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The First Meeting of the Board of Zoning Appeals for 1976 was held on January 8, 1976, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes; Tyler Swetnam and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

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The first order of business was to elect officers for the new year.

Mr. Kelley nominated Mrs. Jane Kelsey Clerk to the Board for the coming year.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present.

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Mr. Barnes nominated Mr. Loy Kelley for Vice-Chairman.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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Mr. Runyon stated that in light of Mr. Smith's past service over the years, it was a pleasure for him to nominate Mr. Daniel Smith Chairman of the Board of Zoning Appeals for 1976.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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10:00 - CROWN CENTRAL PETROLEUM CORP. appl. under Sec. 30-7.2.10.3.1 and 30-7.2.10.3.5 of the Zoning Ordinance to permit gasoline dispensing station and auto laundry, NE intersection of Edsal Road & Mitchell Street, 80-2((3))23 and part of 22, S-218-75, (previously granted to Mr. Bell, 12-15-70). This case was deferred from November 19, 1975 for a full Board.

Mr. Runyon stated that it has been his practice in the past since he has worked with Crown in several instances in the engineering field to abstain from the decisions in these cases. However, he stated that he would be willing to answer any questions relating to the engineering plats for this site.

Mr. Charles Shumate, attorney for the applicant, explained that this station will be a dispensing station and auto laundry with no repair bays. Crown will follow their present practice of selling quality gasoline at competing prices. He stated that the law is clear that zoning cannot be used to control competition. Any questions concerning fuel allocation should be addressed to the Federal authorities, not to this Board. The design of this station will be comparable with the other Crown stations recently completed. The station it most closely resembles is the station in Charlotte, North Carolina with the exception of the fountain which will not be in the middle of the site. At this site they are proposing a 6' high brick screening fence to the rear of the property. He submitted new plats to the Board showing this fence or wall.

In answer to Mr. Smith's question, Mr. Shumate stated that, with regard to the sign, all signs would conform to the Fairfax County Sign Ordinance.

Mr. Covington stated that no free standing sign would be allowed at this location under the Fairfax County Sign Ordinance.

Mr. Smith stated that there is a free standing sign indicated on the plats. He asked Mr. Shumate to mark that off the plats and initial them.

Mr. Shumate stated that this station will have 6 dual pumps and 2 single pumps. In answer to Mr. Smith's question, he stated that there is no way they can move the building back from the front property line because of the

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sanitary sewer easement that is on the property.

Mr. Shumate stated that this station will be constructed of the colonial type brick that is used in the Franconia area.

Mr. Shumate told the Board that this is a fully automatic car wash. The price of the wash does not depend on the amount of gasoline that is purchased, therefore, the volume of users for this car wash is not as great as the car wash operations that tie the price of the wash to the amount of gas purchased.

In answer to Mr. Kelley's question, Mr. Shumate stated that Crown does intend to follow the landscape plan that is presented on the rendering of the station in Charlotte. There is also a plan on the plats that are before the Board. That plan is in more detail.

Mrs. Wilson, 6732 Bostwick Street, Edsal Park Subdivision, spoke in opposition based on the hazardous traffic conditions that already exist and the incompatibility this station will have with the single family residences in that area.

Jane Popperd, 5212 Mitchell Street, representing the Indian Springs Clearfield Civic Association, spoke in opposition based on the narrow road, the traffic hazard, and the fact that there are already several stations in that area and they do not need any more.

David Lowry, 6458 Edsal Road, Bren Mar Park Civic Association, spoke in opposition, based on the increased traffic this type station will draw above the amount of traffic that a regular service station would draw.

Harold Scarborough, Virginia Gasoline Retailers Association and one of the affected retailers at 5533 Backlick Road, Springfield, spoke in opposition based on the type station this would be. He stated that his association would not object to another full service station as applied for in 1970. He stated that he felt this particular application is not in accordance with the original zoning or the original Special Use Permit. This type gasoline station generates more traffic than a full service gasoline station.

