if he would like to defer for one week as the lack of participation on the part of Mr. DiGiulian would leave a total of four Board members and the applicant would need a unanimous vote in favor of the application in order for his variance to be approved.

Mr. Burton, the applicant, stated that he would like to proceed with the hearing as there had already been one deferral and pointed out that he had revised the plats to show the revision that would allow him to compensate for the extension of the fireplace.

As there were no speakers either in support or in opposition, Chairman Smith closed the public hearing.

Mr. Hammack stated he felt the applicant had met all the required standards and moved to grant this application subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-039 by FRANKLIN D. BURTON AND IRENE Z. BURTON, under Section 18-401 of the Zoning Ordinance to permit construction of addition to dwelling to 10.3 feet from side lot line, on property located at 6218 Everglades Drive, Tax Map Reference 61-4((6))(P)19, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 30, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,500 square feet of land.

253

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-0 with Mr. DiGiulian abstaining; Messrs. Hyland and Ribble absent from the meeting.

//

Page 254, September 30, 1986, (Tape 1), Scheduled case of:

10:10 A.M. CALVERT HOMES, SP 86-C-038, under Section 3-103 of the Zoning Ordinance to allow subdivision sales office, located at 13504 Copper Ridge Drive on approximately 23,343 square feet of land, zoned R-1, Centreville District, Tax Map 25-1((8))3.

Ms. Kelsey advised the Board that the applicant for Calvert Homes, SP 86-C-038, was having difficulty getting to the meeting and suggested that the hearing be deferred to the end of the Agenda and the Board members agreed.

//

255

10:25 A.M. SCOTT HAGENY, VC 86-D-066, under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, proposed lot A having width of 17 feet, located at 1934 Massachusetts Avenue, on approximately 53,724 square feet of land, zoned R-2, Dranesville District, Tax Map 41-1((13))(4)8, 9, 10.

Lori Greenlief, Staff Coordinator, presented the staff report.

Richard Reid of Paciulli, Simmons and Associates, 307 Maple Avenue, W., Vienna, Virginia, appeared before the Board and explained the request as outlined in the statement of justification. He added that he did not agree with the staff's criteria for pipestem lots and also indicated that condition 3 was not necessary. He clarified that although the applicant opposed condition 3, he would agree to it in order to receive approval of the Variance. Mr. Reid pointed out that if the variance was approved, the existing house on proposed lot B would either be rehabilitated or replaced.

Chairman Smith called for speakers in opposition to the proposal and the following people came forward: Brian Moss, 1921 Virginia Avenue, McLean, Virginia; and, Jeremy Ryder, 1911 Virginia Avenue, McLean, Virginia, who expressed concern for drainage problems and the character of the neighborhood if this variance was approved. Joann Marsh, 1872 Rhode Island Avenue, McLean, Virginia, questioned the ownership of the property. Scott Hageny, the applicant, 3057 Bohicket Court, Fairfax, Virginia, appeared before the Board and clarified that he was the owner of the property and that there was a contract on the property pending the outcome of the request for the Variance.

In rebuttal, Mr. Reid stated that the proposal was a better option than what could be done by right. He noted that any storm drainage problems would be resolved by the Fairfax County, Department of Public Works, Storm Drainage Branch.

In response to a question from Mr. Smith, Mr. Hageny reported that he had owned the property since November of 1985.

There being no other speakers, Chairman Smith closed the public hearing.

Mr. DiGiulian expressed the opinion that there was no hardship and therefore moved to deny the application.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-066 by SCOTT HAGENY, under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots proposed lot A having width of 17 feet, on property located at 1934 Massachusetts Avenue, Tax Map Reference 41-1((13))(4)8, 9, 10, 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 30, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 53,724 square feet of land.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

256

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.

5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-0 with Messrs. Hyland and Ribble absent from the meeting.

//

Page 256, September 30, 1986, (Tape 2), Scheduled case of:

10:10 A.M. CALVERT HOMES, SP 86-C-038, under Section 3-103 of the Zoning Ordinance to allow subdivision sales office, located at 13504 Copper Ridge Drive on approximately 23,343 square feet of land, zoned R-1, Centreville District, Tax Map 25-1((8))3.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that there was an error in Condition 4. She explained that the expiration date should be March 30, 1988 instead of March 30, 1986. In conclusion, Mrs. Greenlief stated that staff was recommending approval of SP 86-C-038.

Don Olson, 12658 Lake Ridge Drive, Oakton, Virginia, representing Calvert Homes, appeared before the Board and explained that there was no change in the use but that the temporary special permit had expired.

As there were no speakers, Mr. Smith closed the public hearing.

Mrs. Thonen moved to grant SP 86-C-038 subject to the conditions in the staff report with a change to Condition 4: "The expiration date shall be March 30, 1988 instead of March 30, 1986."

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-038 by CALVERT HOMES, under Section 3-103 of the Zoning Ordinance to allow subdivision sales office, on property located at 13504 Copper Ridge Drive, Tax Map Reference 25-1((8))3, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 30, 1986; and

Page 257, September 30, 1986, (Tape 2), (Calvert Homes, SP 86-C-038, continued from Page 256)

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 23,343 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-806 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This special permit shall expire on March 30, 1988.
5. All parking for this use shall be on-site.
6. The hours of operation shall be from 11:00 a.m. to 6:00 p.m., daily.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-0 with Messrs. Hyland and Ribble absent from the meeting.

//

Page 257, September 30, 1986, (Tape 2), Scheduled Case of:

11:00 A.M. DOME BUILDING PARTNERSHIP AND CHAMPION INDOOR SPORTS, INC., SPA 84-M-072-1, under Section 4-803 of the Zoning Ordinance to amend SP 84-M-072 for indoor baseball academy to permit addition of other indoor commercial recreational uses including tennis, lacrosse, soccer and miniature golf located at 5633 Leesburg Pike on approximately 91,327 sq. ft. of land, zoned C-8, Mason District, Tax Map 61-2((21))pt. 1 and 2, 19, 20, 21, 22.

Marilyn Anderson, Staff Coordinator, presented the staff report and advised that staff was recommending approval of the application subject to the conditions contained in the staff report.

John Cahill, 4084 University Drive, Fairfax, Virginia, attorney representing the applicant, appeared before the Board and explained the request as outlined in the statement of justification.

Mrs. Thonen and Mr. Cahill discussed the issue of parking and Mr. Cahill stated that the applicant would take whatever measures were necessary to control the parking problems.

As there were no speakers, Mr. Smith closed the public hearing.

257

Mrs. Day moved to grant the special permit amendment subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 84-M-072-1 by DOME BUILDING PARTNERSHIP AND CHAMPION INDOOR SPORTS, INC., under Section 4-803 of the Zoning Ordinance to permit amend SP 84-M-072 for indoor baseball academy to permit addition of other indoor commercial recreational uses including tennis, lacrosse, soccer and miniature golf, on property located at 5633 Leesburg Pike, Tax Map Reference 61-2((21))pt. 1 and 2, 19, 20, 21, 22, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 30, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is C-8.
3. The area of the lot is 91,327 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-503 and 8-501 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of employees on site at any one time shall not exceed four (4).
6. The maximum number of persons permitted in the facility at any one time shall not exceed 51.
7. The pro shop shall only sell equipment to patrons of the facility unless additional parking is provided in accordance with Article 11.
8. The width of the travel aisles and width of the entrances to the site shall be as approved by the Director, Department of Environmental Management (DEM).
9. There shall be a minimum of 20 parking spaces provided for this use.
10. This special permit shall expire on December 11, 1994.

259

The above conditions incorporate all applicable conditions of the previous approvals.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion which carried by a vote of 5-0 with Messrs. Hyland and Ribble absent from the meeting.

//

Page 259, September 30, 1986, (Tape 2), Scheduled Case of:

10:45 A.M. GREENBRIAR CIVIC ASSOCIATION, SPA 78-P-192-1, under Section 3-303 of the Zoning Ordinance to amend SP 78-P-192 for a community center to permit construction of addition to the building located at 4615 Stringfellow Road on approximately 1.52 acres of land, zoned R-3, Providence District, Tax Map 45-3(1)11. (TO BE DEFERRED - NOTICES NOT IN ORDER)

Due to the notices not being in order, the above referenced application was deferred to October 21, 1986 at 9:00 P.M.

//

Page 259, September 30, 1986, (Tape 2), After Agenda Item #3:

AFTER AGENDA ITEM #3
OUT OF TURN HEARING REQUEST FOR AGAPE CHRISTIAN FELLOWSHIP
SP 86-P-053

Mrs. Thonen moved to grant the request for an out-of-turn hearing for Agape Christian Christian Fellowship. The hearing was scheduled for October 21, 1986 at 9:00 P.M. to be heard concurrently with the Greenbriar Community Center application.

Mr. DiGiulian seconded the motion which passed unanimously with Messrs. Hyland and Ribble absent from the meeting.

//

There being no other business, the meeting was adjourned at 12:25 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Betsy S. Hurtt
Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: November 4, 1986 APPROVED: November 18, 1986

Blank



201

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 7, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Ribble; Ann Day; Mary Thonen; and Gerald Hyland. Mr. Hammack was absent from the meeting.

261

Chairman Smith opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

//

Page 261, October 7, 1986, (Tape 1) Scheduled case of:

9:00 A.M. THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, A 86-C-007, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that appellant church does not have a valid special permit, located at 2727 Centreville Road on approximately 5.0 acres of land, zoned R-1, Centreville District, Tax Map Reference 25-1((1))27A.

9:15 A.M. THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, SP 86-C-037, under Sect. 3-103 of the Zoning Ordinance to permit church and related facilities (Ref. 83-C-080 expired) located at 2727 Centreville Road on approximately 5.0 acres, zoned R-1, Centreville District, Tax Map 25-1((1))27A.

Chairman Smith announced that the Board was in receipt of a letter requesting a deferral of The Church of Jesus Christ of Latter Day Saints, SP 86-C-037 and The Church of Jesus Christ of Latter Day Saints, A 86-C-007.

Mrs. Day then moved to defer the above referenced applications to November 11, 1986 at 10:00 A.M. Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack absent from the meeting.

//

Mr. Hyland moved that the Board express its condolences to the family of Jim Rees, attorney, who died in a plane accident.

//

Page 261, October 7, 1986, (Tape 1), Scheduled case of:

9:45 A.M. FRED DAUGHERTY AND BARBARA B. AND GLEN W. GOODNIGHT, VC 86-C-068, under Sect. 18-401 of the Zoning Ordinance to allow subdivision into eight (8) lots, proposed corner lot 1 having a width of 68.14 feet (175 ft. min. lot width req. by Sect. 3-106) located at 11123 Vale Road on approximately 8.16 acres of land, zoned R-1, Centreville District, Tax Map Reference 37-3((1))2.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that the applicants were proposing to subdivide the property into eight lots. In order to accomplish the proposed subdivision, the applicants were requesting a variance of the 175 foot minimum lot width requirement. He added that there were two transportation issues related to the application. One, that interparcel access be provided to connect the properties to the west, which the applicant proposes to do. Secondly, right-of-way should be dedicated along Vale Road and Center Ridge Drive to which the applicant has also agreed. Mr. Guinaw stated that some of the proposed lots barely meet the minimum lot size requirement and that the site design was poor. In conclusion, Mr. Guinaw, suggested that it would be preferable to develop the parcel into a fewer number of larger lots.

Richard Reid, Director of Planning, Paciulli, Simmons and Associates, 307 Maple Avenue, West, Vienna, Virginia, representing the applicant, appeared before the Board and advised that under the County Zoning Ordinance requirement for lot widths for front yards on corner lots, the largest lot width that could be provided was a 68.14 foot width for lot 1. He added access to the subdivision would be by way of Center Ridge Drive. Mr. Reid noted that access to the Vale Valley subdivision and Silkwood subdivision were being provided. In addition, Mr. Reid stated that the property could not be reconfigured to comply with the 175 foot minimum lot width requirement. Mr. Reid reported that he had met with some of the citizens in the area and tried to address their concerns which related to erosion, destruction of trees and density.

Chairman Smith called for speakers in opposition to the proposal and the following persons came forward: Ray Sparrow, 2812 Center Ridge Drive, Oakton, Virginia; Mike French, 2814 Center Ridge Drive, Oakton, Virginia; William R. Tompkins, 2821 Vale Valley Road, Oakton, Virginia; Thomas McGinnis, 2818 Center Ridge Drive; Kathleen McGinnis, 2818 Center Ridge Drive, Oakton, Virginia. They all expressed concern with transportation issues, erosion, and density of the proposed subdivision.

In rebuttal, Mr. Reid pointed out that the access to the Center Ridge Drive was being provided to ensure a safer community. He added that the lot configuration was dictated by the fact that the subdivision would have to be on a septic system. Mr. Reid noted that lot sizes met the minimum requirements but under the Code that was all that was required.

At this time, Chairman Smith closed the public hearing.

Mrs. Thonen pointed out that the applicant had to locate the houses according to where the land perks and added that they could not cluster the houses. She also supported the proposal for interparcel access. Mrs. Thonen moved to approve VC 86-C-068 subject to the conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-C-068 by Fred Daugherty & Barbara B. & Glen W. Goodnight, under Section 18-401 of the Zoning Ordinance to allow subdivision into eight (8) lots, proposed corner lot having a width of 68.14 feet, on property located at 11123 Vale Road, Tax Map Reference 37-3(1)2, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 7, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 8.16 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

262

Page 263, October 7, 1986, (Tape 1), (Fred Daugherty and Barbara B. and Glen W. Goodnight, VC 86-C-068, continued from Page 262)

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is *GRANTED with the following limitations:

1. This variance is approved for the subdivision of one lot into eight (8) lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The subdivision of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code, and the applicable requirements of the Public Facilities Manual.
4. The applicants shall work with the County Arborist to determine limits of clearing on the site and shall prepare a tree preservation plan to be submitted to the County Arborist for approval prior to site plan approval and the commencement of any site clearance activity.
5. Green Holly Springs Court and its connection to the planned development on Lot 31 shall be constructed by the applicants as approved by DEM and shall be dedicated for public street purposes.
6. Dedication of right-of-way shall be forty-five (45) feet from centerline on Vale Road and twenty-five (25) feet from centerline on Center Ridge Drive as approved by DEM. Temporary grading and construction easements for future possible improvements shall be provided at the time of subdivision plan review.
7. Environmental studies as determined by the Director of DEM shall be completed prior to application for a building permit or the undertaking of any site clearance or construction activity.

Mr. DiGiulian seconded the motion.

*The motion failed due to lack of the required four (4) votes necessary to pass a motion for variance or special permit application; Mrs. Thonen, Mr. DiGiulian, Mr. Smith voting aye; Mrs. Day, Mr. Hyland, Mr. Ribble voting nay; Mr. Hammack absent from the meeting.

Mrs. Thonen, at the request of the applicant moved to approve a waiver of the 12 month limitation for rehearing an application.

Mrs. Day seconded the motion which passed unanimously with Mr. Hammack absent from the meeting.

//

Page 263, October 7, 1986, (Tapes 1 and 2) Scheduled case of:

10:00 A.M. MOTHER GOOSE DAY CARE CENTER, INC., SP 86-P-040, under Sect. 3-403 of the Zoning Ordinance to permit a child care center, located at 2852 Lawrence Drive on approximately 8,939 sq. ft., zoned R-4, Providence District, Tax Map 50-3((15))5.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Brenda Bijani, 2852 Lawrence Drive, Falls Church, Virginia, stated she was aware of the opposition from her neighbors and would work with them to resolve their concerns and still meet all the requirements according to the Zoning Ordinance. She pointed out that she had not been aware of the inadequate parking that was one of staff's major concerns.

In response to questions from Mr. Hyland and Mrs. Thonen, Ms. Bijani replied that she would be willing to reduce the number of children to comply with the required parking and explained that many of the parents would be from the neighborhood and would walk their children to the day care center.

263

Chairman Smith called for speakers in support and hearing no reply, called for speakers in opposition.

Margaret Rhea, 2860 Lawrence Drive, Falls Church, Virginia, advised the Board that she was speaking on behalf of some of her neighbors and opposed the application based on the fact that the street is so narrow it is presently impossible for two cars to pass at the same time. She also stated that she felt this would set a precedent in the neighborhood which would bring further commercialization.

Mary Lois Montrey, 2854 Lawrence Drive, Falls Church, Virginia, explained that she lives next door to the applicant and that she had an invalid mother who lived with her whose bedroom would be greatly affected by the noise generated by the children attending the day care center. Ms. Montrey pointed out that there were other day care centers in the area at present and asked the Board to deny the application.

During rebuttal, Ms. Bijani stated that she did not feel this would change the neighborhood nor did she feel there would be a substantial increase in traffic. She asked the Board to approve her application as she would very much like to open the day care center.

As there no other speakers, Chairman Smith closed the public hearing.

Mr. DiGiulian stated that the application did not meet all standards required for a special permit, and therefore moved to deny SP 86-P-040.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-040 by MOTHER GOOSE DAYCARE CENTER, INC., under Section 3-403 of the Zoning Ordinance to permit a child care center, on property located at 2852 Lawrence Drive, Tax Map Ref. 50-3((15))5, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 7, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 8,939 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 6-0 with Mr. Hammack absent from the meeting.

//

Page 264, October 7, 1986, (Tape 2) Scheduled case of:

10:15 A.M. LAN TRAC INTERNATIONAL INC. BY ARTURO RIVERA, VC-86-D-070, under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots 2 and 3 each having width of 33 feet (150 ft. min. lot width req. by Sect. 3-106) located at 815 Walker Road on approximately 5.0 acres of land, zoned R-1, Dranesville District, Tax Map 13-1((1))28.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that staff had five major concerns with this application: 1) development of the property would not be in harmony with the Comprehensive Plan; 2) proposed lot #2 would not meet the guidelines of the Comprehensive Plan; 3) sensitive Environmental Quality Corridor

(EQC) exist in the area; 4) transportation problems exist with regard to sight distance; and, 5) this could set a precedent for future developers, and 6) the applicant has reasonable use of the land without a variance. Therefore, staff is recommending denial of this application as the application does not satisfy Paragraphs 2, 4, 6, or 9 of the standards required for a Variance.

Robert Panier, 9408 Georgetown Pike, Great Falls, Virginia, represented the applicant. He stated that the parcel was zoned R-1 and that many of the other cluster subdivisions to the south of Georgetown Pike have been developed at a density greater than .2 or .5 dwelling units per acre as had the subject parcel. In addition, the subject parcel was directly between an R-2 zoning district and an R-E zoning district and by right this lot could be subdivided into five lots, with a dwelling density of 1.0. He pointed out that the applicant was proposing to subdivide into three lots which would result in a density of .6 which is just slightly above the density which has been recommended in the Master Plan, .2 to .5, and in addition it is below the 1.0 density which could be developed by right. The parcel is an exceptionally long and narrow parcel with 217 feet frontage and over 1,000 feet of depth. He added that the applicant was proposing to develop the parcel so that there would be no disruption to the EQC and with one driveway for all three lots.

George Summers, 1024 Millwood Road, Great Falls, Virginia, spoke on behalf of the Great Falls Association and supported the application but stated that the applicant did need to resolve the transportation issues and that he would like for the applicant to provide a trail along Walker Road.

Mr. Hyland pointed out to Mr. Summers that the provision for a trail had been addressed in development condition #5 in the staff report.

Mr. Summers continued by saying that the lots should be designed so that the EQC would be disturbed as little as possible.

Norma York, 9811 Thunderhill Court, Great Falls, Virginia, represented the Thunderhill Court Association and spoke in favor of the application but asked that significant screening be provided between the proposed site and the Thunderhill Court Subdivision.

As there were no additional speakers in support, Chairman Smith called for speakers in opposition and Thomas Burger, 9643 Georgetown Pike, Great Falls, Virginia, appeared before the Board. Mr. Burger stated that he fully agreed with staff comments and expressed concern with the location of the septic field to the stream which was located on the rear lot. He added that he would like to see the applicant leave as many of the trees on the site as possible and suggested that the applicant consult with the County Arborist.

During rebuttal, Mr. Panier stated that the location of the septic fields had been discussed with the appropriate County offices and explained that the lot was very narrow. He pointed out to the Board that this lot could be developed as five, one acre sites without a variance.

Jane Kelsey, Branch Chief, clarified that the applicant could develop this site without a variance if the R-1 zoning requirements could be met.

Chairman Smith closed the public hearing as there were no additional speakers or further comments.

Mrs. Day concurred with staff's comments that this application does not meet Paragraphs 2, 4, 6 and 9 of the requirements for a variance and moved to deny VC 86-D-070.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-070 by LAN TRAC INTERNATIONAL INC., BY ARTURO RIVERA, under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots two (2) and three (3) each having width of 33 feet, on property located at 815 Walker Road, Tax Map Reference 13-1((1))28, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 7, 1986; and

266

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5.0 acres of land.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Messrs. Hyland and DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mr. Hammack absent from the meeting.

//

Page 266, October 7, 1986, (Tape 2) Scheduled case of:

10:30 A.M. EDWARD F. REARDON, VC 86-A-071, under Sect. 18-401 of the Zoning Ordinance to allow construction of an addition to a dwelling to 21.25 feet from a front lot line of a corner lot (30 ft. min. front yard req. by Sect. 3-307) located at 8406 Georgian Way on approximately 11,896 sq. ft. of land, zoned R-3, Annandale District, Tax Map 70-1(16)247A.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Edward F. Reardon, 8406 Georgian Way, Annandale, Virginia, told the Board that the variance would allow him to increase the living space of his house and provide him with a much needed storage area. Mr. Reardon distributed photographs to the Board showing the house as it presently looks and the house as it would look with the addition.