Mr. Kelley told Mr. Scarborough that need is not a criteria under the Zoning Ordinance. However, there is no car wash in this area. He stated that he had viewed the property and driven these streets to see for himself what the traffic conditions were. The traffic is bad, but traffic all over the County is bad.

Mr. Smith stated that any business that might go into this property would create additional traffic.

Mr. Shumate spoke in rebuttal. He stated that traffic problems do exist at this location, but Crown cannot correct the problem. Five years ago a permit was granted for a full service station. This property is zoned C-N which would allow by right a 7-11 store, Gino's and other uses that would generate as much or more traffic than this Crown station will. The Board of Supervisors considered placing a Highway Corridor zoning along this road. The motion to do this died for lack of a second. Page 3 of the Staff Report that went to the Board of Supervisors concerning the Highway Corridor gives information by Mr. Petersen, a traffic expert. That report states that "in the staff's judgment, an additional service station would not necessarily generate a significant amount of additional vehicle trips on Edsal Road. Service stations serve existing traffic and in and of themselves do not generate additional traffic. Turning movements would potentially be greater, but not necessarily greater than those generated by another commercial use developed under the existing C-N District regulations."

Mr. Kelley stated that the Board is in a difficult position. He stated that he appreciated the feelings of the service station retail dealers and the feelings of the people who live in these subdivisions. However, after going over all the papers, viewing the site and listening to the testimony, he did not feel that this use would adversely affect the surrounding community.

Mr. Shumate stated that he had made a note on the plat that "subject signs to be in accordance with Fx.Co. Ordinance. If free-standing not permitted then company intends to utilize three (3'x5') single faced, internally illuminated ID signs in the canopy fascia CLS".

RESOLUTION

003

In application S-218-75 by Crown Central Petroleum Corp. under Section 30-7.2.10.3.1 and 30-7.2.10.5.2 of the Zoning Ordinance to permit gasoline dispensing station and auto laundry, NE intersection of Edsal Road, 80-2 ((3))23 & pt. 22, Annandale District, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, the public hearing was held by the Board of Zoning Appeals on 19 November, 1975 and deferred to January 8, 1976 following proper notice to the public by advertisement in a local newspaper, posting of the property and letters to contiguous and nearby property owners, and

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

- 1. That the owner of the subject property is S. J. Bell.
- 2. The applicant is the contract purchaser.
- 3. The area of the lot is 34,239 square feet.
- 4. Compliance with the Site Plan Ordinance is required.
- 5. Compliance with all State and County Codes is required.
- 6. The property is subject to Pro Rata Share for off-site drainage.
- 7. A special use permit (S-218-70) for a service station on this property was granted to S.J. Bell on December 15, 1970, but even after extension of time to August 1, 1972, construction was never begun, and the permit expired.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The Auto Car Wash is to be limited to the hours of 7:00 a.m. to 11:00 p.m. However, the Board of Zoning Appeals reserves the right to change the hours should there be a need to do so.
- 7. There shall be no display, selling, storing, rental, leasing or repairing of automobiles, trucks, trailers, recreational vehicles, lawn mowers, or such other repairs that come within this category.
- 8. All outside lights shall be adjusted in such a manner as to focus south in the direction of Edsal Road and the industrial area and confined to said site.
- 9. A 6' brick wall shall be erected a minimum of one foot inside the property line along the northern property line common with Lot 24 and as indicated on plats. Any other necessary landscaping and/or screening is to be provided and maintained to the satisfaction of the Dir. of Environmental Management.
- 10. There shall be no free standing sign on said site.
- 11. A standard sidewalk shall be constructed along Mitchell Street for the distance of the property line.

Mr. Barnes seconded the motion. The motion passed 4 to 0. Mr. Runyon abstained.

10:20 - CARL & LUELLA HARTBOWER appl. under Sec. 30-6.6.5.4 of the Zoning Ord. a.m. to permit shed to remain closer to side property line than allowed by Ord. (3.4' from side, 10' required), 4769 Kandel Court, 71-1((26)) 23A, Heritage Village, (22,218 sq.ft.), Annandale District, (RT-10), V-236-75.

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Hearing began at 11:35 a.m.

Mr. Hartbower stated that he is a registered engineer and presently employed by the Federal Highway Commission. He explained the need for the shed for his family's use. He said that the shed had been approved by the Heritage Village Architectural Committee. He stated that there had been a metal shed there when he looked at the house prior to purchasing. That shed was included in the multiple listing sheet. Therefore, he never dreamed that it was not legal to have it there. He purchased the house because he needed that shed. During a heavy windstorm, the shed blew away. He built another shed of wood, much nicer and sturdier than the metal shed after receiving the O.K. from the homeowners association's architectural control committee. The committee O.K.ed this shed with the provision that he put a fence around it to shield it from view of the neighbors across the street. This has been done. The metal shed that was there previously was about 100 sq.ft. or 10'x10'. This shed that he built is 11'x7', which is only 23 sq.ft. less than the original shed. In answer to Mr. Smith's question, he stated that there are no poured concrete footings.

Mr. Smith stated that he felt the Code would require 8" poured concrete footings, otherwise, it would not meet the building code requirements.

Mr. Smith stated that the Board received a letter from Mrs. Helen F. Swing in opposition to this shed. The Board members had a copy of the letter. The letter was entered into the record. Mr. Smith gave Mr. Hartbower a copy of the letter.

In rebuttal Mr. Hartbower stated that Mrs. Swing is the only property owner that is objecting. There is a row of townhouses with other property owners who are not objecting.

Mr. Runyon stated that he did not feel Mr. Hartbower has spoken to the Ordinance with regard to this application. He moved that this case be recessed until Mr. Hartbower has had an opportunity to review the Zoning Ordinance. The case would be taken up at the end of the regular agenda.

Mr. Swetnam seconded the motion. The motion passed 5 to 0.

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After the Regular agenda items, Mr. Hartbower's case was recalled.

Mr. Hartbower stated that he felt that because of his personal situation, the denial of this variance would result in a hardship that would amount to confiscation of his land. If the Board denies this application, he will have to give serious thought to selling his house. The only objector is Mrs. Swing who is only one of perhaps 10 property owners that would be affected the same as Mrs. Swing. The other property owners do not object.

Mr. Smith inquired how this property was different from the hundreds of other townhouses in the County.

Mr. Hartbower stated that the only difference is that this is a circumstance that was out of his control and an honest mistake.

Mr. Smith stated that there is an alternate location in the back of the house where the shed could be moved. This would not be difficult since the shed is not on a poured concrete foundation as it should be.

Mr. Hartbower stated that there is some question whether or not he can put the shed in the back of the house.

RESOLUTION

005

In application V-236-75 by Carl & Luella Hartbower under Section 30-6.6.5.4 of the Zoning Ordinance to permit a wood shed to remain 3.4' from side property line in lieu of 10' required, 4769 Kandel Court, 71-1((26))23A, Annandale District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 8, 1976, and

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

- 1. That the owner of the subject property are the applicants.
- 2. That the present zoning is RT-10.
- 3. That the area of the lot is 2,218 sq.ft.

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

That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Swetnam seconded the motion.

Mr. Runyon stated that the Ordinance will not permit the Board to grant this application without having to do it for everyone with a similar request. Mr. Kelley agreed and stated that this would not deprive him of the reasonable use of the land. The motion passed 5 to 0.

10:30 - COURTNEY LEE SCOTT appl. under Sec. 30-6.6 of the Zoning Ord. to permit swimming pool closer to side property line than allowed by the Ord. (8' from side, 20' required), 6950 Kyleakin Court, 21-4 ((17))38, Dranesville District (RE-0.5), V-244-75.