267

Page 267, October 7, 1986, (Tape 2), (Edward F. Reardon, VC 86-A-071, continued from Page 266)

There were no speakers in support of the application but Kenneth Dankel, 4707 Oak Forest Drive, Annandale, Virginia, appeared before the Board to oppose the application. As Mr. Dankel had submitted an opposition letter to the Board, he only pointed out that this type of request needed to be submitted to the neighborhood Architectural Review Board (ARB) and feared this might set a precedent.

Mr. Reardon agreed that there was a stipulation in the covenant but the ARB had told him to apply for the variance prior to submitting his application to them.

Mr. Hyland moved to defer this case to October 28, 1986 at 10:15 A.M., for decision only, to allow the applicant time to submit his plan to the ARB. Mrs. Thonen seconded the motion which passed by a vote of 6-0 with Mr. Hammack absent from the meeting.

//

Page 267, October 7, 1986, (Tape 2) Scheduled case of:

10:45 A.M. GREGORY S. ELLIS AND MIRIAM ELLIS, VC 86-A-072, under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed addition to dwelling to 21.0 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) located at 5111 Kings Grove Court on approximately 8,697 sq. ft. of land, zoned R-3(C), Annandale District, Tax Map 69-3((16))10. (NOTICES NOT IN ORDER)

As the notices were not in order, by unanimous consent the case was deferred to November 6, 1986 at 11:00 A.M.

//

Page 267, October 7, 1986, (Tape 2) Scheduled case of:

11:00 A.M. C. DAVID AND MELINDA M. SWENSON, VC 86-V-073, under Sect. 18-401 of the Zoning Ordinance to allow construction of an addition to a dwelling to 6.6 feet from a side lot line (10 ft. min. side yard req. by Sect. 3-407) located at 1906 Belle Haven Road on approximately 11,625 sq. ft. of land, zoned R-4, Mount Vernon District, Tax Map 83-3((14))(9)26.

At the request of the applicant, Mrs. Thonen moved to withdraw this application without prejudice. Mrs. Day seconded the motion which passed by a vote of 6-0 with Mr. Hammack absent from the meeting.

//

Page 267, October 7, 1986, (Tape 2) Scheduled case of:

11:15 A.M. FAIRFAX BAPTIST TEMPLE, SPA 76-A-230-1, under Sect. 8-901 of the Zoning Ordinance to amend S-230-76 for church and related facilities to permit addition of two (2) mobile classrooms to existing facilities, located 9524 Braddock Road on approximately 4.8485 acres of land, zoned R-1, Annandale District, Tax Map 69-3((1))21.

At the request of the applicant, Mrs. Thonen moved to withdraw this application without prejudice. Mr. Hyland seconded the motion which passed by a vote of 6-0 with Mr. Hammack absent from the meeting.

//

Page 267, October 7, 1986, (Tape 2) Scheduled case of:

11:30 A.M. GEORGE NIXON SUMMERS - VC 86-D-061, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling 10 feet from front lot line (50 ft. min. front yard req. by Sect. 3-E07) located at 1020 Millwood Road on approximately 2.4 acres of land, zoned RE, Dranesville District, Tax Map 13-3((5))C1. (DEFERRED FROM 9/23/86)

Marilyn Anderson, Staff Coordinator, advised the Board that plats had been submitted by the surveyor late yesterday evening. The surveyor had indicated that the plats were still incorrect and both he and the applicant would like to defer the case for one week so that the plats could be corrected. Mr. Hyland moved to defer this case to October 14, 1986 at 11:15 A.M. Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. Hammack absent from the meeting.

//

Page 268, October 7, 1986, (Tape 2), (Donald T. and Gabrielle H. Williamson Appeal, continued from Page 265)

268

Jane Kelsey, Branch Chief, informed the Board that the Appeal of Donald T. and Gabrielle H. Williamson was going to be withdrawn by the appellants and therefore the public hearing scheduled for October 14, 1986 would not begin until 9:30 A.M.

//

As there was no other business to come before the Board, the meeting was adjourned at 1:00 P.M.

Patti M. Hicks

Patti M. Hicks, Clerk to the Board of Zoning Appeals

Betsy S. Hurtt

Betsy S. Hurtt, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith

Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 12-9-86

APPROVED: 12-18-86

269

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 14, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Ribble; Ann Day; Mary Thonen; Paul Hammack; and Gerald Hyland.

Chairman Smith opened the meeting at 9:52 A.M. and Mrs. Day led the prayer.

//

Mr. Hyland spoke about the loss of Wallace Covington and stated that Mr. Covington was a special person who was always available to help anyone and told the Board that he would miss a good friend and this was the loss of a very competent and professional person from the Fairfax County staff.

//

Chairman Smith brought to the Board's attention the request from the Planning Commission that Korean Central Baptist Church, SP 86-L-026, scheduled for October 21, 1986 at 8:15 P.M. be deferred to allow the Planning Commission time to hold a public hearing. He pointed out the 90-day time limit and explained that the Planning Commission had 30 days in which to pull the case and did not choose to do so. Following a discussion among the Board, Lori Greenleaf, Staff Coordinator, informed the Board that the applicant's attorney was present to respond to questions.

Mitchell Komaroff, attorney with Madigan and Scott, 7880 Backlick Road, Springfield, Virginia, represented the applicant and opposed the deferral as this case has been pending for a long period of time.

Mrs. Thonen moved to defer SP 86-L-026, Korean Central Baptist Church, to allow time for the applicant to work with the surrounding neighborhood and for the Planning Commission to review the case. Mr. DiGiulian seconded the motion which passed by a vote of 6-1 with Chairman Smith voting nay.

//

Page 269, October 14, 1986, (Tape 1) Scheduled case of:

9:00 A.M. DONALD T. & GABRIELLE H. WILLIAMSON, A 86-L-005, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that an accessory structure on the subject property is in compliance with the Zoning Ordinance, located at 6362 Brampton Court on approximately 2,208 square feet of land, zoned R-12, Lee District, Tax Map 72-3((26))25. (DEF. 7/29/86 & 10/14/86 - NOTICES NOT IN ORDER)

At the request of the applicant, Mrs. Thonen moved to allow the applicant to withdraw A 86-L-005. Mrs. Day seconded the motion which passed by a vote of 7-0.

//

Page 269, October 14, 1986, (Tape 1) Scheduled case of:

9:30 A.M. MARGARET J. (MILLER) MOWBRAY, VC 86-L-041, application under Sect. 18-401 of the Zoning Ordinance to permit construction of a roofed deck 10 feet from side lot line and a porch 34.5 feet from front lot line (30 ft. min. side yard, 40 ft. min. front yard req. by Sect. 3-107), located at 6282 Wills Street on approximately 11,220 square feet of land, zoned R-1 & HC, Lee District, Tax Map 91-1((6))4.

Mrs. Thonen moved to allow the applicant to withdraw VC 86-L-041 as stated in her letter. Mr. Hyland seconded the motion which passed by a vote of 7-0.

//

Page 269, October 14, 1986, (Tape 1) Scheduled case of:

9:45 A.M. LANCE V. FOSTER - SP 86-P-031, application under Sect. 3-103 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow 12 foot high shed to remain 8.7 feet from side lot line and 5.4 feet from rear lot line (20 ft. min. side yard and 12 ft. min. rear yard req. by Sects. 3-107 and 10-104), located at 3837 Prince William Drive on approximately 22,729 square feet of land, zoned R-1, Providence District, Tax Map 58-4((10))7. (DEF. 9/9/86 - NOTICES NOT IN ORDER)

As the applicant was not present, Mrs. Thonen moved that this case be moved to the end of the Agenda and it was so ordered. Mr. Hammack suggested that staff try to contact the applicant.

//

Page 270, October 14, 1986, (Tape 1) Scheduled case of:

10:00 A.M. C. A. BUILDERS, INC., VC 86-L-075, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed corner lot 3 having a width of 90.96 ft. (105 ft. min. lot width req. by Sect. 3-306), and to allow existing dwelling on proposed lot 3 to be 13 ft. from new front lot line (30 ft. min. front yard req. by Sect. 3-307), located at 6180 Cobbs Road on approximately 1.4080 acres of land, zoned R-3, Lee District, Tax Map 81-3((7))17.

Marilyn Anderson, Staff Coordinator, presented the staff report and stated if it was the intent of the Board to approve this application that it be subject to the development conditions contained in Appendix 1 of the staff report. She added if it was the intent of the Board to allow the dwellings to remain on the site that their approval be subject to the development conditions contained in Appendix 2 of the staff report.

Richard Dixon, attorney, 4122 Leonard Drive, Fairfax, Virginia represented the applicant and told the Board that this request was in line with the Rosehill Plan and that utilities and storm water drainage were already available and did not feel this variance would adversely affect the surrounding neighborhood.

As there were no speakers in support of this application, Chairman Smith called for speakers in opposition. David Whitehill, 5904 Tilbury Road, Alexandria, Virginia, came forward and stated that he would like to see this site developed into three lots and the existing houses demolished.

Roy Hibbs, 6179 Cobbs Road, Alexandria, Virginia, agreed with the previous speaker and stated that he did not feel the applicant had dealt fairly with the surrounding citizens.

In his closing comments, Mr. Dixon explained that the applicant did not object to removing the existing houses but felt to refurbish the houses would be more in line with the Rosehill Plan.

As there were no further speakers and no additional comments, Chairman Smith closed the public hearing.

//

Mr. Hammack agreed with staff's comments and stated that he felt three lots on this site would be more appropriate and would be more in harmony with the existing neighborhood. He further stated that he did not feel the existing houses should remain on the site.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-075 by C. A. BUILDERS, INC., under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed corner lot 3 having a width of 90.96 feet, and to allow existing dwelling on proposed lot 3 to be 13 feet from new front lot line, on property located at 6180 Cobbs Road, Tax Map Reference 81-3((7))17, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 14, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 1.4080 acres of land.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;

- E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
 4. That the strict application of this Ordinance would produce undue hardship.
 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
 7. That authorization of the variance will not be of substantial detriment to adjacent property.
 8. That the character of the zoning district will not be changed by the granting of the variance.
 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 6-1 with Chairman Smith voting nay.

//

Page 271, October 14, 1986, (Tape 1) Scheduled case of:

10:15 A.M. SHARON M. RASH, SPA 83-V-084-1, application under Sect. 3-2003 of the Zoning Ordinance to amend SP 83-V-084 for a child care center to permit change of permittee and revision of conditions, located at 7932 Janna Lee Avenue on approximately 21.7293 acres of land, zoned R-20, Lee District, Tax Map 101-2((1))17. (TO BE WITHDRAWN)

Marilyn Anderson, Staff Coordinator, informed the Board that she had received a verbal request from the applicant that she be allowed to withdraw her application.

Mr. Hyland moved to defer SPA 83-V-084-1 until October 21, 1986 at 9:15 P.M. to allow for the applicant time to submit a written request for a withdrawal. Mr. DiGiulian seconded the motion which passed unanimously with Mr. Ribble not present for the vote.

//

Page 271, October 14, 1986, (Tape 1) Scheduled case of:

10:30 A.M. GERHARD STOHRER, VC 86-S-077, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling 150 feet from railroad tracks (200 ft. min. distance between dwellings and railroad tracks req. by Sect. 2-414) located at 11521 Fairfax Station Road on approximately 5.2294 acres of land, zoned R-C & WSPD, Springfield District, Tax Map 76-2((1))17. (NOTICES NOT IN ORDER)

Mr. Hyland moved to defer VC 86-S-077 until December 2, 1986 at 9:15 A.M. as the notices were not in order. Mr. Ribble seconded the motion which passed unanimously.

//

Page 272, October 14, 1986, (Tape 1) Scheduled case of:

10:40 A.M. L. STEVE POTTS, VC 86-D-078, application under Sect. 18-401 of the Zoning Ordinance to allow construction of detached garage 5.0 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107) located at 1056 Utterback Store Road on approximately 22,000 square feet of land, zoned R-1, Dranesville District, Tax Map 12-1((2))12.

Marilyn Anderson, Staff Coordinator, presented the staff report.

Steve Potts, applicant, explained that he was requesting this variance to protect his automobiles, add much needed storage space and entered into the record a petition signed by the neighbors stating they were not opposed to this addition.

Mrs. Day moved to grant this variance due to the odd shape of the lot and based on the testimony presented by the applicant.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-078 by L. STEVE POTTS, under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 5.0 feet from side lot line, on property located at 1056 Utterback Store Road, Tax Map Reference 12-1((2))12, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 14, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 22,000 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

Page 273, October 14, 1986, (Tape 1), (L. Steve Potts, VC 86-D-078, continued from page 272)

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen and Mr. Hyland seconded the motion.

The motion carried by a vote of 6-1 with Chairman Smith voting nay.

//

Page 273, October 14, 1986, (Tape 1), Scheduled case of:

10:50 A.M. JAMES R. AND MARY F. MCINTIRE, VC 86-M-079, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage dwelling to 10.4 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107) located at 3059 Cedarwood Lane on approximately 30,000 square feet of land, zoned R-1, Mason District, Tax Map 50-4((21))33.

Marilyn Anderson, Staff Coordinator, presented the staff report.

Mr. Tramonte, attorney with Haight, Tramonte & Siciliano of 210 E. Broad Street, Falls Church, Virginia, appeared before the Board as the representative for the applicant. He noted that there was no opposition to the proposal and that many neighbors already had a garage. He added that the proposed garage would provide security and privacy for the applicant.

As there were no speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to grant the variance subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-079 by JAMES R. AND MARY MCINTIRE, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling 10.4 feet from side lot line, on property located at 3059 Cedarwood Lane, Tax Map Reference 50-4((21))33, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 14, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 30,000 square feet of land.

274

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion which carried by a vote of 6-1 with Mr. Smith voting nay.

//

Page 274, October 14, 1986, (Tape 2), Scheduled case of:

11:00 A.M. DAVID E. DANCE, VC 86-D-076, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 16.9 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107) located 845 Mackall Avenue on approximately 43,560 sq. ft. of land, zoned R-1, Dranesville District, Tax Map 21-4((6))7A, 6B.

Marilyn Anderson, Staff Coordinator, presented the staff report.

David Dance, the applicant, 845 Mackall Avenue, McLean, Virginia, appeared before the Board and explained that he needed extra living space to accommodate a growing family. He added that the lot was very narrow and that the owner of lot 7B and 7C had requested he provide a row of evergreen trees along the northern boundary of the property to provide screening.

As there were no speakers, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant the variance subject to the conditions contained in the staff report with an additional condition: The applicant shall plant a row of evergreen saplings along the northern boundary (in consonance with the ends of the 44 foot addition and overlapping equally beyond each 40 foot end to bring it to a total of 50 feet) which would screen his property from the abutting property owner who is located on lot 7B and 7C.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-076 by DAVID E. DANCE, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 16.9 feet from side lot line, on property located at 845 Mackall Avenue, Tax Map Reference 21-4((6))7A, 6B, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 14, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 43,560 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The applicant shall plant a row of evergreen saplings along the northern boundary (in consonance with the ends of the 44 foot addition and overlapping equally beyond each 40 foot end to bring it to a total of 50 feet) which would screen his property from the abutting property owner who is located on lot 7B and 7C.

Mr. Ribble seconded the motion which carried by a vote of 7-0.

//

Page 276, October 14, 1986, (Tape 2), Scheduled case of:

11:15 A.M. GEORGE NIXON SUMMERS - VC 86-D-061, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling 10 feet from front lot line (50 ft. min. front yard req. by Sect. 3-E07) located at 1020 Millwood Road on approximately 2.4 acres of land, zoned R-E, Dranesville District, Tax Map 13-3(5)C1. DEFERRED FROM 9/23/86 & 10/7/86.

Chairman Smith reminded the Board that the above referenced application had been deferred to allow the applicant time to provide additional information concerning the topography of the subject property.

George Nixon Summers, the applicant, 1020 Millwood Road, Great Falls, Virginia, appeared before the Board and submitted topographical plats and letter from his architect, Mr. Robert Wilson Mobley.

Felix Aragas, 1023 Millwood Road, Great Falls, Virginia, appeared before the Board and opposed the application as he felt this would lower the value of his property and invade his privacy.

At this time, a discussion took place among the Board members as to whether or not a member could vote on an application if he were not present at the initial or subsequent hearings.

As there were no other speakers, Chairman Smith closed the public hearing.

Mr. Hammack move to grant the variance subject to the development conditions contained in the staff report, noting the unique lot shape and extreme topographical conditions.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-061 by GEORGE NIXON SUMMERS, under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 10 feet from front lot line, on property located at 1020 Millwood Road, Tax Map Reference 13-3(5)C1, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 14, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is RE.
3. The area of the lot is 2.4 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion carried by a vote of 6-1 with Mr. Smith voting nay.

//

9:45 A.M. LANCE V. FOSTER - SP 86-P-031, application under Sect. 3-103 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow 12 foot high shed to remain 8.7 feet from side lot line and 5.4 feet from rear lot line (20 ft. min. side yard and 12 ft. min. rear yard req. by Sects. 3-107 and 10-104), located at 3837 Prince William Drive on approximately 22,729 square feet of land, zoned R-1, Providence District, Tax Map 58-4((10))7. (DEF. 9/9/86 - NOTICES NOT IN ORDER)

Lori Greenlief, Staff Coordinator, presented the staff report.

Lance Foster, the applicant, 3037 Prince William Drive, Fairfax, Virginia, appeared before the Board and explained that he was unaware that a building permit was necessary or that he was in violation of the Zoning Ordinance since he was replacing an existing structure.

As there were no speakers, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant the special permit subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-031 by LANCE V. FOSTER, under Section 3-103 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow 12 foot high shed to remain 8.7 feet from side lot line and 5.4 feet from rear lot line, on property located at 3837 Prince William Drive, Tax Map Reference 58-4((10))7, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 14, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 22,729 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This special permit is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. A Building Permit shall be obtained for the structure.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-2 with Messrs. Smith and Hyland voting nay.

//

At this time, the Board discussed a memorandum from Jane W. Gwinn, Zoning Administrator concerning a procedure by which the Board would be able to reconsider decisions. After a lengthy discussion, the Board deferred action on this matter to October 28, 1986.

//

278

Page 279, October 14, 1986, (Tape 2), After Agenda Item #1

Request for Additional Time
V-70-70 - Road Aggregates

279

Mrs. Thonen moved to grant the request for additional time for Road Aggregates, V-70-70. The new expiration date would be November 15, 1987.

Mr. Hammack seconded the motion.

Mr. Hyland suggested the following amendment: That the applicant be granted no further extensions.

Mr. Smith suggested an amendment: That there be no further extensions provided that DEM site plan approval comes within six (6) months of this date.

Mrs. Thonen and Mr. Hammack accepted Mr. Smith's amendment and the motion passed by a vote of 6-0 with Mr. Ribble not present for the vote.

//

Page 279, October 14, 1986, (Tape 3), After Agenda Item #2

Request for Additional Time
SP 83-M-099 - Vietnamese Buddhist Association

Mr. Hyland moved to deny the request for additional time for SP 83-M-099, Vietnamese Buddhist Association.

The motion failed by a vote of 3-4 with Mrs. Day, Mr. Hyland and Mrs. Thonen voting aye; Messrs. Hammack, DiGiulian, Ribble, and Smith voting nay.

Mr. Hammack then moved to grant the request for additional time with no further extensions. The new expiration date would be October 3, 1987.

Mr. Ribble and Mrs. Thonen seconded the motion which passed unanimously.

//

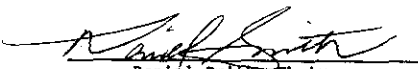
The Board received a memorandum from Jane W. Gwinn, Zoning Administrator, concerning application for appeal from Richard T. Ziegler. By unanimous consent, action on the appeal was deferred to October 28, 1986.

//

As there was no other business to come before the Board, the meeting was adjourned at 1:15 P.M.


Patti M. Hicks, Clerk to the
Board of Zoning Appeals


Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals


Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 12-9-86 APPROVED: 12-18-86

280

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 21, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; and Gerald Hyland. John Ribble was absent from the meeting.

Chairman Smith opened the meeting at 8:15 P.M. and Mrs. Day led the prayer.

//

Page 280, October 21, 1986, (Tape 1) Scheduled case of:

8:00 P.M. WAIVER OF 12 MONTH LIMITATION, VICTOR O. AND SURAYA MONDINO, SP 86-P-028, application under Section 3-103 of the Zoning Ordinance to permit a child care center located at 2159 Chain Bridge Road, on 20,991 square feet of land, zoned R-1 (HC), Providence District, Tax Map Reference 39-1((3))19A.

Bernard Fagelson, attorney, 401 Wythe Street, Alexandria, Virginia, representing the applicant appeared before the Board and explained that the waiver of the 12 month limitation was justified because 33 feet in the building had been proposed to be reduced thus now meeting the floor area ratio limitation. He also submitted a petition that included 33 names in support of the waiver.

Chairman Smith called for speakers and Mr. Fred Wood, 1005 Fairway Drive, W.E., Vienna, Virginia, Vice-President, West Briar Civic Association, appeared before the Board in opposition to the request. He expressed concern for traffic impacts and safety and for the burden another hearing would be on the citizens of the community.

Ross Buckley, 108 St. Andrews Drive, Vienna, Virginia, appeared before the Board in opposition to the proposal expressing concern for traffic impacts and the short time that has elapsed since the last hearing.