Mr. Scott presented notices to property owners which were in order.

Mr. Scott stated that he has a steep lot and almost the entire rear portion of the lot is in flood plain. He is asking permission to allow a portion of this pool to be in the flood plain. This request will go to the Board of Supervisors. He stated that he had talked with all the neighbors and there were no objections at that time. However, he understands that there is some objection from the neighbor next door now. He stated that his lot is pie shaped and is very narrow in the front, getting wider to the rear where the flood plain is located.

Mr. Runyon inquired as to why the pool was such an unusual shape.

Mr. Scott stated that there is more swimming area with less square feet of water which is cheaper to construct and install. The major part of the water area is at the shallow end of the pool and the narrow part of the pool is for diving.

Mr. Smith questioned whether or not this is a minimum variance.

Mr. Scott stated that he might be able to move it over toward the house a little.

There was one letter in opposition to the application from the contiguous property owner, William H. Wetmore, 6951 Kyleakin Court. Mr. Wetmore felt this pool would have an impact on his privacy and an impact on the future sale of their home.

There was no one to speak from the audience either in favor or in opposition to this application.

The Board deferred this case to allow the applicant to reevaluate his plans to see whether or not he can move the pool closer to the house. The case was deferred to February 3, 1976.

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10:40 - JAMES & MAURINA HUTCHISON appl. under Sec. 30-6.6.5.4 of the Zoning Ord. to permit addition to remain closer to front property line than allowed by Ord. (34.6' from front, 35' required), 3011 Strathmeade Street, Tremont Gardens, 50-3((17))77, (R-10), V-245-75.

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Mrs. Hutchison presented notices to property owners which were in order.

Mrs. Hutchison stated that they have had construction in the back yard for the past three years where the County is putting in a storm sewer to try to alleviate the flooding conditions in their area. They wanted to put a two bedroom addition to their house and also a garage addition and had the materials stored in the yard for that purpose. The Zoning Office gave them a violation for having these materials in the yard and took them to Court. The Judge gave them 30 days to remove the materials. They contracted with a man going through the neighborhood to construct these additions. They had no written contract. They did not know until it was too late that the addition was too close to the property line. They had inspectors from the County there frequently, but it was not until Mr. Koneczny came by, did they know that the addition was in violation to the Zoning Ordinance. They are only in violation by .4 of a foot.

Mr. Koneczny, Zoning Inspector, confirmed her previous testimony and added that the Zoning Administrator could have granted a 6" variance. However, because of the problems they have had with these people over the years with other zoning violations, the Zoning Administrator would not grant this variance and it was necessary for them to apply to this Board or remove a portion of the addition. They have been issued violations for having junked automobiles in the yard, for having a hedge in the front yard that was higher than the Code allows, and other violations going back a number of years. He submitted pictures to the Board taken in 1973 showing the general condition of the property.

Mr. Smith stated that this was out of order, since the Board can only concern itself with the request for the variance.

Mr. Koneczny stated that his testimony explains why the Zoning Administrator would not grant the 6" variance. Mr. Koneczny stated that they have also been cited for having more than one commercial vehicle on the property.

Mrs. Hutchison in rebuttal stated that they have cleared most of the violations. They have cleared much of the trash off the yard except the remainder of the building materials that they need to finish the addition. They have removed two of the vehicles from the property and will move the other one this weekend. They have cut the hedge back to 4' in the front yard.

Mr. Swetnam moved that this case be deferred until February 3, 1975 in order for the applicant to completely clear all violations.

Mr. Runyon seconded the motion.

Mr. Smith asked that the Zoning Inspector inspect the property on February 2, 1976 to determine whether or not the violations have been cleared. He stated that if the applicant clears up all the problems, he would see no reason why the variance should not be granted.

Mr. Swetnam agreed. Mr. Runyon agreed.

Mr. Smith stated that Mr. Koneczny meet with Mr. Hutchison to point out each violation. He stated that no one would make him move the material that he is using to finish the addition, but the other things must be cleared up.

The motion passed 5 to 0.

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10:50 - SPRINGFIELD CENTER LIMITED PARTNERSHIP & LOGETRONICS, INC. appl. a.m. under Sec. 30-6.6 of Ord. to permit construction of road closer to existing building than required front setback for that building (42' from center line of road), adjacent to and south of LogEtronics, Inc., 7001 Loisdale Road, 90-2((1))57A & 57C, (IP), V-246-75.

Mr. Russell Rosenberger, attorney for the applicants, presented notices to property owners which were in order. He stated that this access road will provide access to approximately 53 acres which is zoned industrial. The site plans for these parcels are now in preparation. This land is adjacent to the land that is owned by Logetronics under a long-term lease.

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The hardship that gives rise to this application affects both properties under this application, Mr. Rosenberger stated. LogEtronics must satisfy the front setback requirements on both sides of their building. The strip of land 60' in width that is owned by Springfield Limited Partnership is a long narrow strip of land that provides access to the proposed industrial park. This strip of land is located in such a manner that it is in very close proximity to an existing residential development, Loisdale Estates. The applicants are requesting this variance in order to make the development of this road more compatible with the existing residential area with the least possible impact to that residential area. By moving the access road closer toward the LogEtronics building, LogEtronics will have to relocate their parking facilities. They have agreed to do this.

Mr. Rosenberger stated that there is an error in the Staff Report. The report states that the required setback is 80' from the center line of the road. However, in a discussion he had with the Zoning Administrator and the Assistant Zoning Administrator, it was determined that the street in question is an internal street and the setback therefore is 50' from the center line of that road. The requested variance is for 8' instead of 38'. As requested by the Staff Report, the applicants are prepared to enter into such a covenant that would prevent the road from ever being moved closer to Loisdale Estates. They are also willing to keep as much of the existing screening as is possible. This access road provides the only means of access to the industrial area.

Mr. Rosenberger stated that Mr. Howell from the firm of Dewberry, Nealon and Davis is present to answer any engineering questions the Board might have. A representative from LogEtronics is also present to answer any questions the Board might have of him.

Mr. Covington confirmed that the setback requirement from this road is 50' from the center line of that road.

Mrs. Barbara Bukovan, President of the Loisdale Citizens' Association, spoke in opposition to this application based on the original rezoning of the industrial land which she said called for the area between LogEtronics and the residential houses in Loisdale Estates. She presented alternative routes that could be used for access to this industrial parcel. These alternative routes, however, were not on properties owned by the applicants.

Mrs. Bukovan submitted a Petition containing 424 signatures representing 287 homes in the nearby Loisdale Estate subdivision. These signatures were attached to a three page letter in opposition to this application.

Mr. Robert Brown, 7101 Layton Drive, spoke in opposition to the road.

Both speakers were under the misconception that the road could not be built unless this variance was granted.

The Board members and Mr. Covington explained that the road could be built without a variance and this variance was only requested in order to get the road further away from the nearby houses.

Mr. Brown stated that that would be better if the road was going to be built anyway.

Mr. Lewis Darr, 7111 Layton Drive, one of the homes that will back up to this road, spoke to state that the people along Layton Drive do not want the road and they had been told that if this variance was denied, the road could not be built. If they were misinformed however and if it is true that the road could be built, then they are in favor of the variance in order for the road to be built further away from their houses.

Mrs. Bukovan earlier in her testimony had questioned the subdivision of the four parcels of land since Section 23-1 of the Code says that no property as it existed in 1947 shall be subdivided in parcels consisting of fewer than five acres

Mr. Steve Reynolds from the staff of Preliminary Engineering stated that his office has no record of a subdivision plan being approved by his office for this subdivision of land. This, however, would not prevent anyone from recording metes and bounds descriptions. As properties come in under Site Plan Control to further subdivide, his office picks up violations of the subdivision ordinance, otherwise, the violations are not picked up until that time. It would take some time to determine whether or not there have been any infractions of the law in this case. They would have to search the title all the way back to 1947.