Ann Cahoon, 1972 Horsehoe Drive, Vienna, Virginia, also expressed opposition to the proposal and submitted a petition with 18 names in opposition to the request. She reminded the Board that two previous applications have been denied for this location and nothing has changed.

Richard Beer, 1971 Horseshoe Drive, Vienna, Virginia, was the last speaker to appear in opposition to the proposal and shared the same concerns as the previous speakers.

There being no other speakers, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant the waiver of the 12 month limitation on rehearing SP 86-P-028.

Mr. DiGiulian seconded the motion which failed by a vote of 2-4 with Messrs. Hyland and DiGiulian voting aye; Mrs. Day, Mrs. Thonen, Messrs. Hammack and Smith voting nay; Mr. Ribble absent from the meeting.

//

Page 280, October 21, 1986, (Tape 1), Scheduled case of:

8:15 P.M. KOREAN CENTRAL BAPTIST CHURCH - SP 86-L-026, application under Section 3-303 of the Zoning Ordinance to permit church and related facilities, located at 6320 Franconia Road on approximately 3.8660 acres of land, zoned R-3, Lee District, Tax Map Reference 81-3((1))32. (DEFERRED FROM 7/29/86)

Mrs. Thonen moved to defer the above referenced application to December 2, 1986 at 11:30 A.M.

The motion was seconded by Mr. DiGiulian and passed unanimously with Mr. Ribble absent from the meeting.

The Planning Commission will hold a public hearing on this application November 19, 1986 at 8:15 P.M.

//

Page 280, October 21, 1986, (Tape 1), Scheduled case of:

8:30 P.M. BARBARA LYNN DAVIS - SP 86-P-039, application under Section 8-901 of the Zoning Ordinance for modification to the limitations on keeping of animals to permit the keeping of four (4) dogs in an apartment, located at 7374 Lee Highway Apt #204, zoned R-20, Providence District, Tax Map 50-1((19))(74)1-204.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the application subject to the development conditions contained in the staff report.

Barbara Davis, the applicant, 7374 Lee Highway, #204, Falls Church, Virginia, appeared before the Board and advised that she was not in violation of the Condominium bylaws, nor had there been any complaints about the dogs.

Chairman Smith called for speakers and Parakrama Wijesinghe, 2118 Monahan Drive, Herndon, Virginia, a former neighbor of the applicant, appeared before the Board in support of the application and stated the dogs never create a nuisance to the neighbors.

There being no further comments, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 86-P-039, subject to the development conditions contained in the staff report with an amendment to condition 6: That the words debris-scooper be changed to "pooper-scooper". He noted that the applicant had made extraordinary efforts to meet the standards set forth for special permits.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-039 by BARBARA LYNN DAVIS, under Section 8-901 of the Zoning Ordinance to permit modification to the limitations on keeping of animals to permit the keeping of four (4) dogs in an apartment, on property located at 7374 Lee Highway, Apt. #204, Tax Map Reference 50-1((19))(74)1-204, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 21, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the lessee.
- 2. The present zoning is R-20.
- 3. The area of the lot is 635 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-917 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. A copy of this SPECIAL PERMIT shall be made available to all departments of the County of Fairfax during working hours.
- 3. The applicant shall comply with Sect. 41-2-5 of the Fairfax County Code for Animals and Fowl, Unrestricted Dogs Prohibited: Leash Law, whenever the animals are outside the apartment.
- 4. The apartment shall be kept free of odor and animals debris.
- 5. This special permit approval is for only the four (4) poodles which currently reside in the apartment.
- 6. The applicant shall not allow the dogs in the grassed common area but rather shall limit the dogs to the wooded area to the east of her apartment building. The applicant shall take the shortest route from the apartment building door to the wooded trail and should the dogs defecate before reaching the wooded area, the applicant shall utilize a pooper-scooper.

Page 282, October 21, 1986, (Tape 1), (Barbara Lynn Davis, SP 86-P-039, continued from page 281)

- 7. The applicant shall not allow the dogs onto the outside patio unattended. In addition, if no one is home, the sliding glass door shall be closed.
- 8. The applicant shall remain in close contact with the resident manager to monitor the impact of the dogs on the neighbors.
- 9. The applicant shall continue to use a light timer to ensure that the lights in the apartment will go on at dusk.
- 10. This special permit shall expire on October 21, 1987.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Mrs. Day seconded the motion.

The motion carried by a vote of 5-1 with Mr. Smith voting nay; Mr. Ribble absent from the meeting.

//

Page 282, October 21, 1986, (Tape 1), Scheduled case of:

8:45 P.M. ROBERT G. AND CLAUDIA E. BUCHANAN, VC 86-A-069, application under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 6.0 feet from side lot line (8 ft. min. side yard req. by Sects. 6-106 and 3-407) located at 10847 Santa Clara Drive on approximately 8,953 sq. ft. of land, zoned PDH-4, Annandale District, Tax Map 57-3((9))29.

Lori Greenlief, Staff Coordinator, presented the staff report.

Mr. Buchanan, the applicant, 10847 Santa Clara Way, Fairfax, Virginia, appeared before the Board and explained that he had been vandalized and that his car had been hit as a result of being parking on the street. Therefore, Mr. Buchanan requested that the variance be granted.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant the variance subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-069 by ROBERT G. & CLAUDIA BUCHANAN, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 6.0 feet from side lot line, on property located at 10847 Santa Clara Drive, Tax Map Reference 57-3((9))29, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 21, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is PDH-4.
- 3. The area of the lot is 8,953 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;

- B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
- A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-1 with Mr. Smith voting no; Mr. Ribble absent from the meeting.

//

Page 282, October 21, 1986, (Tape 1), Scheduled case of:

9:00 P.M. GREENBRIAR CIVIC ASSOCIATION, SPA 78-P-192-1, under Section 3-303 of the Zoning Ordinance to amend SP 78-P-192 for a community center to permit construction of addition to the building located at 4615 Stringfellow Road on approximately 1.52 acres of land, zoned R-3, Providence District, Tax Map 45-3((1))11.

9:00 P.M. AGAPE CHRISTIAN FELLOWSHIP, SP 86-P-053, application under Section 3-303 of the Zoning Ordinance to permit operation of a church and related facilities in existing community center located at 4615 Stringfellow Road on approximately 1.52 acres of land, Providence District, Tax Map Reference 45-3((1))11.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board of staff's concerns: 1) Transitional Screening 1 should be provided in the front of the

site. 2) The four parking spaces in the front of the site had never been approved and staff was recommending that they be removed so that plantings could be provided. 3) With regard to parking, Ms. Greenlief pointed out that a shared parking agreement would be necessary in order to obtain the required parking for this use. She noted that one of staff's conditions addressed the issue so that the agreement must be obtained from the Board of Supervisors or adequate parking must be provided on-site. 4) Ms. Greenlief suggested that the applicant work with the Park Authority to coordinate a consolidated access to both lots. She further added that staff was recommending no parking on Stringfellow Road or Melville Lane from this use. In conclusion, Ms. Greenlief stated that staff was recommending approval of the application subject to the conditions contained in the staff report.

Myron Smith, 13158 Madonna Lane, Fairfax, Virginia, representative for the applicant, submitted a written statement to the Board. He stated that he did not object to conditions 1-7 and with respect to #8 with the assistance of Chairman Herrity and Supervisor Hanley, they would seek approval for the joint access authorization. Mr. Smith did object to staff's condition that would preclude parking on Stringfellow Road and Melville Lane. He further added that he disagreed with the Office of Transportation's analysis that the traffic generation of the application exceeded that anticipated in the Plan.

For the record, Chairman Smith, and Mr. Myron Smith confirmed that they were not related to each other.

Mr. DiGiulian pointed out that the Zoning Ordinance requires that on-site parking be provided.

Dale Long, Deacon, 2625 John Milton Drive, Herndon, Virginia, representing Agape Christian Church, appeared before the Board and indicated that there were approximately 50 people attending the Sunday service.

Chairman Smith called for speakers and Alberto Osterly, 4634 Majestic Lane, Fairfax, Virginia, representative for the Optimist Club, appeared before the Board in support of the application.

Chairman Smith noted for the record a letter in opposition to the proposal from Jack Bousquet of 4647 Sand Rock Lane, Chantilly, Virginia.

There being no other speakers, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant the special permit amendment subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 78-P-192-1 by GREENBRIAR CIVIC ASSOCIATION, under Section 3-303 of the Zoning Ordinance to amend SP 78-P-192 for a community center to permit construction of addition to the building, on property located at 4615 Stringfellow Road, Tax Map Reference 45-3((1))11, 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 24, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 1.52 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The hours of operation shall be from 8:00 a.m. to 11:00 p.m., daily. The applicant shall be allowed 12 after-hour parties per year until 1:00 a.m. with prior approval of the Zoning Administrator. The number of after-hour parties may be increased with the approval of the Zoning Administrator.
6. Transitional Screening 1 shall be provided along the eastern lot line. Existing vegetation shall be deemed to satisfy this requirement except in the area directly south of the driveway where the existing gravel parking spaces are located. These spaces shall be removed and Transitional Screening 1 type plantings shall be provided in that area.
7. The Barrier requirement shall be waived.
8. The applicant shall obtain a shared parking agreement from the Board of Supervisors in order to use one or both of the two parking lots on the adjacent Park Authority property, or shall provide the required number of parking spaces on site in accordance with the Zoning Ordinance requirements. If on-site parking is required, the applicant shall apply for a special permit to amend their existing special permit.
9. There shall be no parking associated with this use on Stringfellow Road or on Melville Lane.
10. The applicant shall work with the Fairfax County Park Authority toward an agreement which consolidates access via an entrance to the north of the subject property or via the existing parking lot to the east of the subject property which shall be implemented at such time as Stringfellow Road is improved to a four-lane divided facility. This agreement shall be executed prior to final site plan approval.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Nyland seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

//

286

Mr. DiGiulian then moved to grant SP 86-P-053 subject to the development conditions contained in the staff report with the elimination of number 4.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-053 by AGAPE CHRISTIAN FELLOWSHIP, under Section 3-303 of the Zoning Ordinance to permit operation of a church and related facilities in existing community center, on property located at 4615 Stringfellow Road, Tax Map Reference 45-3(1)111, 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 21, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the lessee.
- 2. The present zoning is R-3.
- 3. The area of the lot is 1.52 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 4. The hours of operation shall be from 9:30 a.m. to 12:30 p.m. and 6:00 p.m. to 9:30 p.m. on Sundays, and from 7:45 p.m. to 9:30 p.m. on Wednesdays.
- 5. The maximum number of seats shall be 100.
- 6. Transitional Screening 1 shall be provided along the eastern lot line. Existing vegetation shall be deemed to satisfy this requirement except in the area directly south of the driveway where the existing gravel parking spaces are located. These spaces shall be removed and Transitional Screening 1 type plantings shall be provided in that area.
- 7. The Barrier requirement shall be waived.
- 8. The applicant shall work with the owner of the property to obtain a shared parking agreement from the Board of Supervisors in order to use one or both of the two parking lots on the adjacent Park Authority property, or shall provide the required number of parking spaces on site in accordance with the Zoning Ordinance requirements. If on-site parking is required, the applicant shall coordinate with the owner of the property to apply for a special permit to amend their existing special permit.

- 9. There shall be no parking associated with this use on Stringfellow Road or on Melville Lane.
- 10. The applicant shall work with the owner of the property and the Fairfax County Park Authority toward an agreement which consolidates access via an entrance to the north of the subject property or via the existing parking lot to the east of the subject property which shall be implemented at such time as Stringfellow Road is improved to a four-lane divided facility. This agreement shall be executed prior to final site plan approval.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Mr. Hyland seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

//

Page 287, October 21, 1986, (Tape 1) After Agenda Item #1

Request for Additional Time
VC 85-A-131 - Douglas P. Fraser

Mrs. Day moved to grant the request for additional time for the above referenced application for an additional six months. The new expiration date will be April 2, 1987. Mr. DiGiulian seconded the motion which passed unanimously with Mr. Ribble absent from the meeting.

//

Page 287, October 21, 1986, (Tape 1), After Agenda Item #2

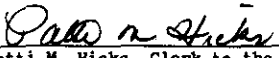
Request for Additional Time
SP-85-S-005 - Islamic Center Northern Virginia Trust

Mrs. Day moved to grant the request for additional time for the above referenced application for an additional year. The new expiration date will be November 11, 1987.

Mr. DiGiulian seconded the motion which passed unanimously with Mr. Ribble absent from the meeting.

//

As there was no other business to come before the Board, the meeting was adjourned at 9:45 P.M.


Patti M. Hicks, Clerk to the
Board of Zoning Appeals


Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 12-9-86

APPROVED: 12-18-86

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 28, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; Gerald Hyland; and John Ribble.

Chairman Smith opened the meeting at 9:10 A.M. and Mrs. Day led the prayer.

//

At this time, Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, introduced Ron Derrickson, new Planning Technician in Zoning Evaluation Division, who is assigned to work with the BZA Support Branch.

//

Page 288, October 28, 1986, (Tape 1) After Agenda Item:

After Agenda Item #1
Request for Additional Time for SP 84-M-009
Dar Al Hijrah

Mrs. Day moved to deny the request for additional time.

Mr. Hyland seconded the motion.

Following a brief discussion between Ms. Kelsey and the Board, it was determined that a building permit had been issued and construction on the structure (footings poured) had taken place.

However, the motion passed by a vote of 3-1 with Mr. Smith voting nay; Messrs. DiGiulian, Hammack and Ribble not present for the vote.

//

Page 288, October 28, 1986, (Tape 1), After Agenda Item:

After Agenda Item #2
Approval of Minutes

Mr. Hyland moved to approve the Minutes for February 11, 25, April 25, 29, May 13, July 8, 15, 22, 29, 31, and August 5, 1986.

Mrs. Thonen seconded the motion which passed unanimously with Messrs. DiGiulian and Hammack not present for the vote.

Ms. Kelsey explained that the current Clerk and Deputy Clerk had drafted the Minutes for February 11, 1986 and February 25, 1986 meetings from the notes of a previous Clerk and tapes of the hearing. She expressed her appreciation for their efforts in this regard. Chairman Smith reiterated this appreciation.

//

Page 288, October 28, 1986, (Tape 1), Scheduled case of:

9:00 A.M. LARRY K. AND JAMIE S. WOLFREY, VC 86-L-074, application under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8.2 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) located at 6204 Doncaster Court on approximately 8,411 sq. ft. of land, zoned R-4, Lee District, Tax Map 80-3(3)(78)5.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that the applicant was willing to remove the shed from the southwest corner of the lot because it was in violation of the Zoning Ordinance.

Larry Wolfrey, the applicant, 6204 Doncaster Court, Springfield, Virginia, appeared before the Board and referred to his statement of justification submitted with the application and asked that the statement be accepted.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant the variance subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-074 by LARRY K. AND JAMIE S. WOLFREY, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8.2 feet from rear lot line, on property located at 6204 Doncaster Court, Tax Map Reference 80-3(3)(78)5, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 8,411 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.
- 4. The shed currently located in the southwest corner of the rear yard shall be removed or relocated on the property in compliance with the Zoning Ordinance.

Mrs. Day seconded the motion which carried by a vote of 4-1 with Mr. Smith voting nay; Messrs. Hammack and Ribble not present for the vote.

//

Page 290, October 28, 1986, (Tape 1), Scheduled case of:

9:10 A.M. LAWRENCE DODD AND NAOMI DODD, VC 86-D-080, application under Section 18-401 of the Zoning Ordinance to permit construction of a dwelling 40 ft. from a street line of a corner lot (50 ft. min. front yard req. by Sect. 3-E07) located at 347 River Bend Road on approximately 30,871 sq. ft. of land, zoned R-E, Dranesville District, Tax Map 8-4((3))4.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Ken Sanders, attorney for the applicant, 10560 Main Street, #313, Fairfax, Virginia, appeared before the and Board noted that the subject lot was long and narrow. He added that all of the standards and requirements of the Ordinance had been met to grant the variance.

Chairman Smith called speakers and Tony Vega, 201 Riverbend Road, Great Falls, Virginia, appeared before the Board in opposition to the proposal. He submitted photographs of the property to question the posting of the property. He also expressed concern for higher density, removal of trees which serve as buffer, and a storm sewer system that may be necessary. Mr. Vega indicated that he did not understand why the 12 foot outlot road easement was necessary.

Mr. Guinaw advised Mr. Vega that there was no road constructed within the easement and that there was no Park Authority connection planned for the easement.

Mr. Sanders indicated that the easement was to serve property before it was subdivided and dead-ends at the adjacent property and was never used and will never be used.

Mr. Guinaw advised the Board that the staff had verified that the property was posted on October 8, 1986 and that the sign had not been removed by staff.

Julian Dashiell, 330 River Bend Road, Great Falls, Virginia, appeared before the Board and submitted a letter from the property owner of 333 Riverbend Road. He added that he had not seen a sign posted on the property.

Juanita Hoernig, 337 River Bend Road, Great Falls, Virginia, also testified that she had not seen a sign posted on the property. She expressed concern that the higher density would effect the water system in the area.

Mary Hartman, 9304 Weant Drive, Great Falls, Virginia, stated that she had not seen a sign posted and also opposed the application.

Ms. Kelsey, Branch Chief, informed the Board that staff had certified that the sign was posted on October 8, 1986 along River Bend Road on a tree. The Board further discussed the issue of re-posting the property. Mr. Sanders expressed opposition to a deferral of the case.

Elizabeth Tyaok, 9116, Weant Drive, Great Falls, Virginia, appeared before the Board and also stated that she had never seen a sign posted on the property.

Mr. DiGiulian moved that the Board rule that posting requirements had been satisfied and to continue with the hearing and make a decision.

Mr. Ribble seconded the motion which passed by a vote of 5-2 with Mr. Hyland and Smith voting nay.

In rebuttal, Mr. Sanders reiterated that the requested variance would meet the Zoning Ordinance requirements and standards.

There being no other speakers, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant the variance subject to development conditions contained in the staff report.

Mr. Ribble seconded the motion which passed by a vote of 5-1-1 with Mr. Smith voting nay; Mr. Hammack abstaining.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-080 by LAWRENCE AND NAOMI DODD, under Section 18-401 of the Zoning Ordinance to permit construction of a dwelling 40 feet from a street line of a corner lot, on property located at 347 River Bend Road, Tax Map Reference 8-4((3))4, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 30,871 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

292

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-1-1 with Mr. Smith voting nay; Mr. Hammack abstaining.

//

Page 292, October 28, 1986, (Tape 1), Scheduled case of:

9:20 A.M. MR. AND MRS. HEINRICH SCHMITZ, VC 86-D-084, application under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 14.1 ft. from side lot line (15 ft. min side yard req. by Sect. 3-207) located at 6021 Woodley Road on approximately 20,601 sq. ft. of land, zoned R-2, Dranesville District, Tax Map 31-4(10)12.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Tom Hemphfield, 1308 N. Irving Street, Arlington, Virginia, appeared before the Board as the representative of the applicant.

In response to a question from Chairman Smith, Mr. Hemphfield stated that his name was not included on the affidavit because he was unaware that it was necessary.

By unanimous consent, the Board passed over the case to allow the applicant's representative time to amend the affidavit.

//

Page 292, October 28, 1986, (Tape 2), Scheduled case of:

9:30 A.M. BAHAI COMMUNITY OF NORTHERN VIRGINIA, SP 86-D-042, application under Section 3-103 of the Zoning Ordinance to allow church and related facilities located at 11318 Leesburg Pike on approximately 5 acres of land, zoned R-1, Dranesville District, Tax Map 11-2(1)28. (TO BE DEFERRED - NOTICES NOT IN ORDER)

Kevin Guinaw, Staff Coordinator, advised the Board that the applicant was requesting time to work out problems regarding transportation. He added that the applicant had agreed to request a deferral to January 13, 1987 at 8:00 P.M.

Mr. Hyland so moved.

Mr. Ribble seconded the motion which passed unanimously.

//

Page 292, October 28, 1986, (Tape 2) Scheduled case of:

9:50 A.M. DONNA BARNAKO, SPA 85-D-074-1, application under Section 3-403 of the Zoning Ordinance to amend SP 85-D-074 for antique shop in older structure to permit arts and craft gallery use located at 6728 Lowell Avenue on approximately 16,441 sq. ft. of land, Zoned R-4, Dranesville District, Tax Map 30-2(9)58 and pt. of 57.

Kevin Guinaw, Staff Coordinator, presented the staff report and recommended approval of SPA 85-D-074-1 subject to the development conditions contained in Appendix 1 of the staff report. He explained that the BZA had previously approved a special permit for the applicant to operate an antique shop; however, she had actually wanted a craft gallery and there had been an error made when the application was accepted whereby an antique shop had been requested. Both uses are within the same use group under Article 8, Special Permits.

Donna Barnako, 9700 Beach Mill Road, Great Falls, Virginia, the applicant, told the Board that she agreed with the conditions set forth in the staff report.

Following questions from the Board, Ms. Barnako explained products for retail sale would not be manufactured on the premises but she would be conducting classes in arts and crafts.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. Hyland moved to grant SPA 85-D-074-1 subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 85-D-074-1 by DONNA BARNAKO, under Section 3-403 of the Zoning Ordinance to amend SP 85-D-074 for antique shop in older structure to permit arts and craft gallery use, on property located at 6728 Lowell Avenue, Tax Map Reference 30-2((9))58 and pt. of 57, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the lessee.
2. The present zoning is R-4.
3. The area of the lot is 16,441 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-703 and 8-704 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The transitional screening and barrier requirements shall be waived provided the existing fencing and trees remain. The dogwood tree to the rear of the site shall be maintained.
6. The hours of operation shall be Monday through Saturday from 10:00 A.M. to 5:00 P.M.

294

294

7. There shall be a maximum of three (3) employees at any one time, including the applicant.
8. Ten (10) parking spaces shall be provided. The parking lot shall be striped and one way entrance and exit signs and arrows shall be provided. All loading and parking shall be on-site.
9. The undergrowth and vegetation in the State right-of-way along the entrance and exit sign shall be cleared in order to provide adequate sight distance.
10. This special permit will expire on January 13, 1988.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion carried by a vote of 7-0.

//

Page 294, October 28, 1986, (Tape 2), Scheduled case of:

9:20 A.M. MR. AND MRS. HEINRICH SCHMITZ, VC 86-D-084, application under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 14.1 ft. from side lot line (15 ft. min side yard req. by Sect. 3-207) located at 6021 Woodley Road on approximately 20,601 sq. ft. of land, zoned R-2, Dranesville District, Tax Map 31-4((10))12.

This case was deferred from earlier in the meeting in order for the affidavit to be amended. Kevin Guinaw, Staff Coordinator, presented the staff report.

Thomas Hemphill, 1308 N. Irving Street, Arlington, Virginia, agent for the applicant pointed out the requested addition would not be detrimental to the neighborhood and would give the applicant more living space in his house.

Chairman Smith closed the public hearing as there were no speakers either in support or in opposition to this application.

Mrs. Day moved to grant VC 86-D-084 as she did not believe this would have an adverse impact upon the neighborhood and the applicant had met all the standards for a variance.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-084 by MR. AND MRS. HEINRICH SCHMITZ, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 14.1 feet from side lot line, on property located at 6021 Woodley Road, Tax Map Reference 31-4((10))12, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 20,601 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion carried by a vote of 7-0.

//

Page 295, October 28, 1986, (Tape 2), Scheduled case of:

10:05 A.M. INGRID J. FITZGERALD, SP 86-P-041, application under Section 8-914 of the Zoning Ordinance to permit reduction to min. yard req. based on error in building location to allow gazebo to remain 2 feet from side lot line (12 ft. min. side yard and 40 ft. total side yards req. by Sects. 3-107 and 10-104) located at 10700 Samaga Drive on approximately 28,201 sq. ft., zoned R-1(C), Providence District, Tax Map 37-3((16))1.

Kevin Guinaw, Staff Coordinator, told the Board that the Architectural Review Board (ARB) in the applicant's subdivision had requested a deferral of one month in order to allow the ARB time to review this application.

Mr. Hyland pointed out that the letter which the Board had received from the ARB stated that they would not approve the type of structure the applicant was requesting.

Richard Fitzgerald, 10700 Samaga Drive, Oakton, Virginia, the applicant, appeared before the Board and stated that a building permit had been granted for this structure.

Mr. Hammack noted that this structure had not been built by the applicant but by a contractor and stated that he did feel a deferral was in order.

Mr. Fitzgerald continued by explaining that when the structure was contracted for and built in May 1986 he had not been aware that the ARB was active until it notified him in August 1986. He pointed out there were other gazebos in the neighborhood.

Chairman Smith polled the audience to see if there were any persons interested in this case and Patrick Lally, 2803 Oakton Mill Drive, Oakton, Virginia, came forward and opposed the deferral based upon his belief that the applicant had been aware of the existence of the ARB.

Following a discussion among the Board members, Mr. Hammack moved to grant a deferral until December 2, 1986, at 11:45 A.M. Mr. DiGiulian seconded the motion which carried by a vote of 6-1 with Chairman Smith voting nay.

//

Page 296, October 28, 1986, (Tape 2), Scheduled case of:

10:15 A.M. EDWARD F. REARDON, VC 86-A-071, under Sect. 18-401 of the Zoning Ordinance to allow construction of an addition to a dwelling to 21.25 feet from a front lot line of a corner lot (30 ft. min. front yard req. by Sect. 3-307) located at 8406 Georgian Way on approximately 11,896 sq. ft. of land, zoned R-3, Annandale District, Tax Map 70-1(16)247A. (DEFERRED FROM 10/7/86 FOR ADDITIONAL INFORMATION)

Kevin Guinaw, Staff Coordinator, noted this case had been deferred to allow time for the applicant to go before his neighborhood ARB and submit his request. Mr. Guinaw concluded by stating that the ARB was opposed to this application.

Mrs. Edward Reardon, 8406 Georgian Way, Annandale, Virginia, the applicant, explained that the ARB had neither approved or disapproved the design and further stated that if the variance were granted they would go back to the ARB once again and abide by their decision.

As there were no additional comments, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant this application based on the lot being an oddly shaped corner lot and meeting the standards in the Zoning Ordinance and in accordance with the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-071 by EDWARD F. REARDON, under Section 18-401 of the Zoning Ordinance to allow construction of an addition to a dwelling to 21.25 feet from a front lot line of a corner lot, on property located at 8406 Georgian Way, Tax Map Reference 70-1(16)247A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 11,896 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion carried by a vote of 4-2 with Mrs. Thonen and Mr. Smith voting nay; Mr. DiGiulian not present for the vote.

//

Jane Kelsey, Branch Chief, informed the Board that application SPA 83-V-084-1, Sharon M. Rash, had been deferred from October 14 and October 21 at the applicant's request so that she could submit a letter of withdrawal and as of today her letter had not been received and staff had been unable to contact her by phone. Mrs. Thonen moved to dismiss this application for lack of interest. Mr. Hammack seconded the motion which passed by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

//

At this time, the Board went into Executive Session to discuss legal matters.

//

RICHARD T. ZIEGLER - A 86-D-010

298

Following a discussion between the Board and Jane Gwinn, Zoning Administrator, it was determined that this appeal was out of the Board of Zoning Appeals jurisdiction as it had to do with a decision concerning the Subdivision Ordinance which is implemented by the Department of Environmental Management. Therefore, Mrs. Thonen moved that the appeal of Richard T. Ziegler not be accepted since it was not within the jurisdiction of the Board of Zoning Appeals and that no hearing date would be scheduled. Mr. Hyland seconded the motion which passed by a vote of 4-0 with Mr. DiGiulian, Mr. Ribble and Mrs. Day not present for the vote.

//

As there was no other business to come before the Board, the meeting was adjourned at 1:02 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the Board of Zoning Appeals

Betsy S. Kurtz
Betsy S. Kurtz, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 12-9-86 APPROVED: 12-18-86

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, November 6, 1986. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Mary Thonen; Gerald Hyland; and John Ribble. John DiGiulian and Paul Hammack were absent from the meeting.

Chairman Smith opened the meeting at 9:20 A.M. and Mrs. Day led the prayer.

//

Page 299, November 6, 1986, (Tape 1), Scheduled case of:

9:00 A.M. HENRY G. AND LILLIAN P. CHALKLEY, VC 86-A-083, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport 8.3 feet from side lot line such that side yards total 17.3 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307) located at 10812 Stanhope Place on approximately 9,647 sq. ft. of land, zoned R-3(C), Annandale District, Tax Map Reference 68-3(5)235.

Marilyn Anderson, Staff Coordinator, presented the staff report and stated if it were the intent of the Board to approve VC 86-A-083 that its approval be subject to the development conditions in the staff report.

Henry G. Chalkley, 10812 Stanhope Place, Fairfax, Virginia, the applicant, explained that he would like to enclose an existing carport to provide protection for his automobiles and he did not feel this would be detrimental as there were other carports in the neighborhood.

As there were no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to approve this application as the applicant had met all nine requirements for a variance.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-083 by HENRY G. CHALKLEY, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport 8.3 feet from side lot line such that side yards total 17.3 feet, on property located at 10812 Stanhope Place, Tax Map Reference 68-3(5)235, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 6, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3(C).
- 3. The area of the lot is 9,647 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay. Messrs. DiGiulian and Hammack were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 14, 1986. This date shall be deemed to be the final approval date of this variance.

//

Page 300, November 6, 1986, (Tape 1), Scheduled case of:

9:10 A.M. ROBERT L. ADAMS, POWER OF ATTORNEY FOR CLARA A. MONEY, VC 86-D-086, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, 2 of which have proposed lot width of 5 feet each (80 ft. min. lot width req. by Sect. 3-306) and to permit existing dwelling to remain 15.1 feet from the contiguous pipestem driveway (25 ft. min. front yard req. by Sect. 2-416) located at 1686 Chain Bridge Road on approximately 1.336 acres of land, zoned R-3, Dranesville District, Tax Map 30-3((1))58.

Marilyn Anderson, Staff Coordinator, presented the staff report and pointed out that on July 22, 1986, the Board had denied a variance application by this applicant which would have allowed subdivision into 3 lots, but that the Board had granted a waiver of the 12-month limitation on rehearing the application.

In response to a question from Mr. Hyland, Mrs. Anderson explained that the previous variance application had not been approved. The vote was 3 to 2 and 4 affirmative votes are required to carry a motion for a special permit or a variance.

H. Kendrick Sanders, 10560 Main Street, Fairfax, Virginia, attorney for the applicant, informed the Board that the applicant was willing to revise his application and reduce the number of lots to 2 rather than 3 and hoped this would satisfy the concerns of the citizens.

As there were no speakers in support, Chairman Smith called for speakers in opposition. Michael Markovic, 1684 Chain Bridge Road, McLean, Virginia, expressed concern with the added traffic congestion which would be generated by the subdivision of this lot.

John Hogan, 1680 Chain Bridge Road, McLean, Virginia, agreed with the previous speaker and added that a great deal of the traffic congestion came from people stopping to pick up their mail at the entrance of the roadway, and therefore other cars could not enter as there was not sufficient room for two cars to pass at the same time.

Sheila McGrath, 1680 Chain Bridge Road, McLean, Virginia, agreed with the previous speakers' comments and pointed out that the citizens were concerned with making a bad situation worse.

Mr. Sanders during rebuttal reiterated that to subdivide this lot into 2 lots would not impact greatly upon the neighborhood and that it was not the responsibility of the applicant to make road improvements. He added if the neighborhood worked together the road improvements could be accomplished.

As there were no further comments, Chairman Smith closed the public hearing

Mrs. Day moved to grant-in-part VC 86-D-086 as the applicant had reduced the number of lots to 2 rather than 3 and with this change she stated the applicant would meet the requirements for a variance.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-086 by ROBERT L. ADAMS, POWER OF ATTORNEY FOR CLARA A. MONEY, under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, 1 of which have proposed lot width of 10 feet each and to permit existing dwelling to remain 15.1 feet from the contiguous pipestem driveway, on property located at 1686 Chain Bridge Road, Tax Map Reference 30-3(1)58, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 6, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 1.336 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

302

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED-IN-PART with the following limitations:

1. This variance is approved for the subdivision of one lot into two (2) lots, with a minimum lot width of not less than ten (10) feet for proposed Lot 6B. This approval is for the subdivision as shown on the approved plat except that minor lot line adjustments which do not affect the approved variance shall be permitted.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The subdivision of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code, and other applicable requirements of the Public Facilities Manual.
4. Access to both lots shall be via the pipestem driveway from Chain Bridge Road and adequate sight distance must be demonstrated and approved by VDH&T at this location. It is understood that this driveway is shared with Lots 57A, 57B and 57C and the driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway. The driveway shall be constructed in accordance with the Public Facilities Manual.
5. Dedication of right-of-way for public street purposes shall be provided to accommodate the improvement of Chain Bridge Road. The amount of dedication and alignment shall be determined by the Director, Department of Environmental Management at the time of subdivision plat review. In addition, the applicant shall provide temporary grading easements for future road improvements.
6. A four (4) foot concrete sidewalk shall be provided along the Chain Bridge Road frontage of the property as determined by DEM at the time of subdivision plat approval.
7. The existing dwelling on Lot 6A shall be permitted to remain 15.1 feet from the contiguous pipestem driveway.
8. Both lots shall be served by public sewer and water.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay. Messrs. DiGiulian and Hammack were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 14, 1986. This date shall be deemed to be the final approval date of this variance.

//

Page 302, November 6, 1986, (Tapes 1 and 2), Scheduled case of:

9:25 A.M. TERRY J. SHORT AND LONA SHORT, VC 86-L-087 application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots proposed lots 1 and 2 each having width of 6.8 feet and proposed lot 3 having width of 82.54 feet (100 ft. min. lot width req. by Sect. 3-206) located 6736 South Kings Highway on approximately 1.5502 acres of land, zoned R-2, Lee District, Tax Map 92-2(1)03.

Marilyn Anderson, Staff Coordinator, presented the staff report and stated that the Board of Supervisors had approved a rezoning of this property subject to the proffers which were contained in Appendix 6 of the staff report. Mrs. Anderson pointed out that the application did not meet the design guidelines for a pipestem lot and that the Board

of Supervisors stipulated that access would be from South Kings Highway as stated in the rezoning proffers. In conclusion, Mrs. Anderson stated that the Office of Transportation was recommending access from Saint Marks Place as there were sight distance concerns on South Kings Highway.

Mr. Hyland noted that the staff report for Rezoning RZ 83-L-081 contained a letter from VDH&T which indicated that the proposed pipestem would not meet the standards for a pipestem driveway.

Charles J. Caridi, 4201 Annandale Road, Annandale, Virginia, attorney representing the applicant, stated that meetings had been held with the citizens at the time of the Rezoning and at their request the access was to be from South Kings Highway.

Mrs. Thonen pointed out that no one other than the Board of Zoning Appeals could grant a variance and noted the standards that must be met before a variance can be granted.

Following further discussion, Mr. Caridi stated that the applicant was locked into the stipulations set by the Board of Supervisors in the rezoning application.

Marilyn Anderson explained there was an option available to the applicant in that a proffer condition amendment could be requested. However, a variance would also be necessary if the access were to be moved to Saint Marks Place.

There were no speakers in support; therefore, Chairman Smith called for speakers in opposition. Robert Richard, 6620 St. Marks Place, Alexandria, Virginia, appeared before the Board and stated that this lot was very narrow and odd shaped and did not feel this site could accommodate the subdivision that had been requested in the application.

Chairman Smith closed the public hearing as there were no further comments.

Mr. Ribble moved to deny VC 86-L-087 as the application did not meet the standards required for a variance.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-087 by TERRY J. SHORT AND LONA SHORT, under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots proposed lots 1 and 2 each having width of 6.8 feet and proposed lot 3 having width of 82.54 feet, on property located at 6736 South Kings Highway, Tax Map Reference 92-2((1))03, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 6, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 1.5502 acres of land.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mrs. Day seconded the motion.

The motion failed due to lack of the required four (4) votes necessary to pass a motion for a variance or special permit application. The vote was 3-2 with Mrs. Day, Mr. Ribble, and Mr. Smith voting aye; Mrs. Thonen and Mr. Hyland voting nay; Messrs. DiGiulian and Hammack were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 14, 1986.

//

Page 304, November 6, 1986, (Tape 2), Scheduled case of:

9:45 A.M. FAISAL HAMID IDRIS - VC 86-D-081, application under Sect. 18-401 of the Zoning Ordinance to allow 6 foot high fence to remain in a front yard of a corner lot (4 ft. max. hgt. for fence in front yard req. by Sect. 10-104) located at 6800 Langley Springs Court on approximately 15,069 sq. ft. of land, zoned R-3, R-3, Dranesville District, Tax Map 21-4(23)6. (TO BE DEFERRED - NOTICES NOT IN ORDER)

Chairman Smith polled the audience to see if anyone was present who was interested in this case. As several citizens were present, Chairman Smith explained that this case could not be heard as the notices were not in order.

Julie Kerlin, 1114 Shipman Lane, McLean, Virginia, asked to speak and told the Board she believed that the fence was located in the State right-of-way and asked if this could be looked into.

Mr. Hyland moved to defer this case until December 9, 1986 at 10:00 A.M. as the notices were not in order. The motion passed by a vote of 4-0 with Mrs. Thonen not present for the vote; Messrs. DiGiulian and Hammack absent from the meeting.

//

Page 304, November 6, 1986, (Tape 2), Scheduled case of:

10:00 A.M. RICHARD MARTIN AND IRENE A. MARTIN, SP 86-A-043, under Sect. 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow porch of dwelling to remain 5.5 ft. from side lot line such that side yards total 18.4 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307) located at 5316 Windsor Hills Drive on approximately 11,674 sq. ft. of land, zoned R-3(C), Annandale District, Tax Map 68-4(14)9.

Marilyn Anderson, Staff Coordinator, presented the staff report and revised development condition #2 to read "An amended Building Permit reflecting the location of the existing dwelling shall be submitted by the builder for approval."

Richard Martin, 5316 Windsor Hills Drive, Fairfax, Virginia, the applicant, stated that he was requesting this variance to allow the porch to remain on the front of his house as it was an error made during the survey. Mr. Martin submitted a letter signed by his neighbors stating they did not object to this application.

Jagdish Berry, President of Windsor Hill Corporation, 9727 Maury Road, Fairfax, Virginia, responded to questions from the Board and explained that Harold Logan was the surveyor but one of Mr. Logan's associates, Stephen Palmer, had actually performed the survey.

Following a lengthy discussion, Mr. Hyland requested a deferral of this case to require the presence of Mr. Logan. Chairman Smith agreed with Mr. Hyland but noted that he felt Mr. Logan and Mr. Palmer should be requested to attend.

In response to a question from Mrs. Thonen, Mrs. Anderson explained there was not a violation pending against the applicant.

Chairman Smith called for speakers in support and Esther Pryor, 5318 Windsor Hills Drive, Fairfax, Virginia, came forward and stated that she did not object to this application.

Mrs. Thonen moved to defer this case until November 18, 1986 at 8:00 P.M. and there being no objection it was so ordered.

//

Page 305, November 6, 1986, (Tape 2), Scheduled case of:

10:20 A.M. EDWARD GEORGE ROSSI, JR. AND SUSAN ELIZABETH FROMM, SP 86-A-044, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow porch of dwelling to remain 5.8 feet from side lot line such that side yards total 20.5 feet (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located at 5314 Windsor Hills Drive on approximately 11,234 square feet of land, zoned R-3(C), Annandale District, Tax Map 68-4((14))10.

Marilyn Anderson, Staff Coordinator, presented the staff report and revised development condition #2 to read "An amended Building Permit reflecting the location of the existing dwelling shall be submitted by the builder for approval."

Edward G. Rossi, 5314 Windsor Hills Drive, Fairfax, Virginia, came forward and informed the Board that his situation was exactly the same as the previous applicant and submitted a letter signed by his neighbors supporting his application.

Mr. Hyland moved to defer this case to November 18, 1986 at 8:15 P.M. and request the presence of Harold Logan and Steve Palmer to respond to questions as to how the error occurred. Mr. Ribbia seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Hammack absent from the meeting.

//

Page 305, November 6, 1986, (Tape 2), Scheduled case of:

10:40 A.M. MICHAEL A. AND NANCY E. CAVALERO, VC 86-M-082, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling 7.3 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 7104 Velle Lane, on approximately 21,800 square feet of land, zoned R-1, Mason District, Tax Map 71-3((9))7.

Marilyn Anderson, Staff Coordinator, presented the staff report and stated that if it was the intent of the Board to approve this application that it should be approved in accordance with the development conditions contained in the staff report.

Michael A. Cavalero, 7104 Velle Lane, Annandale, Virginia, the applicant, stated this addition would be used as an additional bedroom and provide needed living space. He noted that this was the only location for this addition because of the drainage and septic tank and explained that the cost of the 24 foot addition is the same as an 11 foot addition and there was no opposition from his neighbors.

As there were no speakers either in support or in opposition, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant VC 86-M-082 as the applicant had met all the standards for a variance and this seemed to be the most appropriate location for this addition.

//

305

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-082 by MICHAEL A. AND NANCY E. CAVALERO, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling 7.3 feet from side lot line, on property located at 7104 Vellex Lane, Tax Map Reference 71-3((9))7, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 6, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 21,800 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

307

3. A building permit shall be obtained prior to any construction.

Messrs. Hyland and Ribble seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay; Messrs. DiGiulian and Hammack were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 14, 1986. This date shall be deemed to be the final approval date of this variance.

//

Page 307, November 6, 1986, (Tape 2), Scheduled case of:

10:50 A.M. MICHAEL A. AND NANCY E. CAVALERO, Sp 86-M-048, application under Sect. 3-103 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 9 foot high storage shed to remain 2.5 feet from side lot line (20 ft. min. side yard req. by Sects. 3-107 and 10-104), located at 7104 Vellex Lane on approximately 21,800 square feet of land, zoned R-1, Mason District, Tax Map 71-3((9))7.

Marilyn Anderson, Staff Coordinator, presented the staff report.

Michael A. Cavalero, 7104 Vellex Lane, Annandale, Virginia, explained that this was simply an error in measuring when he was building his shed but he was not aware of any objection from his neighbors.

Chairman Smith closed the public hearing as there were no further comments and no speakers.

Mrs. Day moved to grant SP 86-M-048 based on the applicant making this error in good faith and it would present a hardship to the applicant if he had to remove the structure.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Day made the following motion:

WHEREAS, Application No. SP 86-M-048 by MICHAEL A. AND NANCY E. CAVALERO under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 9 foot high storage shed to remain 2.5 feet from side lot line, on property located at 7104 Vellex Lane, Tax Map Reference 71-3((9))7, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on November 6, 1986; and,

WHEREAS, the Board made the following conclusions of law:

- A. The error exceeds ten (10) percent of the measurement involved, and
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
- C. Such reduction will not impair the purpose and intent of this Ordinance, and
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- E. It will not create an unsafe condition with respect to both other property and public streets, and
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit 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 special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This special permit approval is granted for the location of the shed as indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4-1 with Chairman Smith voting nay; Messrs. DiGiulian and Hammack were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 14, 1986. This date shall be deemed to be the final approval date of this special permit.