Mr. Rosenberger in rebuttal to the opposition stated that he had researched this case to some extent and it is his opinion that there is no violation of the subdivision ordinance in this particular case. That is an issue they will have to face, if it is raised, when they get to Site Plan and Subdivision Control. Regardless of any subdivision problems, this right of way in this location has existed for a number of years and served the sewerage treatment plant that was back of LogEtronics. He stated that he feels sure that his clients wish they had gone ahead a year ago and built the road where they could build it by right instead of going through a year of meetings trying to work out a reasonable solution to help these people only to come to this end. There have been numerous meetings with Mr. Alexander, the Supervisor for that District, and the citizens in that subdivision in an attempt to work out the problems and the fears these people have. They have been trying to be good neighbors. The alternate route that Mrs. Bukovan suggested is not owned or controlled by either of the applicants. It has been only to achieve better compatibility between the industrial area and the residential area that they are before this Board.

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Mr. Runyon stated that in the spirit of making this more compatible with the residential neighborhood he would make the following motion.

RESOLUTION

In application V-246-75 by Springfield Center Ltd. Partnership and LogEtronics Inc. under Section 30-6.6 of the Zoning Ordinance to permit construction of road to be 42' from existing building to center line of road in lieu of 50' requirement, 90-2((1))57A & 57C, 7001 Loisdale Road, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 8, 1976, and

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

1. That the owner of the property is Springfield Ctr. Ltd. Partnership and LogEtronics, Inc.
2. That the present zoning is I-P.
3. That the area of the lot is 5.433 acres.
4. That the access is presently in place with screening.

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

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

- (a) exceptionally narrow lot,
- (b) unusual condition of the location of existing buildings.

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

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. The owners will provide a covenant of record to run with the subject land stating that the access road from Loisdale Road to the industrial park will not be widened toward the Loisdale Estates Subdivision. Further, the existing screening on the land of Logetronics to remain and continue to be maintained in an adequate manner. Any additional necessary landscaping or screening along the access road shall be provided to the satisfaction of the Director of Environmental Management."

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

Mrs. Bukovan's request for a substitute motion was denied.

on 1/14/76

*This item was amended slightly/to conform with the suggestions of Preliminary Engineering's report to the Board.

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MR. & MRS. PARKER TEEL AND MR. AND MRS. DONALD L. BROWN, T/A
11:00 - CHESTNUT GROVE CHILD DEVELOPMENT CENTER appl. under Sec. 30-7.2.6.1.3
a.m. of the Zoning Ordinance to permit nursery school for 30 children,
11252 Chestnut Grove Square, Chestnut Grove Apartments, 17-4((8))1,
S-247-75.

DO9

Mr. Robert A. Johnson, 118 Park Street, S.E., Vienna, Virginia, submitted notices to the Board which were in order. Mr. Johnson is the attorney for the applicant.

Mr. Johnson stated that on behalf of Mr. and Mrs. Teel and Mr. and Mrs. Brown, the operators of this Center, he would present their case. They have the proposed Center's location circled in red on the plats before the Board. This is planned to be a child care center for 30 children, ages 3 to 6, from 7:30 a.m. to 5:30 p.m. They do not propose to use any busses for transportation. They hope to draw from the apartment complex so that there will be no need for transportation.

There was no one to speak in favor or in opposition to this application.

Mr. Johnson in answer to Mr. Smith's question stated that they do not have a lease at the present time. They were waiting for the decision of this Board. However, the representative from the apartment complex was present earlier in the day when the case was scheduled to testify that he was in favor of this use. There is a letter in the file to that effect.