//

Page 308, November 6, 1986, (Tapes 2 and 3), Scheduled case of:

11:00 A.M. GREGORY S. ELLIS AND MIRIAM ELLIS, VC 86-A-072, under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed addition to dwelling to 21.0 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 5111 Kings Grove Court on approximately 8,697 square feet of land, zoned R-3(C), Annandale District, Tax Map 69-3((16))10. (DEFERRED FROM 10/7/86, NOTICES NOT IN ORDER)

Marilyn Anderson, Staff Coordinator, presented the staff report.

Gregory S. Ellis, 5111 Kings Grove Court, Burke, Virginia, the applicant, explained that he wanted to add a screened-in porch to his house to provide a play area for both his children and the children in his wife's day care facility.

As there were no speakers either in support or in opposition, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant VC 86-A-072 as the applicant had met all the required standards for a variance, it would not adversely impact on the neighborhood, and there was no objection from the neighbors.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-072 by GREGORY AND MIRIAM ELLIS, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed addition to dwelling to 21.0 feet from rear lot line, on property located at 5111 Kings Grove Court, Tax Map Reference 69-3((16))10, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 6, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicants are the owners of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 8,697 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;

- C. Exceptional size at the time of the effective date of the Ordinance;
 D. Exceptional shape at the time of the effective date of the Ordinance;
 E. Exceptional topographic conditions;
 F. An extraordinary situation or condition of the subject property, or
 G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
- A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the property indicated as "Outlot A" on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay; Messrs. DiGiulian and Hammack were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 14, 1986. This date shall be deemed to be the final approval date of this variance.

//

Page 309, November 6, 1986, (Tape 3), After Agenda Item:

APPROVAL OF MINUTES
SEPTEMBER 9, 16, AND 23, 1986

Mr. Hyland moved to approve Minutes of the Board of Zoning Appeals for September 9, 16, and 23, 1986. Mr. Ribble seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Hammack absent from the meeting.

//

Page 309, November 6, 1986, (Tape 3), After Agenda Item:

RECONSIDERATION AMENDMENT TO THE BY-LAWS

Ms. Kelsey pointed out that this amendment, which would allow the Board eight (8) days to reconsider this decisions, had been deferred from last week to allow the Board time to

review it. Mr. Hyland moved to approve the following amendment to the BZA By-Laws:

"No decision shall be officially filed in the Office of the Board until the eighth day following such decision unless the Board specifically provides that its decision on a particular application shall be filed in the Office of the Board on some other date. On the date a decision of the Board becomes final by virtue of the decision being filed in the Office of the Board, the Clerk shall provide to the applicant the Board's decision or final resolution on the application."

Mrs. Thonen and Mr. Ribble seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Hammack absent from the meeting.

Ms. Kelsey further explained that at the present time there is scheduling problems with meeting the 90-day deadline and with this amendment it will even be more difficult. She called the Board's attention to agendas which had been passed out for the November 11, 1986 public hearing through February 17, 1987. Following a discussion between Ms. Kelsey and the Board, Mr. Hyland moved to accept the agendas for November 11, 1986 through February 17, 1987. Mrs. Day seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Hammack absent from the meeting. The Board further stated that insofar as the 90-day limitation on deciding the applications, the decision would be made by the 90th day, but would not be final for eight (8) days if that timeframe was beyond the 90 days. In the Board's opinion, the Code would still be met.

//

Page 310, November 6, 1986, (Tape 3), After Agenda Item:

EXECUTIVE SESSION

Ms. Kelsey noted that J. Patrick Taves, Assistant County Attorney, would be available to discuss the Arledge Appeal with the Board if it was necessary and an Executive Session was scheduled for November 11, 1986 at 11:30 A.M.

//

As there was no other business to come before the Board, the meeting was adjourned at 12:40 P.M.

Betsy S. Hyatt
Betsy S. Hyatt, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 1/13/87 APPROVED: 1/20/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 11, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Paul Hammack; Mary Thonen; Gerald Hyland; and John Ribble. Ann Day was absent from the meeting.

Chairman Smith opened the meeting at 9:14 A.M. and led the prayer.

Mrs. Day was absent from the meeting because she was representing the BZA at the Annual Virginia Cities and Counties Conference (VACO). The Board asked that she be paid for the meeting since she was representing the Board at that conference.

//

Page 311, November 11, 1986, (Tape 1), Scheduled case of:

9:00 A.M. FALLS CHURCH PROFESSIONAL COURT LIMITED PARTNERSHIP, VC 86-M-090, application under Sect. 18-401 of the Zoning Ordinance to allow peripheral parking lot landscaping strip 10 ft. wide to include a 4 ft. wide sidewalk (landscaping strip not to include sidewalk or trail by Sect. 13-107) located at 6105, 6107, 6109 Arlington Blvd. on .67 acres of land, zoned C-2, Mason District, Tax Map 51-4((2))(B)8 & 9.

Lori Greenlief, Staff Coordinator, presented the staff report.

Susan Walters of 7645 Leesburg Pike, Falls Church, Virginia, appeared before the Board as the representative of the applicant. She explained that subsequent to obtaining site plan approval, a discrepancy between the property lines as drawn on the site plan and the actual location of the property lines in the field was discovered. It was then determined that the sidewalk should not be next to the curb as shown on the previously approved site plan, therefore the proposed sidewalk was shifted onto the applicant's property. Ms. Walters added that considerable difficulty and expense would be incurred if the buildings have to be moved since they have already been constructed. She concluded that the parking lot was shifted as close to the building as possible but the remaining space was still not sufficient to include both the ten-foot landscaping strip and a four foot sidewalk.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant the variance subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-090 by FALLS CHURCH PROFESSIONAL COURT LIMITED PARTNERSHIP, under Section 18-401 of the Zoning Ordinance to allow peripheral parking lot landscaping strip 10 feet wide to include a 4 feet wide sidewalk, on property located at 6105, 6107, 6109 Arlington Boulevard, Tax Map Reference 51-4((2))(B)8 & 9, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 11, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is C-2.
- 3. The area of the lot is .67 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;

- F. An extraordinary situation or condition of the subject property, or
- G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued on the sidewalk, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. The applicant shall submit a landscaping plan of the peripheral lot landscaping strip for review and approval by the County Arborist.

Messrs. Hyland and Ribble seconded the motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mrs. Day absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 19, 1986. This date shall be deemed to be the final approval date of this variance.

//

Page 312, November 11, 1986, (Tape 1), Scheduled case of:

9:15 A.M. JOSEPH D. AND ANNE B. DOUGLASS, JR., VC 86-D-096, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10 feet from a side lot line (15 ft. min. side yard req. by Sect. 3-207) located at 7021 Churchill Road on approx. 18,252 sq. ft. of land, zoned R-2, Dranesville District, Tax Map 21-3((3))22.

Lori Greenlief, Staff Coordinator, presented the staff report.

Joseph and Anne Douglass, the applicants, 7021 Churchill Lane, McLean, Virginia, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. Mr. Douglass added that the neighbors had been supportive of the proposal.

Chairman Smith questioned the need for a 25-foot wide garage, noting that most garages were approximately 20 to 22 feet in width.

513
313

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant the variance in-part by allowing the garage to come within 13 feet of the property line subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-096 by JOSEPH D. AND ANNE B. DOUGLASS, JR., under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 13 feet from a side lot line (applicant requested 10 feet), on property located at 7021 Churchill Road, Tax Map Reference 21-3((3))22, 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 11, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 18,252 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

314

NOW, THEREFORE, BE IT RESOLVED that the subject application is **GRANTED-IN-PART** with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. The garage may come within 13 feet of the property line.

Mrs. Thonen and Mr. Hyland seconded the which carried by a vote of 5-1 with Mr. Smith voting no; Mrs. Day absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 19, 1986. This date shall be deemed to be the final approval date of this variance.

//

Page 314, November 11, 1986, (Tape 1), Scheduled case of:

9:30 A.M. CHARLES A. AND ELIZABETH E. OSINSKI, VC 86-A-097, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.58 feet from side lot line such that side yards total 17.08 feet (8 ft. min., 24 ft. total width side yard req. by Sect. 3-207) located at 5117 Portsmouth Road on approx. 15,952 sq. ft. of land, zoned R-2(C), Annandale District, Tax Map 68-1((10))(8)53

Lori Greenlief, Staff Coordinator, presented the staff report.

Charles and Elizabeth Osinski, the applicants, 5117 Portsmouth Road, Fairfax, Virginia, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. Ms. Osinski submitted letters of support to the Board.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant the variance subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-097 by CHARLES A. AND ELIZABETH E. OSINSKI, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.58 feet from side lot line such that yards total 17.08 feet, on property located at 5117 Portsmouth Road, Tax Map Reference 68-1((10))(8)53, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 11, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2(C).
3. The area of the lot is 15,952 square feet of land.

315

315

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion which carried by a vote of 5-1 with Mr. Smith voting nay; Mrs. Day absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 19, 1986. This date shall be deemed to be the final approval date of this variance.

//

Page 315, November 11, 1986, (Tape 1), Scheduled case of:

- 9:45 A.M. OLIVET EPISCOPAL CHURCH, SPA 75-L-174-1, application under Sects. 4-503, 3-103, 3-203 and 8-901 of the Zoning Ordinance to amend S-174-75 for a church and related facilities to permit addition of a temporary office building and classroom to existing facilities and waiver of dustless surface for driveway, located at 6107 Franconia Road, on 2.20 acres of land, zoned C-5, R-1 and R-2, Lee District, Tax Map 81-3(5)22 and 1B.

Mr. DiGiulian informed the Board that his office had prepared the plats for the applicant; therefore, he would abstain.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board of staff's concern: One of the two proposed entrances was too close to Franconia Road and should either be closed or moved back 200 feet. She added that the applicant was now requesting that the temporary trailer remain four years instead of two years. In conclusion, Ms. Greenlief stated that staff was recommending approval of the application subject to the development conditions contained in the staff report.

Mrs. Thonen also expressed concern that the location of the proposed entrance was too close to Franconia Road.

William Higham, Jr., 6214 Higham Drive, appeared before the Board as the applicant's representative and explained that the reason for having two smaller entrances instead of one large entrance was to prevent large tractor-trailer trucks from pulling into the lot. He noted that the Fire Department had reviewed the plans and also contributed to the improvement of the parking lot. Mr. Higham stated that he supported staff's suggestion to move the entrance near Franconia Road approximately 200 feet south. In conclusion, Mr. Higham requested that the temporary trailer be allowed to remain on the property for four years instead of two years.

There being no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant the special permit subject to the development conditions contained in the staff report with the following changes: With regard to condition 5, Mr. Ribble changed the expiration date from 1988 to 1990.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 75-L-174-1 by OLIVET EPISCOPAL CHURCH, under Sections 4-503, 3-103 and 3-203 of the Zoning Ordinance to amend S-174-75 for a church and related facilities to permit addition of a temporary office building and classroom to existing facilities and waiver of dustless surface for driveway, on property located at 6107 Franconia Road, Tax Map Reference 81-3((5))22 and 1B, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 11, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is C-5, R-1 and R-2.
- 3. The area of the lot is 2.20 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The temporary trailer shall be removed on or by November 11, 1990.
6. The total number of seats in any sanctuary area shall be 283.
7. The applicant shall provide 131 parking spaces.
8. Interior parking lot landscaping and peripheral lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.
9. Parking lot lighting, if installed, shall be the low intensity type, on stands not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.
10. The gravel driveway shall be maintained in accordance with Public Facilities Manual Standards and the attached list of guidelines. The waiver of the dustless surface shall expire on November 11, 1991.
11. The northern-most entrance to the property on Beulah Street shall be located no closer than 200 feet from the intersection of Beulah Street and Franconia Road or shall be eliminated entirely.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion carried by a vote of 6-0 with Mrs. Day absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 19, 1986. This date shall be deemed to be the final approval date of this special permit amendment.

//

Page 317, November 11, 1986, (Tapes 1 and 2), Scheduled case of:

10:00 A.M. ALVIN H. SOBKL AND MARGARET E. BERGIN, VC 86-L-095, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lot 1C having width of 12 feet and proposed lot 1B having width of 75 feet (80 ft. min. lot width req. by Sect. 3-306) located at 6710 and 6716 South Kings Highway on approx. 1.5432 acres of land, zoned R-3 and R-4, Lee District, Tax Map 92-2((3))(1)1 and 92-2((4))1.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that staff had the following concerns: The Office of Transportation was requesting additional dedication to match what had occurred in the surrounding area which was dedication of 40 feet for road improvements of South Kings Highway. She noted that the applicant had agreed to dedication of 30 feet. Ms. Greenlief added that the pipestem lot was adjacent to open space which may have development restricted by covenants. In conclusion, Ms. Greenlief stated that the applicant has reasonable use of the land without a variance.

In response to a question from Mr. DiGiulian, Ms. Greenlief clarified that the applicant could have three lots without a variance and the reason lot 1B had less than the minimum lot width was due to the creation of the pipestem.

Alvin Sobel, the applicant, 6716 South Kings Highway, appeared before the Board and explained that the reason for the pipestem was to provide seclusion for the lot. Mr. Sobel submitted photographs of the property to the Board. He added that some of the trees on lot 1C would be removed so as to provide for solar energy.

Following a question from Mrs. Thonen, Mr. Sobel agreed to have a soils test done for the property.

With regard to the Office of Transportation's request for a 40-foot dedication, Mr. Sobel said it was not necessary and that 30-feet was reasonable.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack stated that he agreed with the staff that the applicant had reasonable use of the land without the variance, therefore he moved to deny the request for a variance.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-095 by ALVIN H. SOBEL AND MARGARET E. BERGIN, under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lot 1C having width of 12 feet and proposed lot 1B having width of 75 feet, on property located at 6716 South Kings Highway, Tax Map Reference 92-3(3)(1)1 and 92-2(4)1, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 11, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicants are the owners of the land.
- 2. The present zoning is R-3 and R-4.
- 3. The area of the lot is 1.5432 acres of land.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-1 with Mr. Hyland voting nay, Mrs. Day absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 19, 1986.

//

Page 319, November 11, 1986, (Tapes 2 & 3), Scheduled case of:

10:15 A.M. THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, A 86-C-007, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that appellant church does not have a valid special permit, located at 2727 Centreville Road on approx. 5.0 acres of land, zoned R-1, Centreville District, Tax Map 25-1(11)27A. (DEF. FROM 10/7/86)

Jane W. Gwinn, Zoning Administrator, explained that Special Permit SP 83-C-080 expired prior to the commencement of construction, and the appellant does not have valid approval to construct a church and related facilities. She added that the site plan and building permit were not approved until after the July 10, 1985 expiration date of the Special Permit, therefore are void.

Sally R. Mann, with the law firm of Rees, Broome and Diaz, 8133 Leesburg Pike, Vienna, Virginia, attorney, appeared before the Board as the attorney and representative for the appellant. She stated that on January 29, 1985 the appellant had made application for site plan approval and the Department of Environmental Management approved the site plan on August 28, 1985. She added that construction commenced thereafter and the structure was now almost complete. She added that the approval procedure was diligently pursued by the appellant and that the appellant has made substantial economic investment in the property which clearly shows its intention to develop the property in accordance with the permit and approved plan. Ms. Mann referred to a case decided by the Supreme Court of Virginia, Medical Structures, Inc. which was a special use permit decided by the Board of Zoning Appeals (BZA) and was conditioned upon commencement of construction within 18 months. Shortly before the 18 month period was to expire a site plan was filed with the Department of Environmental Management. The site plan was not approved and the issue was whether or not the special use permit was valid. The Virginia Supreme Court said that once a diligently pursued site plan was filed in reliance upon existing zoning or the issuance of a special use permit, fairness dictates that a vested right is acquired in the land use. She added that the court determined that the filing of the site plan is what determined when the use began.

Following a question from Mr. Hyland, Ms. Mann stated that since the site plan had been filed there was no need to submit a request for additional time.

Michael LeMay, with the architectural firm of Donald, LeMay and Page, P.C., 1201 E. Abingdon Drive, #200, Alexandria, Virginia, appeared before the Board and testified that the Church had already spent \$990,000.

Chairman Smith pointed out that the appellant had the opportunity to request additional time but did not.

Mr. Hyland disagreed with Ms. Mann that if an applicant files a site plan within the 18 month period of the granting of a special use permit that the permit has been complied with. He stated that the BZA conditioned the permit to expire at the end of the 18 month period unless the use had been established.

Karen J. Harwood, Assistant County Attorney, appeared before the Board and stated that there was no law that says the mere filing of a site plan vests a use. She added that the case of Medical Structures, Inc. was not applicable. With regard to the Medical Structures case, the Ordinance was changed. In an attempt to stop the use. She noted that in that case, the court said a special permit had been approved, a site plan had been filed and diligently pursued, and substantial expenses made before the Zoning Ordinance changed and all those things had been done in good faith, which was not the case for the Church of the Jesus Christ of Latter Day Saints. There had been no amendment to the Zoning Ordinance in this case and the appellant's remedy was to request additional time.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to uphold the Zoning Administrator's decision as construction had not commenced within the 18 month time frame.

Mr. DiGiulian seconded the motion which passed unanimously with the members present. Mrs. Day was absent from the meeting.

//

At 11:50 A.M., Chairman Smith called a recess and reconvened the meeting at 12:05 P.M.

//

Page 320, November 11, 1986, (Tapes 3 and 4), Scheduled case of:

10:45 A.M. THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, SP 86-G-037, under Sect. 3-103 of the Zoning Ordinance to permit church and related facilities (Ref. 83-C-080 expired) located at 2727 Centreville Road on approximately 4.0 acres, zoned R-1, Centreville District, Tax Map 25-1((1))27A. DEF. FROM 10/7/86

William E. Shoup, Assistant to the Zoning Administrator, presented the staff report and advised the Board that the applicant was requesting a modification of the transitional screening requirement but that staff was still recommending that screening be provided. He stated that the major issue was the proposed direct access to Centreville Road. Mr. Shoup noted that widening of Centreville Road is planned, and may include a raised median. A median break along the frontage of the Church property is unlikely, thereby causing a potential for conflicting u-turns and turning movements at the site. He noted staff had originally recommended the elimination of the proposed entrance on Centreville Road and that access be provided to West Ox Road in conformance with the Comprehensive Plan. Mr. Shoup added that there is now a proposal to get access to a proposed median break at Floris Street on Centreville Road by way of an outlot included in the proposed development to the north. However, there is a possibility that a Comprehensive Plan change may be made so that Centreville Road would be widened to six-lanes instead of four-lanes making the proposed access (to a Floris Street median break) insufficient to accommodate a six-lane widening. The applicant would be required to acquire additional land to satisfy a requirement for access to that median break. Mr. Shoup noted that the access must be provided in accordance with the planned widening of Centreville Road at the time the access is constructed. He noted that staff was recommending a revision to Condition Number 12 dated November 11, 1986 pertaining to access. In conclusion, Mr. Shoup stated that staff was recommending approval of the application subject to the conditions contained in the addendum to the staff report dated November 5, 1986 with the new revised Condition Number 12, dated November 11, 1986.

Sally R. Mann, with the law firm of Rees, Broome and Diaz, 8133 Leesburg Pike, Vienna, Virginia, appeared before the Board as the attorney representing the applicant. She stated that the applicant was objecting to having to file a new application and was going forward under protest. She objected to conditions 5 and 12, noting that there was no guarantee that the Church could obtain ingress/egress rights across Outlot A and also objected to being required to obtain offsite rights to ingress/egress. She also requested a modification to the transitional screening requirements.

The Board, staff, and Mrs. Mann discussed the issue of what to do if ingress/egress rights cannot be obtained and Mrs. Mann suggested the following condition: "If there is a widening of Centreville Road, the Church will make best efforts to comply with this condition (#12) but compliance shall not be required if ingress/egress rights cannot be obtained to the Floris Street median break."

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant the special permit subject to the conditions contained in the staff report for the previous Special Permit SP 83-C-080 which had expired. She added that there were too many unresolved issues to approve the staff's suggested conditions in the addendum to the staff report for SP 86-C-032.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-037 by THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, under Section 3-103 of the Zoning Ordinance to permit church and related facilities (Ref. 83-C-080), on property located at 2727 Centreville Road, Tax Map Reference 25-1((1))27A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 11, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 4.0 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The applicant shall provide Transitional Screening 1 around all lot lines except the front lot line. The berm proposed along the front shall be planted with evergreen plantings of a type and in a location as determined by the Director provided the combination of the berm and plantings are equivalent to Transitional Screening 1. The barrier requirement shall be waived.
6. The maximum number of seats shall not exceed 300.
7. A minimum of 78 parking spaces shall be provided. Any spaces located in the transitional screening yard shall be relocated.
8. Parking lot lights shall be the low intensity type designed to project light to the parking lot only and not project off the property. These lights shall be no higher than 12 feet.
9. Interior parking lot landscaping shall be provided.
10. The applicant shall dedicate and construct a ten (10) foot trail along the frontage of the property.

- 11. A detailed soils analysis shall be provided at the time of site plan review and care should be taken to avoid construction in the area of high water table soils.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date. Mr. DiGiulian seconded the motion which carried by a vote of 5-1 with Mr. Smith voting nay; Mrs. Day absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 19, 1986. This date shall be deemed to be the final approval date of this special permit.

//

Page 322, November 11, 1986, (Tape 4), After Agenda Item #1:

Request for Additional Time
Kinder-Care Learning Centers, Inc.
VC 84-M-146

Mr. Hyland moved to approve the request for additional time for Kinder-Care Learning Centers, Inc., VC 84-M-146.

Mr. Ribble seconded the motion which passed unanimously with the members present. Mrs. Day was absent from the meeting.

//

As there was no other business to come before the Board, the meeting was adjourned at 12:55 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 1/13/87

APPROVED: 1/20/87

323

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 18, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; and Gerald Hyland. John Ribble was absent from the meeting.

Chairman Smith opened the meeting at 8:17 P.M. and Mrs. Day led the prayer.

//

Chairman Smith announced there would be a tree planting ceremony at 3:00 p.m. on November 20, 1986 in front of the Massey Building honoring Wallace Covington at which time John Herrity, Chairman of the Board of Supervisors, will present a plaque to Mr. Covington's family.

//

Page 323, November 18, 1986, (Tape 1), After Agenda Item:

APPROVAL OF MINUTES

Mrs. Day made a motion that the minutes of the September 30, 1986 meeting of the Board of Zoning Appeals be approved as submitted. The motion passed unanimously with Mr. Ribble absent from the meeting.

//

Page 323, November 18, 1986, (Tape 1), Scheduled case of:

8:00 P.M. JOHN KABAL AND KAROLINA E. KABAL - SP 86-D-032, under Sect. 3-103 of the Zoning Ordinance to permit a home professional office located at 10316 Georgetown Pike on approximately 42,691 square feet of land, zoned R-1, Dranesville District, Tax Map 12-2((1))6 and 12-2((2))15. (DEF. FROM 9/16/86 - TO BE WITHDRAWN)

Mr. DiGiulian moved to withdraw this application at the request of the applicant. Mr. Hyland seconded the motion which passed by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Ribble absent from the meeting.

//

Page 323, November 18, 1986, (Tape 1), Scheduled case of:

8:00 P.M. RICHARD MARTIN AND IRENE A. MARTIN, SP 86-A-043, under Sect. 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow porch of dwelling to remain 5.5 ft. from side lot line such that side yards total 18.4 ft. (8 ft. min. 20 ft. total min. side yard req. by Sect. 3-307) located at 5316 Windsor Hills Drive on approximately 11,674 sq. ft. of land, zoned R-3(C), Annandale District, Tax Map 68-4((14))9. (DEFERRED FROM 11/6/86 FOR ADDITIONAL INFORMATION)

Chairman Smith explained that this case had been deferred so that representatives of the engineering company could be present to explain how the error in the location of the porch occurred.

Harold Logan, 5000 Montgomery Street, Annandale, Virginia, represented Logan and Associates, the engineering company, and indicated that this error had not been brought to his attention until the homeowner had begun a refinancing process on the house. Mr. Logan stated there was nothing in his company's files to show that a final inspection had been done on the house.

In response to questions from the Board, Mr. Logan stated that the porch had not been shown on the original grading plan and that no one had checked with his office to determine whether or not the location of this porch would be in conformance with the Zoning Ordinance.

Stephen T. Palmer, 9908 Barbaranne Lane, Fairfax, Virginia, explained that he had been employed by Logan and Associates at the time this error had occurred and was contacted by Mr. Berry, the developer, to determine if the porch could be added and still meet the requirements of the Zoning Ordinance. Mr. Palmer stated that after computing the figures he had informed Mr. Berry that if the porch was added it would not meet the setback requirements but that he should contact the Zoning Administrator to be certain before proceeding with the porch. Mr. Logan explained that the bill which had been shown to the Board at the public hearing on November 6, 1986 was a bill for the time Mr. Palmer had spent calculating the figures.

Chairman Smith asked the developer to come forward. Jagdish Berry, 9727 Maury Road, Fairfax, Virginia, explained that the surveyor had informed Mr. Berry's supervisor to proceed with the porch and a bill would be submitted to Mr. Berry. He pointed out that he had not been aware that the porch was not in conformance until he received a notice of violation from Fairfax County and upon receiving this notice had filed a special permit application to correct the situation.

In response to questions from the Board, Mr. Berry explained that the contract and the stake out had included the porch.

Chairman Smith requested that the owner of the house come forward. Richard Martin, 5316 Windsor Hills Drive, Fairfax, Virginia, pointed out that when he first requested the porch, construction had not yet begun on his house and added that he did not feel the homeowner should be the one to suffer for a mistake made by someone else and asked the Board to approve this application.

Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant SP 86-A-043 based on the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 86-A-043 by RICHARD MARTIN AND IRENE A. MARTIN under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow porch of dwelling to remain 5.5 feet from side lot line such that side yards total 18.4 feet, on property located at 5316 Windsor Hills Drive, tax map reference 68-4((14))9, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on November 18, 1986*; and,

WHEREAS, the Board made the following findings of fact:

- A. The error exceeds ten (10) percent of the measurement involved, and
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
- C. Such reduction will not impair the purpose and intent of this Ordinance, and
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- E. It will not create an unsafe condition with respect to both other property and public streets, and
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner, and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit 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 special permit 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:

1325

325

1. This approval is granted for the location of the dwelling indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.
2. An amended Building Permit reflecting the location of the existing dwelling shall be submitted by the builder for approval.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6-0 with Mr. Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 26, 1986. This date shall be deemed to be the final approval date of this special permit.

Mr. Hyland pointed out this case had been deferred to determine how this error occurred and he did not feel this had been adequately addressed. Mr. DiGiulian agreed with Mr. Hyland's remarks.

//

Page 325, November 18, 1986, (Tape 1), Scheduled case of:

8:15 P.M. LOYAL ORDER OF MOOSE, SP 86-V-046, application under Sect. 8-901 of the Zoning Ordinance to allow expansion of a private club with modification of the dustless surface requirement for existing roadway and parking lots, located at 9612 Fernedge Lane on approximately 8.74 acres of land, zoned R-1, Mount Vernon District, Tax Map 107-4((6))1,2,3, 107-4((1))40A. (TO BE DEFERRED - NOTICES NOT IN ORDER)

Chairman Smith polled the audience to determine if there was anyone present interested in this case and explained to the citizens who were in attendance that the case could not be heard as the applicant had not met the notice requirements.

As there was no objection to this deferral, the Board unanimously agreed to defer this application to December 9, 1986 at 10:40 A.M.

Mr. Hyland pointed out to the citizens that they could write a letter stating their position in lieu of appearing at the hearing and suggested that the citizens work with the applicant to resolve their concerns.

Kevin Guinaw, Staff Coordinator, informed the Board there was a pending special exception application, concurrent with this special permit application, before the Board of Supervisors and the citizens should pursue their transportation concerns through this channel.

//

Page 325, November 18, 1986, (Tape 1), Scheduled case of:

8:15 P.M. EDWARD GEORGE ROSSI, JR. AND SUSAN ELIZABETH FROMM, SP 86-A-044, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to min. yard requirements based on error in building location to allow porch of dwelling to remain 5.8 ft. from side lot line such that side yards total 20.5 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located at 5314 Windsor Hills Drive on approximately 11,234 square feet of land, zoned R-3(C), Annandale District, Tax Map 68-4((14))10. (DEFERRED FROM 11/6/86 FOR ADDITIONAL INFORMATION)

Chairman Smith stated that this case had been deferred under the same circumstances as had been SP 86-A-043 and asked if the Board needed additional information.

Mr. DiGiulian requested that Mr. Logan come forward and explain what occurred in this case.

Harold Logan, 5000 Montgomery Street, Annandale, Virginia, the surveyor, explained this was exactly the same situation as had occurred in application SP 86-A-043.

As there were no further questions, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant SP 86-A-044 subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

WHEREAS, Application No. SP 86-A-044 by EDWARD GEORGE ROSSI AND SUSAN ELIZABETH FROMM under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow porch of dwelling to remain 5.8 feet from side lot line such that side yards total 20.5 feet, on property located at 5346 Windsor Hills Drive, tax map reference 68-4((14))10, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on November 18, 1986*; and,

WHEREAS, the Board made the following findings of fact:

- A. The error exceeds ten (10) percent of the measurement involved, and
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
- C. Such reduction will not impair the purpose and intent of this Ordinance, and
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- E. It will not create an unsafe condition with respect to both other property and public streets, and
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner, and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit 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 special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

- 1. This approval is granted for the location of the dwelling indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.
- 2. An amended Building Permit reflecting the location of the existing dwelling shall be submitted by the builder for approval.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6-0 with Mr. Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 26, 1986. This date shall be deemed to be the final approval date of this special permit.

//

Page 326, November 18, 1986, (Tape 1), Scheduled case of:

8:30 P.M. PINECREST SWIM AND TENNIS CLUB, SPA 79-C-133-1, application under Sect. 3-203 of the Zoning Ordinance to amend S-133-79 for a community swimming and tennis club and to permit addition of wooden deck to existing facilities, located at 12515 Pinecrest Road on approximately 4.26077 acres of land, zoned R-2, Centreville District, Tax Map 25-2((1))32.

327

Kevin Guinaw, Staff Coordinator, presented the staff report and informed the Board that revised development conditions had been distributed to them reflecting a change in condition #6. Mr. Guinaw concluded noting that the applicant had been requested to submit a revised plat showing the reduction in the deck size and the full transitional screening yard.

Peter Roppolo, 2613 Litchfield Drive, Herndon, Virginia, represented the applicant and agreed with the development conditions set forth in the staff report. Mr. Roppolo told the Board that he would submit the revised plats and had attempted to do so before the hearing but the surveying company had made a mistake on the second set of plats.

There were no speakers either in support or in opposition, therefore Chairman Smith closed the public hearing.

Mrs. Day moved to grant SP 79-C-133-1 subject to the development conditions in the staff report reflecting the size of the deck being reduced to 22 feet and development condition #6 being revised by adding: "The barrier requirement, except for those barriers shown on the plat approved with this application, shall be waived."

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 79-C-133-1 by PINECREST SWIM AND TENNIS CLUB, under Section 3-203 of the Zoning Ordinance to amend S-133-79 for a community swimming and tennis club and to permit addition of wooden deck to existing facilities, on property located at 12515 Pinecrest Road, Tax Map Reference 25-2((1))32, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 18, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 4.26077 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of family memberships shall be 500.

6. Transitional Screening 1 shall be provided along the eastern lot line adjacent to Parcels 28, 249A and 248A. Existing vegetation shall be used where possible to satisfy this screening requirement and supplemented where necessary with additional plantings. The nature and type of all supplemental plantings shall be determined by the County Arborist. The barrier requirement, except for those barriers shown on the plat approved with this application, shall be waived.
7. The hours of operation shall be: POOL: 7:00 A.M. to 9:30 P.M., Monday through Friday; 10:30 A.M. to 9:30 P.M. on Saturdays, Sundays and Holidays; with the operating time from 7:00 A.M. to 9:00 A.M. to be for lessons, swim team and cleaning only. TENNIS: 7:00 A.M. to 10:00 P.M. seven days a week.
8. Public Address System shall be erected to the satisfaction of the Zoning Administrator but in no event shall it be used before 9:00 A.M. nor shall it be used for musical amplification.
9. All lighting shall be confined to the property.
10. The minimum number of onsite parking spaces shall be 80.
11. Any after hour parties shall be limited to six (6) per year and shall require written permission prior to the party from the Zoning Administrator.

The standard policy for after-hour parties is as follows:

- o Limited to six (6) per season.
- o Limited to Friday, Saturday and pre-holiday evenings.
- o Shall not extend beyond 12:00 midnight.
- o A written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
- o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.

These conditions incorporate all applicable conditions of the previous approvals. This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 2, 1986 with the approval of revised plats. This date shall be deemed to be the final approval date of this special permit.

//

Page 328, November 18, 1986, (Tape 1), After Agenda Item:

KOREAN CENTRAL BAPTIST CHURCH - SP 86-L-026

Mrs. Thonen stated that this case had been deferred to allow the applicant an opportunity to meet with the Lee District Land Use Advisory Committee and for the Planning Commission to hold a public hearing. Due to scheduling problems, these things have not yet been accomplished and therefore another deferral has been requested. She stated that she would like to make an intent to defer SP 86-L-026 when it comes to public hearing on December 2, 1986. As there were no objections, the Board unanimously agreed.

//

As there was no other business to come before the Board, the meeting was adjourned at 9:25 P.M.

Betsy S. Hirtt
Betsy S. Hirtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 1/13/87

APPROVED: 1/20/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 2, 1986. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Gerald Hyland; and John Ribble. John DiGiulian and Mary Thonen were absent from the meeting.

Chairman Smith opened the meeting at 9:44 A.M. and Mrs. Day led the prayer.

//

Page 330, December 2, 1986, (Tape 1), Scheduled case of:

9:00 A.M. WAIVER OF 12 MONTH TIME LIMITATION - CARE-A-LOT LEARNING CENTER, INC., MICHAEL J. AND KAREN L. REID, SP 85-C-078, application under Sect. 3-103 of the Zoning Ordinance to permit a nursery school and child care center, located at 9943 Lawyers Road on approximately 3.771 acres of land, zoned R-1, Centreville District, Tax Map Reference 38-1((1))8.

Chairman Smith announced that the Board had received a letter from the applicant requesting withdrawal of the request for waiver of the 12 month limitation on rehearing the above referenced application.

There being no objection it was so moved. Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack not present for the vote; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

//

Page 330, December 2, 1986, (Tape 1), Scheduled case of

9:15 A.M. GERHARD STOHRER, VC 86-S-077, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling 150 feet from railroad tracks (200 ft. min. distance between dwellings and railroad tracks req. by Sect. 2-414) located at 11521 Fairfax Station Road on approximately 5.2294 acres of land, zoned R-C & WSPD, Springfield District, Tax Map 76-2((1))17. (DEFERRED FROM 10/14/86 - NOTICES NOT IN ORDER)

Marilyn Anderson, Staff Coordinator, presented the staff report and expressed concern for the lack of noise attenuation and the location of the septic field which is proposed to be located between the house and the tracks. Since the site is wooded, clearing for the septic field would eliminate most of the trees between the structure and the noise source. She also suggested that the house be relocated at the Building Restriction Line which would be as far from the tracks as possible. In conclusion, Mrs. Anderson recommended an additional condition 5: "Provide an accoustical noise berm or barrier near the railroad right-of-way as approved by DEM at the time of site plan approval."

The applicant, Gerhard Stohrer of 20 Stafford Place, Larchmont, New York, appeared before the Board and explained that he was unaware of the serious restrictions on the land when he purchased the property. He added that the required setbacks make it difficult to place the house but that he would be using modern building techniques and foam insulation. Mr. Stohrer stated he would be unable to provide the berm due to the location of the septic field.

In response to a question from Mr. Hyland, Mr. Stohrer stated that the house could be relocated thus requiring less of a variance but that future setback requirements may cause him to lose some of his yard. Mrs. Anderson pointed out that the County may be able to get 15 feet of road dedication but added that the parcel was part of a recorded subdivison and this lot was recorded without dedication. She added that there are no plans to widen Fairfax Station Road.

Mr. Stohrer submitted to the Board further information regarding noise attenuation. Mr. Smith advised Mr. Stohrer that he should have submitted the new information to the staff prior to the hearing so that it could be evaluated.

Chairman Smith called for speakers and Randy Holly of Southern Railway, 15507 Ranch Crest Drive, Dumfries, Virginia, appeared before the Board to express concern for safety and noise in such close proximity to the railroad tracks. He stated that this issue is of particular importance because of the location of a curve. In rebuttal, Mr. Stohrer expressed little concern for possible derailments noting that should a train derail, it would only be approximately 60 feet from the tracks.

Mr. Holly disagreed with Mr. Stohrer pointing out that trains have derailed and traveled as much 3-400 feet.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hyland moved to defer the application for two weeks to allow the applicant time to meet with staff and try to resolve the outstanding issues. The new hearing date would be December 18, 1986 at 8:40 P.M.

Mrs. Day seconded the motion which passed unanimously with Mrs. Thonen and Mr. DiGiulian absent from the meeting.

//

Page 331, December 2, 1986, (Tape 1), Scheduled case of:

9:30 A.M. JEHU F. AND EVA TIMRUD COVER, VC 86-P-089, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 18.5 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) located at 4107 Meadow Hill Lane on approximately 8,798 square feet of land, zoned R-3(C) and WSP0D, Providence District, Tax Map Reference 45-2((3))(27)7.

Marilyn Anderson, Staff Coordinator, presented the staff report.

Tony Sobral with Patio Enclosures, 7350-G Lockport Place, Lorton, Virginia, representing the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application.

Jehu Cover, 4107 Meadow Drive, Fairfax, Virginia, appeared before the Board and added that the addition would also help provide insulation for the house.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Day moved to grant the request for a variance subject to the conditions contained in the staff report, noting that an electrical easement prohibited reasonable use of the property.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-089 by JEHU F. AND EVA TIMRUD COVER, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 18.5 feet from rear lot line, on property located at 4107 Meadow Hill Lane, Tax Map Reference 45-2((3))(27)7, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 2, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-3(C).
- 3. The area of the lot is 8,798 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.
- 4. The location of the addition shall not be within the electric easement shown on the approved plat recorded in Deed Book 2958 on page 520.

Mr. Ribble seconded the motion which carried by a vote of 4-1 with Mr. Smith voting nay; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 10, 1986. This date shall be deemed to be the final approval date of this variance.

//

Page 332, December 2, 1986, (Tapes 1 & 2), Scheduled case of:

9:45 A.M. CHRISTIAN FELLOWSHIP CHURCH, SP 86-D-045, application under Sect. 3-103 of the Zoning Ordinance to permit church and related facilities, located at 10920 Leesburg Pike, on approximately 76.9 acres of land, zoned R-1, Dranesville District, Tax Map 12-1(1)33A.

Marilyn Anderson, Staff Coordinator, presented the staff report and advised the Board that the use was too intense for the site and that the proposal was not in harmony with the Comprehensive Plan. She added that the development as proposed did not preserve the low density character of the area nor was ample landscaping, buffering or building setbacks provided for such an intense use. Mrs. Anderson pointed out that the proposed use was not in harmony with the purpose and intent of the R-1 Zoning District, the building size and height are not compatible with the low density residential area, and the large parking area as proposed would not be harmonious with the neighboring properties.

She also noted that the trips generated by the proposed use would far exceed the vehicle trips that would be generated were this property developed in accordance with existing zoning and that the applicant requested a waiver of the barrier requirement and a modification of the screening requirement along all lot lines. In conclusion, Mrs. Anderson stated that staff was recommending denial of SP 86-D-045 as submitted but that staff did not object to a Church use on the site and were the applicant to submit a revised Development Plan reducing the intensity of the use and screening the facility incorporating staff's concerns, staff would reevaluate its position.

Following questions from the Board, Mrs. Anderson stated that the use would still be too intense if the structure were relocated to the middle of the site. Mrs. Day expressed concern for the abutting property owners.

Ed Prichard, attorney with Boothe, Prichard and Dudley, 8280 Greensboro Drive, McLean, Virginia, appeared before the Board as the representative for the applicant. He explained that the church had outgrown their present site and that the proposed building was below the maximum height allowed and its proposed location was to avoid a gas easement. He added that turning lanes would be provided on Route 7 and that if required by VDH&T, a traffic signal would be provided or the church would employ a crossing guard. Mr. Prichard stated that he was requesting a waiver of screening on the west side of the site and in conclusion, he submitted a petition in support of the proposal.

Responding to questions from Mr. Hyland, Mr. Prichard advised that the church did not need 4000 seats at this time but may need them in the future. Mr. Prichard reiterated that the church had no immediate plans for the future.

Following questions from Mr. Hammack, Mr. Prichard stated that the seating capacity of the current church was 750 seats thus requiring four services on Sunday. He added that other uses during the week generated a smaller number of people sometimes, 350.

Mrs. Anderson clarified that Mr. Crippen was the owner of the property but that staff had no letter from him saying that he was part of the application.

At this time Chairman Smith called for speakers in support of the application and the following persons came forward: Walter Maham, 2442 Brussels Court, Reston, Virginia; Richard Lichvere, 811 N. Argonne Avenue, Sterling, Virginia; Paul D. Heath, 11511 Airview Lane, Great Falls, Virginia, Jeanette Williams, 10405 Dun Meadow Road, Vienna, Virginia; Floyd Soule, 1025 Cupleaf Holly Court, Great Falls, Virginia; Warren Rosenberg, 526 Utterback Store Road, Great Falls, Virginia; and Judith Ireland, 508 Arnon Meadow Hill Road. These citizens expressed the opinion that the church was needed in this area and was compatible with the neighborhood.

Chairman Smith called for speakers in opposition to the proposal and the following persons came forward: Captain Richard Rappoport, Fairfax County Police Department, appeared before the Board and explained that the Police Department had no position with regard to the application but expressed concern that the trips generated were underestimated, and that traffic control would be inadequate. He stated that there was no agreement between the church and the Police Department to provide traffic control.

Bob Mackichan, 1003 Riva Ridge Drive, Great Falls, Virginia, appeared before the Board in opposition and submitted petitions in opposition to the proposal.

Michael Kapral, 1115 Loran Road, Great Falls, Virginia, representing the Timberlake Estate Homeowners Association, appeared before the Board in opposition to the proposal noting that it was not in harmony with the Plan. Mr. Kapral submitted his statement to the Board for the record.