~~Mr. Johnston stated that they will use the 1st floor of the building.~~

RESOLUTION

In application S-247-75 by Chestnut Grove Child Development Center operated by Mr. and Mrs. Parker Teel and Mr. and Mrs. Donald L. Brown under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit nursery school for a maximum of thirty (30) children, 7:30 a.m. to 5:30 p.m., 11252 Chestnut Grove Square, 17-4((8))1, Centreville District, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 8, 1976.

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

- 1. That the owner of the property is Chestnut Grove Ltd. Partnership.
- 2. That the present zoning is RPC.
- 3. That the area of the lot is 16.4868.
- 4. That compliance with the Site Plan Ordinance is required.
- 5. That compliance with all State and County Codes is required.

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

That the applicant has presented testimony indicating compliance with Section 30-7.1.1 of the Zoning Ordinance.

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to expiration.
- 3. This approval is granted for the building indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The maximum number of children is thirty (30), with ages from 3 to 6.
- 6. This Permit is granted for 3 years with the Zoning Administrator empowered to grant two (2), one (1) year extensions.

Mr. Runyon seconded the motion. The motion passed 5 to 0. Mr. Smith stated that the lease must be presented before the Special Use Permit would be valid. In addition, there must be some confirmation that the Center will be able to use the playground.

Page 10, January 8, 1976

11:20 - RONALD C. APOSTOLAKIS appl. under Sec. 30-6.6 of the Zoning Ordinance a.m. to permit addition closer to side than allowed (11.9' from side, 15' required) - sub-standard lot, 15% exception, 10916 Braddock Road, 68-1((2))9A, (29,998 sq. ft.) Springfield District, (RE-1), V-252-75.

010

Mrs. Apostolakis submitted notices to property owners which were in order.

Mr. Covington confirmed that this is a sub-standard lot and therefore has a setback of 15' instead of 20' because of the 15 percent exception.

Mrs. Apostolakis stated that this is a long narrow lot. There is already a garage on the other side of the house that was there when they purchased the house. There is no room in the front and there is also a well in the front yard. They are unable to build straight back from the house because of the septic and drain field system. They feel this is the most reasonable place to put the addition.

Mrs. Apostolakis stated that she had explained the plans to the neighbors and the neighbors have no objections. She stated that this addition is for the use of her family and they do not plan to move.

In answer to Mr. Kelley's question, Mrs. Apostolakis stated that there is only one family living in this house. All the cars that are there belong to her husband. All the cars are registered and have County and State tags.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-252-75 by Ronald C. Apostolakis under Section 30-6.6 of the Zoning Ordinance to permit construction of addition closer to side property line than allowed by the Zoning Ordinance (11.9' from side property line, 15' required), 10916 Braddock Road, 68-1((2))9A, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 8, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 29,998 square feet.
4. That the subject property is a sub-standard lot and non-conforming.
5. That the request is for a minimum variance.

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

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

- (a) exceptionally narrow lot.

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

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. That the architecture and materials to be used in the proposed addition are compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action does not constitute exemption from the requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits and the like through the established procedures.

Mr. Barnes seconded the motion. The motion passed 5 to 0.

Page 11, January 8, 1976

DEFERRED CASE - BERNARD C. COX - RE-EVALUATION HEARING -- (Deferred for decision only.

The Zoning Inspectors, Jack Ash and Lenn Koneczny, stated that they had tried to inspect the property of Mr. Cox to determine whether or not he had cleared the violations, but were unable to get on the property. Mr. Friedlander, the attorney for Mr. Cox, is going to try to get in touch with Mr. Cox and set up a specific time for the inspectors to inspect the property.

Mr. Covington, Assistant Zoning Administrator, stated that there is some new written information in the file, along with new photographs showing pinball machines being unloaded, and things of that nature. These photographs have been taken since the time of the Board's last hearing on this case.

Mr. Koneczny stated that just this morning he witnessed a portion of a tractor trailer truck parked on the property in violation to the Ordinance. They also counted four trucks and three pony trailers. The trucks were over 1 and 1/2 ton.