Frank J. Gloeckner, III, 1105 Morningwood Lane, Great Falls, Virginia, representing the Lockmeade Neighborhood Association, appeared before the Board and stated their opposition to the proposal, adding that they also opposed to moving the structure to the middle of the site. He also expressed concern that people leaving the church would use the subdivision streets to get to Georgetown Pike. Mr. Gloeckner submitted a written statement for the Board.

Kermit Johnson, 1216 Bishopsgate Way, Reston, Virginia, representing the Ascot Homeowners Association, appeared before the Board and expressed concern for the traffic impacts. Mr. Johnson submitted a written statement for the Board.

Wilmott Abull, 910 Riva Ridge Drive, Great Falls, Virginia, appeared before the Board to express concern for future proposals for the rest of the site. Mr. Abull submitted a statement for the record.

Martha Harris, Planning and Zoning Committee, Great Falls Civic Association, 10605 Springvale Court, Great Falls, Virginia, appeared before the Board in opposition to the proposal and shared the same concerns as the previous speakers.

Hester A. Nettles, The Great Falls Ecumenical Council, 11329 Fairfax Drive, Great Falls, Virginia, appeared before the Board and submitted a letter for the record. She advised the Board that the Council had no position on the application but was concerned about traffic.

Marge Gersic, Great Falls Citizens Association, 11329 Fairfax Drive, Great Falls, Virginia, appeared before the Board in opposition and expressed the opinion that the residential character of the neighborhood be maintained.

Robert A. Pannier, 9408 Georgetown Pike, Great Falls, Virginia, appeared before the Board in opposition to the proposal stating that it was not in conformance with the Plan.

Chuck Steinmetz, 1304 Tulip Poplar Lane, Vienna, Virginia; Milton Tenkersley, 1038 Riva Ridge Drive, Great Falls, Virginia; Ronald Eden, 1156 Riva Ridge, Great Falls, Virginia; also expressed opposition to the application.

Larry Spevak, 1114 Riva Ridge Drive, Great Falls, Virginia, expressed concern for the outside sound system.

In rebuttal, Mr. Prichard clarified that only two Sunday services were necessary if the proposal were approved and that the church had no immediate plans for the rest of the property.

Prior to making the motion, Mr. Hammack stated that the applicant had failed to satisfy the requirements for a special permit. He added that although the Zoning Ordinance does not deal directly with the size of the building, Paragraph 1 of the General Standards says that the proposal shall be in harmony with the Plan. Mr. Hammack further pointed out that the low FAR was only one of the criteria and that the proposal was out of proportion with an R-1 neighborhood. He stated that the applicant had not justified a need for 4000 seats, that the building was too close to Route 7 and suggested that a more complete traffic analysis was needed. Mr. Hammack also expressed concern that the owner of the property (Mr. Crippen) was not a party to the application. In conclusion, Mr. Hammack clarified that his motion was not based on future uses, and moved to deny the application.

Mr. Hyland also stated that his vote was not influenced by possible future expansion of the use but that he could not support the proposal due to its size and traffic impacts.

Mr. Smith stated that the site was a good location for the church and he felt the Board should approve it with conditions, or defer with guidance about how much to reduce the size of the building and parking areas.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-D-045 by CHRISTIAN FELLOWSHIP CHURCH, under Section 3-103 of the Zoning Ordinance to permit church and related facilities, on property located at 10920 Leesburg Pike, Tax Map Reference 12-1((1))33A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 2, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the contract purchaser.
- 2. The present zoning is R-1.
- 3. The area of the lot is 76.9 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Ribble seconded the motion which carried by a vote of 4-1 with Mr. Smith voting nay; Mr. DiGiulian and Mrs. Thonen absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 10, 1986.

At the applicant's request, Mr. Hyland moved to waive the 12 month limitation on rehearing the application.

Mr. Ribble seconded the motion which passed by a vote of 4-1 with Mrs. Day voting nay, Mrs. Thonen and Mr. DiGiulian absent from the meeting.

At the request of the citizens, Mr. Prichard agreed to notify the representatives of the homeowners associations present when a new application is filed.

//

335
Page 335, December 2, 1986, (Tape 3), Scheduled case of:

10:05 A.M. LaPETITE ACADEMY, INC., SP 86-C-047, application under Sect. 3-103 and 4-503 of the Zoning Ordinance to permit child care center as approved in SP 84-C-070, expired, located at 2706 West Ox Road on approximately 48,787 square feet of land, zoned R-1 and C-5, Centreville District, Tax Map 25-1((1))22A.

Chairman Smith announced that the applicant had requested that SP 86-C-047 be withdrawn and Mr. Ribble so moved.

Mrs. Day seconded the motion which passed unanimously with Mr. Hammack not present for the vote; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

//

Page 335, December 2, 1986, (Tape 3), Scheduled case of:

10:25 A.M. ROUSE & ASSOCIATES-FAIR OAKS II AND FAIR OAKS PAL CHILDREN'S CENTER, INC., SP 86-P-049, application under Sect. 4-603 of the Zoning Ordinance to permit a child care center within an office park located at 11230 Lee Jackson Memorial Highway on approximately 3.86 acres of land, zoned C-6, Providence District, Tax Map Reference 56-2((1))73B.

Chairman Smith announced that the applicant had requested that SP 86-C-049 be deferred to December 18, 1986 at 8:10 P.M. and Mr. Hyland so moved.

Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack not present for the vote; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

//

Page 335, December 2, 1986, (Tape 3), Scheduled case of:

10:45 A.M. ROBERT ALAN MUNSE, SP 86-S-050, application under Sect. 8-901 of the Zoning Ordinance to permit modification to minimum yard requirement for an R-C lot to allow bedroom and deck addition to dwelling to 12.1 feet from side lot line (20 ft. min. side yard req. by Sect. 3-C07) located at 6226 Hidden Canyon Road, on approximately 10,687 square feet of land, zoned R-C, Springfield District, Tax Map Ref. 53-3((3))46

Marilyn Anderson, Staff Coordinator, presented the staff report and recommended approval subject to the Conditions set forth in the staff report.

Robert Alan Munse, 6226 Hidden Canyon Road, Centreville, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He pointed out that he had submitted the plans to his neighbors and submitted to the Board a petition in support of the proposal.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant the special permit subject to the conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-050 by ROBERT ALAN MUNSE, under Section 8-901 of the Zoning Ordinance to permit modification to minimum yard requirement for an R-C lot to allow bedroom and deck addition to dwelling to 12.1 feet from side lot line, on property located at 6226 Hidden Canyon Road, Tax Map Reference 53-3((3))46, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 2, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-C & WSPD.
3. The area of the lot is 10,687 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-913 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This special permit is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the special permit unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion which carried unanimously with Mr. Hammack not present for the vote; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 10, 1986. This date shall be deemed to be the final approval date of this special permit.

//

Page 336, December 2, 1986, (Tape 3), Scheduled case of:

11:05 A.M. FRANCES V. SCHOBER AND HORSTMAR A. SCHOBER, SP 86-P-051, application under Sect. 8-901 of the Zoning Ordinance to allow a reduction to minimum yard requirements based on error in building location to allow 10.4 foot high shed to remain 8.7 feet from rear lot line (10.4 ft. min. rear yard req. by Sects. 3-307 and 10-104) located at 8610 Antioch Circle on approximately 12,396 square feet of land, zoned R-3, Providence District, Tax Map Reference 49-1(17)19.

Marilyn Anderson, Staff Coordinator, presented the staff report and advised the Board that the storage shed exceeds the 200 square feet maximum size allowed by Sect. 10-102 and windows in the shed permit the stored contents to be viewed from off the property making it detrimental to the use and enjoyment of other properties. In conclusion, Mrs. Anderson stated that staff was recommending that the applicant be required to either reduce the size of the shed to comply with Sects. 10-104 and 10-102 of the Zoning Ordinance or that the applicant remove the shed from the premises.

Frances Schober, 3528 Pinetree Terrace, Falls Church, Virginia, the applicant, appeared before the Board and explained that a tenant had constructed the shed and that she had not been notified of any problems with the shed until this year even though the shed was constructed in 1983 in violation of the Zoning Ordinance.

Chairman Smith called for speakers and Chris Manos, 8605 Antioch Circle, Dunn Loring Virginia, appeared before the Board in opposition to the proposal noting that the shed was an eyesore. He added that there were no curb cuts to use it as garage nor was the color of the shed harmonious with that of the house.

Susan Falls, 2623 DePauls Place, Dunn Loring, Virginia, stated that she had complained to Mrs. Schober concerning the shed and was told that it was a temporary shed. She also expressed the opinion that the shed was an eyesore.

In rebuttal, Ms. Schober reiterated her position that she was unaware of any complaints or that the shed was in violation of the Zoning Ordinance.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day stated that although the shed was constructed by the tenant it was the property owner's responsibility to assure that the structure complied with the Zoning Ordinance and, therefore moved to deny the application.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-051 by FRANCES V. AND HORSTMAR A. SCHOBER, under Section 8-901 of the Zoning Ordinance to allow a reduction to minimum yard requirements based on error in building location to allow 10.4 foot high shed to remain 8.7 feet from rear lot line, on property located at 8610 Antioch Circle, Tax Map Reference 49-1((17))19, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 2, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 12,396 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0-1 with Mr. Hammack abstaining; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 10, 1986.

//

Page 337, December 2, 1986, (Tape 4), Scheduled case of:

11:30 A.M. KOREAN CENTRAL BAPTIST, SP 86-L-026, application under Section 3-303 of the Zoning Ordinance to permit church and related facilities, located at 6320 Franconia Road on approximately 3.8660 acres of land, zoned R-3, Lee District, Tax Map Reference 81-3((1))32. (DEFERRED FROM 7/29/86 AND 10/21/86)

Lori Greenlief, Staff Coordinator, advised the Board that the Planning Commission had not yet held a public hearing on the application and would be unable to do so this year. Therefore, she suggested a deferral to January 27, 1987 at 9:00 A.M. for the BZA's public hearing. There being no objection, it was so ordered.

Chairman Smith expressed concern for the Planning Commission's delay in hearing the case. He suggested that the BZA go ahead with its public hearing in January regardless of whether or not the Planning Commission has heard the case.

//

Page 337, December 2, 1986, (Tape 4), Scheduled case of:

11:45 A.M. INGRID J. FITZGERALD, SP 86-P-041, application under Section 8-914 of the Zoning Ordinance to permit reduction to min. yard req. based on error in building location to allow gazebo to remain 2 feet from side lot line (12 ft. min. side yard and 40 ft. total side yards req. by Sects. 3-107 and 10-104) located at 10700 Samaga Drive on approximately 28,201 sq. ft., zoned R-1(C), Providence District, Tax Map 37-3((16))1. (DEFERRED FROM 10/28/86 FOR ADDITIONAL INFORMATION FROM THE ARB)

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that the error had been made in good faith but suggested supplemental plantings be placed either on the adjacent owner's property or around the gazebo.

Ingrid Fitzgerald, 10700 Samaga Drive, Oakton, Virginia, the applicant, appeared before the Board and explained that she was unaware that the gazebo was in violation of the Zoning Ordinance. She added that the Architectural Review Board of the Homeowners Association had approved the gazebo.

Ms. M. Osborne with The Osborne Company, Inc., 8305 Magic Leaf Road, Springfield, Virginia, stated that she obtained the building permit but did not know the gazebo should be on the plat since it was detached from the house. She noted that the Building Permit application indicated a deck, bridge and gazebo were proposed. In conclusion, she stated that the error was made in good faith.

Chairman Smith called for speakers and Patrick Lally, 2803 Oakton Mill Drive, Oakton, Virginia, appeared before the Board in opposition to the proposal. He stated that the overhang for the gazebo was on his property. In response to questions from the Board, Ms. Osbourn stated that the overhang was 17 inches and that the gazebo was 2 feet from the property line.

In rebuttal, Ms. Fitzgerald reiterated that the error was made in good faith.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the non-compliance was done in good faith and therefore, moved to grant the application subject to the conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-041 by INGRID J. FITZGERALD, under Section 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirement based on error in building location to allow gazebo to remain 2 feet from side lot line, on property located at 10700 Samaga Drive, Tax Map Reference 37-3((16))1. Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 2, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1(C).
3. The area of the lot is 28,201 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is for the location of the gazebo as indicated on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. An amended building permit reflecting the location of the existing gazebo shall be submitted and approved.
3. The applicant shall plant and maintain evergreen vegetation between the gazebo and the adjacent neighbors on Lots 2 and 14. If agreement with these adjacent property owners can be obtained, then the plantings shall be provided on the shared property line or on Lots 2 and 14. If such agreement cannot be reached, plantings shall be provided between the gazebo and the northwest and northeast boundaries of the subject property.
4. A minimum of six (6) trees, at least six (6) feet in height shall be provided. Location and type of trees shall be determined by the County Arborist.

Mr. Hyland seconded the motion which carried by a vote of 4-1 with Mr. Smith voting nay; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

Page 339, December 2, 1986, (Tape 4), (Ingrid J. Fitzgerald, SP 86-P-041), (Continued from Page 338)

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 10, 1986. This date shall be deemed to be the final approval date of this special permit.

//

Page 339, December 2, 1986, (Tape 4), After Agenda Item #1:

REQUEST FOR ADDITIONAL TIME
LEESBURG PIKE COMMUNITY CHURCH
SP 85-D-014

Mr. Hammack moved to grant the request for additional time for the above referenced application.

Mr. Ribble seconded the motion which passed by a vote of 4-1 with Mr. Hyland voting nay; Mrs. Thonen and Mr. DiGiulian absent from the meeting.

//

As there was no other business to come before the Board, the meeting was adjourned at 4:35 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 1/13/87

APPROVED: 1/20/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 9, 1986. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Gerald Hyland; and Paul Hammack. John DiGiulian, Vice-Chairman; Mary Thonen; and John Ribble were absent from the meeting.

Chairman Smith opened the meeting at 9:50 A.M. and Mrs. Day led the prayer.

//

Page 340, December 9, 1986, (Tape 1), Scheduled case of:

9:00 A.M. ROBERT F. AND KATHY L. SMITH, VC 86-A-091, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 2.6 feet from side lot line (7 ft. min. side yard req. by Sects. 3-307 and 2-412), located at 11104 La Messa Drive on approximately 11,131 square feet of land, zoned R-3, Annandale District, Tax Map 57-3((7))360.

Lori Greenlief, Staff Coordinator, presented the staff report and stated if it was the Board's intent to approve this application that it should be approved in accordance with the development conditions contained in the staff report.

Robert Franklin Smith, 11104 La Messa Drive, Fairfax, Virginia, the applicant, agreed with the development conditions in the staff report and explained there were no windows on the side of the neighboring house that would face his garage. He stated he did not feel this addition would be detrimental as there were similar garages in the neighborhood. In conclusion, Mr. Smith stated there would be a covered walkway between the garage and the house with no retaining wall.

Chairman Smith clarified for the record that he and the applicant were not related.

As there were no speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 86-A-091 as the applicant had satisfied all the requirements for a variance and subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-091 by ROBERT F. AND KATHY L. SMITH, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 2.6 feet from side lot line, on property located at 11104 La Messa Drive, Tax Map Reference 57-3((7))360, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 9, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-3 and WSP0D.
3. The area of the lot is 11,131 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;

- F. An extraordinary situation or condition of the subject property, or
- G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

- 1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
- 2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
- 3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Mrs. Thonen, Messrs. DiGiulian and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 17, 1986. This date shall be deemed to be the final approval date of this variance.

//

Page 341, December 9, 1986, (Tape 1), Scheduled case of:

9:15 A.M. HOWARD BROCK, JR., VC 86-D-092, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport into a garage 6.1 feet from side lot line (10 ft. min. side yard req. by Sect. 3-407), located at 2339 N. Oak Street on 12,662 square feet of land, zoned R-4, Dranesville District, Tax Map Reference 40-4((15))15.

Lori Greenlief, Staff Coordinator, presented the staff report.

Howard Brock, Jr., 2339 N. Oak Street, Falls Church, Virginia, the applicant, told the Board that he had purchased the house in 1972 with a carport. He would now like to enclose the existing carport which would be more energy efficient and provide more security for his vehicles.

342

342

He responded to questions from the Board by replying that the materials which would be used to build the garage would match the materials on the house and noted that on September 9, 1986 the BZA had granted a similar variance in his neighborhood.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 86-D-092 as the applicant had met all the requirements for a variance and stated that application would not be detrimental to the neighborhood.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-091 by HOWARD BROCK, JR., under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport into a garage 6.1 feet from side lot line, on property located at 2339 N. Oak Street, Tax Map Reference 40-4(15)15, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 9, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 12,662 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion carried by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 17, 1986. This date shall be deemed to be the final approval date of this variance.

//

Page 343, December 9, 1986 (Tape 1), Scheduled case of:

9:30 A.M. VABAX CORPORATION, VC 86-A-093, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed lot 3 having a width of 24 feet (100 ft. min. lot width req. by Sect. 3-206) located 5101 Wakefield Chapel Road on 2.5 acres of land, zoned R-2, Annandale District, Tax Map Reference 70-3((1)13.

Lori Greenlief, Staff Coordinator, presented the staff report. Mrs. Greenlief stated that staff was concerned that as much vegetation as possible be preserved to include a stand of mature trees along the eastern lot line. She added that staff was also recommending that the applicant dedicate to 45 feet from center line of Wakefield Chapel Road for road improvements. In conclusion, Mrs. Greenlief added that the applicant could subdivide this parcel into four lots by right.

James E. Ballard, 7538 Royce Court, Annandale, Virginia, represented the applicant and told the Board that the property was acquired in good faith in July 1986 and believes that the property can be subdivided into five lots and still be in conformance with the Master Plan. Mr. Ballard added that this variance had been requested on the advice of the surveyor due to the odd shape of the lot.

Chairman Smith closed the public hearing as there were no speakers to address this application.

Mr. Hyland moved to grant VC 86-A-093 noting that the applicant had presented testimony that he met the requirements for a variance.

Mr. Hammack opposed the application stating that the applicant had been aware of the circumstances surrounding this site when he purchased the property and that the applicant had reasonable use of the land by being able to subdivide into four lots by right.

Chairman Smith agreed with Mr. Hammack's comments and stated that he could not support the motion.

Mr. Hyland moved to grant VC 86-A-093 based upon the applicant's testimony and as he felt the applicant met the required standards for a variance. Mrs. Day seconded the motion which failed by a vote of 2-2 with Mrs. Day and Mr. Hyland voting aye; Chairman Smith and Mr. Hammack voting nay.

Mr. Hyland then moved to grant the applicant a waiver of the 12-month limitation and Mrs. Day seconded the motion. Chairman Smith pointed out that the applicant had not request a waiver and the motion failed by a vote of 2-2 with Mrs. Day and Mr. Hyland voting aye; Chairman Smith and Mr. Hammack voting nay.

//

344

344

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-093 by VABAX CORPORATION, under Section 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed lot 3 having a width of 24 feet, on property located at 5101 Wakefield Chapel Road, Tax Map Reference 70-3(1)13, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution which failed by a vote of 2-2:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 9, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 2.5 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the subdivision of one lot into five lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

345

345

3. The entrance to Lots 2, 3, 4 and 5 shall be from Glen Park Road via the pipestem driveway. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway.
4. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.
5. The edge of pavement for the pipestem driveway shall be no closer than ten (10) feet from the eastern lot line.
6. A tree preservation plan which includes the limits of clearing shall be submitted to the County Arborist for review and approval at the time of subdivision plan review.
7. The applicant shall dedicate right-of-way to forty-five (45) feet from the centerline of Wakefield Chapel Road.
8. The applicant shall dedicate right-of-way to thirty (30) feet from the centerline of Glen Park Road as shown on the plat.
9. The applicant shall provide temporary grading easements along the site's frontage on Wakefield Chapel Road and Glen Park Road at such time as these roads are improved.

Mrs. Day seconded the motion.

The motion failed due to lack of the required four (4) votes necessary to pass a motion for a variance or special permit application. The vote was 2-2 with Mrs. Day and Mr. Hyland voting aye; Mr. Smith and Mr. Hammack voting nay; Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

Mr. Hyland then moved to grant the applicant a waiver of the 12-month limitation and Mrs. Day seconded the motion. Chairman Smith pointed out that the applicant had not request a waiver and the motion failed by a vote of 2-2 with Mrs. Day and Mr. Hyland voting aye; Chairman Smith and Mr. Hammack voting nay.

*The decision was officially filed in the office of the Board of Zoning Appeals and became final on December 17, 1986.

//

Page 345, December 9, 1986, (Tapes and 1 and 2), Scheduled case of:

9:40 A.M. SAINT JAMES EPISCOPAL CHURCH, SP 86-V-052, application under Sect. 3-203 of the Zoning Ordinance to allow storage room addition to existing church and related facilities located at 5614 Old Mill Road on approximately 5.0029 acres of land, zoned R-2, Mount Vernon District, Tax Map Reference 110-1((1))4B.

Lori Greenlief, Staff Coordinator, presented the staff report and stated that the request brings the entire church under special permit since the church was constructed prior to the Zoning Ordinance amendment which required special permit approval. She stated that the applicant had agreed to provide transitional screening between the church and the adjoining houses. Mrs. Greenlief pointed out that staff was recommending that the existing middle entrance onto Old Mill Road be closed or be realigned with McNair Drive and the western-most entrance be widened to meet the VDH&T width requirement.

Following a lengthy discussion between the Board and staff, Mrs. Greenlief pointed out that the transportation changes requested would bring the parking lot up to standard and would alleviate any future transportation problems that might evolve.

Roy T. Dodge, 9101 Volunteer Drive, Alexandria, Virginia, a trustee of the church explained that the church was built in 1965 before the transportation and screening standards came into being and that the church was a non-conforming use and should not be affected by the addition of this storage building as it would not increase the seating capacity of the church nor would it generate additional traffic. In conclusion, Mr. Dodge stated that the church was small and therefore was reluctant to agree to staff's request regarding the transportation issues due to the expense involved.

Chairman Smith called for speakers in support of this application and hearing no reply called for speakers in opposition. Hugh Dugan, 5609 Old Mill Road, Alexandria, Virginia, did not support or oppose the application but wanted to point out that the transportation issues should not be overlooked.

Mr. Dodge during rebuttal pointed out that there would be no delivery trucks.

Mr. Hammack moved to grant SP 86-V-052 based on the applicant's testimony and subject to the development conditions as noted in the staff report with the deletions of #10 and #11.

Following a discussion among Board members, Mr. Hyland made a substitute motion to defer this case until January 6, 1987 at 10:30 A.M. so that the transportation issues could be resolved. The motion passed by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

//

Mr. Hammack made a motion to go into executive session to discuss legal matters following which the Board reconvened at 12:00 noon.

//

Page 346, December 9, 1986, (Tape 2), Scheduled case of:

10:00 A.M. FAISAL HAMID IDRIS - VC 86-D-081, application under Sect. 18-401 of the Zoning Ordinance to allow 6 foot high fence to remain in a front yard of a corner lot (4 ft. max. hgt. for fence in front yard req. by Sect. 10-104) located at 6800 Langley Court on approximately 15,069 sq. ft. of land, zoned R-3, Dranesville District, Tax Map 21-4((23))6. (DEF. FROM 11/6/86 - NOTICES NOT IN ORDER)

Following a discussion among the Board members, Mr. Hyland moved to deny this application for lack of interest on the part of the applicant. Mrs. Day seconded the motion which passed by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting. Mr. Hyland requested that Zoning Enforcement should take immediate action as this applicant was under violation.

//

Page 346, December 9, 1986, (Tape 2), Scheduled case of:

10:15 A.M. ELLEN T. JARVIS, VC 86-D-088, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots 16B and 16C each having a width of 15.06 feet (150 ft. min. lot width req. by Sect. 3-106) located at 10909 Georgetown Pike on approximately 5.296 acres of land, zoned R-1, Dranesville District, Tax Map Ref. 12-1((1))16.

Lori Greenlief, Staff Coordinator, presented the staff report and pointed out that the applicant had obtained a building permit in June 1986 for the second house but felt the permit would not have been issued if the grading plan had been clearly marked.

Gene Cole, 10909 Georgetown Pike, Great Falls, Virginia, husband of the applicant appeared before the Board and stated that the house was in conformance as a building permit had been obtained to build the second house. Mr. Cole noted that access would be via the neighbor's driveway.

In response to questions from the Board, Mr. Cole explained that the third lot had been requested to provide a building site for his wife's son in the future as the lot is too large for he and his wife to maintain at their age.

As there were no speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 86-D-088 in part as he felt the applicant had met the requirements for a variance. The applicant was informed that he would need to submit revised plats showing the subdivision into two lots.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-088 by ELLEN T. JARVIS, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots (applicant requested three (3) lots), proposed lots 16B and 16C each having a width of 15.06 feet, on property located at 10909 Georgetown Pike, Tax Map Reference 12-1((1))16, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 9, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5.296 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED-IN-PART with the following limitations:

1. This variance is approved for the subdivision of one lot into two lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion carried by a vote of 4-0 with Mrs. Thonen, Messrs. DiGiulian and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 17, 1986. This date shall be deemed to be the final approval date of this variance.

//

10:40 A.M. LOYAL ORDER OF MOOSE, SP 86-V-046, application under Sect. 8-901 of the Zoning Ordinance to allow expansion of a private club with modification of the dustless surface requirement for existing roadway and parking lots, located at 9612 Fernedge Lane on approximately 8.74 acres of land, zoned R-1, Mount Vernon District, Tax Map 107-4((6))1,2,3, 107-4((1))40A. (DEF. FROM 11/18/86 - NOTICES NOT IN ORDER)

Kevin Guinaw, Staff Coordinator, presented the staff report which recommended approval in part with the entrance and driveways paved and some of the parking spaces relocated. He pointed out to the Board that there was a pending special exception before the Board of Supervisors in conjunction with this application.

Nolan Oxner, 9552 Hagel Circle, Lorton, Virginia, appeared before the Board on behalf of the applicant and stated that he agreed with the development conditions contained in the staff report. In conclusion, Mr. Oxner noted that the softball field would only be used on Sunday.

Chairman Smith closed the public hearing as there were no speakers either in support or in opposition to this application.

Mr. Hyland moved to grant SP 86-V-046 subject to the development conditions contained in the staff report.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-V-046 by LOYAL ORDER OF MOOSE, under Section 8-901 of the Zoning Ordinance to allow expansion of a private club with modification of the dustless surface requirement for existing roadway and parking lots, on property located at 9612 Fernedge Lane, Tax Map Reference 107-4((6))1,2,3 and 107-4((1))40A, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution which is approved in part:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 9, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 8.74 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-915 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED-IN-PART with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
- 2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. A modification of the dustless surface requirement shall be granted for the parking areas. These areas shall be constructed and maintained in accordance with the standard practices approved by the Director, Department of Environmental Management, which shall include but not be limited to the following:
 - A. The parking area shall be constructed with clean stone, having as little fines material as possible. The stone should be spread evenly and to a depth adequate enough to prevent wear-through or bare subsoil exposure.
 - B. Travel speeds in the parking areas shall be limited to 10 mph or less.
 - C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.
 - D. During dry periods, application of water or calcium chloride shall be made in order to control dust.
 - E. Runoff shall be channeled away from and around the parking areas.
 - F. The property owner shall perform periodic inspections to monitor dust conditions drainage functions, compaction and migration of stone surface.
6. This modification of the dustless surface requirement is approved for a period of three (3) years, with possible extension of two (2) years subject to the approval of the Zoning Administrator. Should such an extension be requested, the effectiveness of the applicant's maintenance program and the status of development on the surrounding properties shall be among the primary factors considered in the Zoning Administrator's decision.
7. The portion of the entrance roadway between the end of pavement on Fernedge Lane and the parking areas shall be paved.
8. The parking areas shall be located no closer than twenty-five (25) feet to any lot line in order that the required transitional screening may be satisfactorily provided.
9. A six (6) foot wooden stockade fence (Barrier F) shall be provided along the northern boundary of Lot 3 and along the western boundary of Lots 1, 2 and 3.
10. The parking area shall be designed in accordance with the provisions of the Public Facilities Manual.
11. Interior parking lot landscaping shall be provided in accordance with Article 13.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 17, 1986. This date shall be deemed to be the final approval date of this special permit.

//

Page 350, December 9, 1986, (Tape 2), After Agenda Item #1:

Out-of-Turn Hearing Request
Terry and Mary Margaret Thorne - VC 86-C-125

Mr. Hyland moved to deny the request for an out-of-turn hearing since the application was tentatively scheduled for public hearing on February 24, 1987. Mr. Hammack seconded the motion which passed by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

//

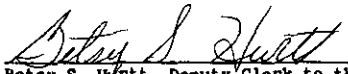
Page 350, December 9, 1986, (Tape 2), After Agenda Item #2:

Out-of-Turn Hearing Request
Chantilly Golf and Country Club - SPA 72-S-117-1

Mr. Hyland moved to deny the request for an out-of-turn hearing since the application was tentatively scheduled for public hearing on January 27, 1987. Mr. Hammack seconded the motion which passed by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

//

As there was no other business to come before the Board, the meeting was adjourned at 1:05 P.M.


Betsy S. Hirtt, Deputy Clerk to the
Board of Zoning Appeals


Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 1/13/87

APPROVED: 1/20/87

351

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, December 18, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; and Mary Thonen. John Ribble was absent from the meeting.

Chairman Smith opened the meeting at 8:25 P.M. and Mrs. Day led the prayer.

//

Page 351, December 18, 1986. (Tape 1), Scheduled case of:

8:00 P.M. ALBERTA L. BOOTHE - VC 86-D-059, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed Lots 1 and 2 each having width of 12.55 feet (200 ft. min. lot width req. by Sect. 3-E06) located at 858 Seneca Road on approximately 6.4187 acres of land zoned R-E, Dranesville District, Tax Map 6-4(1)9.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that the proposed subdivision would result in lot sizes which are smaller than the majority of lots in the immediate vicinity and would not be in conformance with the Plan. He added that subdivision of the parcel as proposed would set a precedent for other similar properties in the area which could be redeveloped in the same manner. He added that proposed lots 1 and 2 would be pipestem lots with an extremely long driveway which would have a negative impact on the adjacent properties. In addition, Mr. Guinaw pointed out that there were sight distance problems.

Royce Spence, 605 Park Avenue, Falls Church, Virginia, attorney representing the applicant appeared before the Board and pointed out that the property's length was approximately five times the width and has a sharp point at the end of the property. Mr. Spence noted that Parcel 8 was 3.38 acres, Parcel 7 was 2 acres, Parcel 5A was 2.18 acres and Parcel 1 (56 acres) was under development for two acre lots, therefore the character of the area was such that the majority of lots were 2 or less acres. He noted that the staff report was recommending the property be consolidated in order to develop. Mr. Spence pointed out that if consolidation is necessary then that would indicate a hardship. He further added that the criteria for pipestem lots was not a part of the Ordinance. With regard to driveways, the applicant was willing to pave them before beginning construction to minimize the impact of construction to the adjacent properties.

Mr. Spence noted that staff was recommending that the driveway be relocated to the south but pointed out that it would be too close to the Boothe house.

With regard to the sight distance problem, the applicant was willing to remove a fence. Mr. Spence stated that 25 feet of dedication along the front of the property for future widening of Seneca Road had already been provided.

Following questions from Mr. DiGiulian, Mr. Spence stated that the applicant agreed to the development conditions.

Mr. Guinaw clarified that to the north of the proposed entrance, sight distance is blocked by an existing fence and vegetation on the adjacent property. If two pipestem driveways were put in that area the grade would have to be lowered in order to access Seneca Road. To the south of Seneca Road the grade is inadequate due to a hill in the road.

With regard to the surrounding lots in the area, Mr. Guinaw pointed out the lots which have a land area above five acres and noted that 2 acre lots as proposed were at the low end of the plan range. He added that the proposed subdivision was not by right but could only be approved with a variance. Mr. Guinaw stated that Seneca Hunt Subdivision which had been approved for lot 1 was developed without the need for a variance.

Mr. Spence reiterated that the applicant did meet the criteria for a variance because of the exceptional narrowness and shape of the property. He added that only one third of the property could be used, therefore the applicant was denied reasonable use of the property. Mr. Spence submitted a petition in support of the application.

Chairman Smith called for speakers and Bob Baker, 11424 Fairfax Drive, Great Falls, Virginia, appeared before the Board in support of the application.

Marge Toni Gersic, President, Great Falls Citizens Association, 1120 Corebon Lane, Great Falls, Virginia, appeared before the Board in opposition to the proposal. She stated that the Association supported the staff report. Ms. Gersic read two letters of opposition into the record one from Sara E. Ramonia.

Edith McKinnon, 864 Seneca Road, Great Falls, Virginia, appeared before the Board in opposition to the proposal.

Janos Myitray 854 Seneca Road, Great Falls, Virginia, appeared before the Board and expressed concern about the pipestem lots.

In rebuttal, Mr. Spence reiterated his position and noted that Mr. Myitray had drawn up a similar plan for his property.

Chairman Smith requested a copy of the plan and Mr. Myitray submitted it to the Board. After a brief review, Mr. Smith stated that the plan for the property was for a 2 lot subdivision.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian stated that the proposal was in conformance with the Plan and that the standards for a variance had been met, and he therefore moved to grant the Variance subject to the conditions contained in the staff report with an additional condition, number Eight: "The pipestem driveway shall be paved prior to beginning construction of the dwelling".

//

The application was denied due to the failure to approve the following resolution.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-059 by ALBERTA L. BOOTHE, under Section 3-E06 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots 1 and 2 each having width of 12.55 feet, on property located at 858 Seneca Road, Tax Map Reference 6-4((1))9, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 18, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 6.4187 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the subdivision of one lot into three lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. Entrance to Lots 1 and 2 shall be provided by a single pipestem driveway. The driveway easements shall be recorded with deeds to the properties to ensure future access to these lots via a common driveway.
4. The driveway to Lots 1 and 2 shall be constructed in accordance with the Public Facilities Manual.
5. The applicant shall dedicate right-of-way to forty-five (45) feet from centerline on Seneca Road.
6. The applicant shall provide temporary grading and construction easements along the site's frontage on Seneca Road at such time as this road is improved.
7. The site entrance shall be designed and constructed to provide adequate sight distance in conformance with VDM&T standards.
8. The driveways to Lots 1 and 2 shall be paved prior to the commencement of construction on each lot.

Mrs. Thonen seconded the motion.

The motion failed by a vote of 3-2 with Mrs. Day, Mr. DiGiulian and Mrs. Thonen voting aye; Mr. Hammack and Mr. Smith voting nay; Mr. Hyland not present for the vote; Mr. Ribble absent from the meeting. The motion failed due to lack of the required four (4) votes necessary to pass a motion for a variance or special permit application.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 26, 1986.

//

Page 353 December 18, 1986, (Tape 1), Scheduled case of:

8:10 P.M. ROUSE & ASSOCIATES-FAIR OAKS II AND FAIR OAKS PAL CHILDREN'S CENTER, INC., SP 86-P-049, application under Sect. 4-603 of the Zoning Ordinance to permit a child care center within an office park located at 11230 Lee Jackson Memorial Highway on approximately 3.86 acres of land, zoned C-6, Providence District, Tax Map 56-2((1))73B. (DEFERRED FROM 12/2/86)

Marilyn Anderson, Staff Coordinator, advised the Board that staff and the applicant were working to resolve noise attenuation issues and therefore a deferral was requested for January 6, 1987 at 10:45 A.M. Mrs. Day so moved.

Mrs. Thonen seconded the motion which passed unanimously with Mr. Hyland not present for the vote; Mr. Ribble absent from the meeting.

//

388

353

8:20 P.M. KINDER-CARE LEARNING CENTERS, INC., SP 86-S-034, application under Sect. 3-103 of the Zoning Ordinance to permit child care center on approximately 43,233 square feet, located at 8600 Center Road, zoned R-1, Springfield District, Tax Map 79-3((6))4A.

354

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that traffic generated by the proposed use would exceed that which would be generated if the land was to be developed in residential use at the high end of the plan range. The development of the property as proposed would discourage parcel consolidation for residential development in the area and promote strip development of parcels 2 and 3. He noted that the Planning Commission recommendation was included in the Board's package for this hearing. In conclusion, Mr. Guinaw advised that staff was recommending denial.

Fred Taylor, Springfield, Virginia, attorney for the applicant, stated that residential homes at this location were unrealistic. With regard to traffic, Mr. Taylor stated that 93 - 95% of vehicles visiting the Center were already on the road. He added that day care centers do not generate traffic but generate turning movements. Mr. Taylor noted the need for a day care center in the area.

In response to questions from Mrs. Thonen, Mr. Taylor stated that the Center would be served by Center Road and would provide for a future street at the rear of the property to accommodate interparcel access.

Chairman Smith called for speakers and the following people came forward in opposition to the proposal: Judy Anderson, 8712 Center Road, Springfield, Virginia, President, Lee Brook Homeowners Association; Barbara Woods, 8734 Center Road, Springfield, Virginia; Pete Badger, 8716 Center Road, Springfield, Virginia; Connie Badger, 8716 Center Road, Springfield, Virginia. These speakers expressed concern for traffic and safety should this application be approved.

In rebuttal, Mr. Taylor stated that road improvements would be provided and that the applicant would agree to the Arborist reviewing their landscape plan.

Chairman Smith entered into the record the recommendation of denial from the Planning Commission. The Planning Commission held a public hearing on the special permit application on December 12, 1986.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen noted that the area was too congested for a day care center. She added that the proposal impacted too greatly on the neighborhood. She then moved to deny the application.

//

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-034 by KINDER-CARE LEARNING CENTERS, INC., under Section 3-103 of the Zoning Ordinance to permit child care center, on property located at 8600 Center Road, Tax Map Reference 79-3((6))4A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 18, 1986; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the applicant is the owner of the land.
- 2. The present zoning is R-1.
- 3. The area of the lot is 43,233 square feet of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Mr. Hyland not present for the vote; Mr. Ribble absent from the meeting. This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 26, 1986.

//

8:40 P.M. GERHARD STOHRER, VC 86-S-077, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling 150 feet from railroad tracks (200 ft. min. distance between dwellings and railroad tracks req. by Sect. 2-414), located at 11521 Fairfax Station Road on approximately 5.2294 acres of land, zoned R-C & WSPOD, Springfield District, Tax Map 76-2((1))17. (DEFERRED FROM 10/14/86 AND 12/2/86)

Marilyn Anderson, Staff Coordinator, reminded the Board that the case had been deferred to work out noise attenuation issues which have been resolved. She noted the revised development conditions which indicated that the applicant could get a composite noise attenuation of 39 STC (Condition 4). She added that the applicant was now asking for a 20 foot variance because the applicant had agreed to move the house 180 feet from the railroad tracks (Condition 1). Mrs. Anderson noted a new condition which would require that a solid fence wall or berm be constructed prior to a Residential Use Permit being obtained and that the Environment and Policy Division of the Office of Comprehensive Planning will have the opportunity to approve the location and design of whichever the applicant chooses before a building permit can be approved.

In response to questions from Mr. Smith, Mr. Stohrer stated that he agreed to the revised development conditions.

Prior to making the motion, Mr. Hammack noted the exceptional shape of the lot and then moved to grant the variance subject to the revised development conditions.

//

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-S-077 by GERHARD STOHRER, under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 150 feet (180 feet was approved by the Board) from railroad tracks, (180 feet was approved) on property located at 11521 Fairfax Station Road, Tax Map Reference 76-2((1))17, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 18, 1986; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-C and WSPOD.
3. The area of the lot is 5.2294 acres of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED-IN-PART with the following limitations:

1. This variance is approved for the proposed dwelling to be located 180 feet from the railroad track and this variance is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. Acoustical treatment of the dwelling shall be provided in order to achieve a maximum interior noise level of 45 dBA Ldn as follows:
 - a. Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and
 - b. Windows shall be of two layers of glass with an air space.
 - c. Doors, windows and walls shall have a composite STC of at least 39, computed for each side of the dwelling individually.
 - d. Adequate measures to seal and caulk between surfaces shall be provided.
 - e. In order to achieve a maximum exterior noise level of 65 dBA Ldn, noise attenuation structures such as acoustical fencing, walls, earthen berms or combinations thereof, shall be provided for those outdoor recreation areas including rear yards, unshielded by topography or built structures. If acoustical fencing or walls are used, they should be architecturally solid from ground up with no gaps or openings. The structure employed must be of sufficient height to adequately shield the impacted area from the source of the noise.
5. An architecturally solid fence, wall, berm or combinations thereof will be constructed prior to issuance of an Occupancy Permit. The design and location will be approved by the OCP Planning Division at the time of site plan approval.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hyland not present for the vote; Mr. Ribble absent from the meeting.

Page 357, December 18, 1986, (VC 86-S-077 - Gerhard Stohrer, continued from Page)

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 26, 1986. This date shall be deemed to be the final approval date of this variance.

Mr. DiGiulian seconded the motion which passed unanimously with Mr. Hyland not present for the vote and Mr. Ribble absent from the meeting.

Mr. Smith requested Mr. Stohrer submit a new plat in accordance with the resolution for the Chairman's signature.

//

Page 357, December 18, 1986, (Tape 1), After Agenda Item # 1

Out-of-Turn Hearing Request
American Powerlifting, Inc. t/a Champions Fitness Center
SP 86-S-072

Mr. DiGiulian moved to grant the request for an out-of-turn hearing for February 24, 1987 at 9:00 A.M.

Mrs. Day seconded the motion which passed unanimously with Mr. Hyland not present for the vote; Mr. Ribble absent from the meeting.

//

Page 357, December 18, 1986, (Tape 1), After Agenda Item # 2

Approval of Minutes

Mrs. Thonen moved to accept the Minutes as submitted for October 7, 14, 21 and 28, 1986.

Mr. DiGiulian seconded the motion which passed unanimously with Mr. Hyland not present for the vote; Mr. Ribble absent from the meeting.

//

Page 357, December 18, 1986, (Tape 2), After Agenda Item # 3

Appeal - Woodside Citizens Association

Mrs. Thonen moved to accept the appeal of the Woodside Citizens Association and set the public hearing for February 3, 1987 at 9:00 A.M.

Mr. DiGiulian seconded the motion which passed unanimously with Mr. Hyland not present for the vote; Mr. Ribble absent from the meeting.

//

Page 357, December 18, 1986, (Tape 2), After Agenda Item # 4

Appeal - McLean Presbyterian Church/Tom Dugan

Mrs. Thonen moved to accept the appeal of McLean Presbyterian Church and set the public hearing for March 3, 1987 at 9:00 A.M.

Mr. DiGiulian seconded the motion which passed unanimously with Mr. Hyland not present for the vote; Mr. Ribble absent from the meeting.

//

As there was no other business to come before the Board, the meeting was adjourned at 9:57 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 2-3-87 APPROVED: 2-17-87