Mr. Swetnam inquired if anyone was caring for the horses in Mr. Cox's absence.

Mr. Koneczny stated that he and Mr. Ash were at the property for about 15 minutes and no one appeared. They honked the horn and knocked on the door. They were unable to issue violation notices because there was no one there to issue them to.

Mr. Smith asked if they could mail them.

Mr. Ash stated that they could.

Mr. Smith asked them if they would mail them.

Mr. Ash stated that they would.

The Board deferred this case until the meeting of January 14, 1976.

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AFTER AGENDA ITEM - DR. PROVENZANO SPECIAL USE PERMIT GRANTED IN 1969.

Mr. Smith read a letter from John M. Wilkins, attorney for Dr. Kessler and Dr. Pohl, bringing to the Board's attention several items that he felt they might have missed at the earlier discussion of this case in November 1975. He stated in his letter that he felt there is a valid permit still outstanding on the property and that Drs. Kessler and Pohl will make no changes or additions to what was allowable from the very beginning under the special use permit that was granted in 1969.

Mr. Smith stated that the Board stated its position in this matter in November. The original Special Use Permit was granted to Dr. Provenzano. Dr. Provenzano is dead. If his estate owns the property, they don't have to come back.

Mr. Covington stated that he did not think Dr. Provenzano's estate still owns the property. The property was sold to these two doctors.

Mr. Smith stated that if that is the case, they will have to come back in and get a Special Use Permit. Mr. Smith stated that the Ordinance was amended to allow this particular application to be processed. Dr. Provenzano had lived in this home and he moved and wished to continue to have his offices here.

Mr. Smith asked Mr. Covington if he had released the permit to these doctors.

Mr. Covington stated that he had not because it had to be brought back to this Board and get a Use Permit.

Mr. Smith stated that that was right.

The Board and Mr. Covington asked Mrs. Kelsey to advise Mr. Wilkins that Drs. Kessler and Pohl will have to come back to the Board with a new application for a new Special Use Permit in order to operate from the property located at 3915 Annandale Road.

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011

AFTER AGENDA ITEM - WINDSOR PARK HOMEOWNER'S ASSOCIATION, INC., S-207-74
Granted January 15, 1975.

012

The Board was in receipt of a letter from Russell Rosenberger, attorney for the applicant, requesting that this permit be extended. The letter stated that the engineering plans and profiles have been submitted to the County for review and approval and it is contemplated that construction will commence in the near future.

Mr. Runyon moved that this permit be extended 180 days from January 15, 1976.

Mr. Kelley seconded the motion. The motion passed 5 to 0.

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AFTER AGENDA ITEM - CARTERSVILLE BAPTIST CHURCH, S-201-74; Request for Extension. Granted January 8, 1975. *and V-202-74*

The Board was in receipt of a letter from Wilson L. Kirby with the engineering firm of William O. McIntosh & Associates requesting that the above-captioned Special Use Permit be extended because of the problems that the church has had during the past year getting started with construction of their church.

Mr. Barnes moved that their request be granted and the extension be 180 days from January 8, 1976.

Mr. Runyon seconded the motion. The motion passed 5 to 0.

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AFTER AGENDA ITEM - WARNER CABLE OF RESTON, INC., S-198-74; Granted January 8, 1975.

The Board was in receipt of a letter from K. W. Chamberlain, representing the Applicant-Permittee, requesting an extension of their Special Use Permit. He stated that they had to get new bids from contractors and they are now only 30 days away from starting construction.

Mr. Barnes moved that the request be granted and the permit be extended for 180 days from January 8, 1976.

Mr. Runyon seconded the motion. The motion passed 5 to 0.

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INTERPRETATION RE: SCREENING ORDINANCE

The Board of Zoning Appeals discussed at its meeting on December 17, 1975 whether the Board of Zoning Appeals would hear all questions that might arise when the developer did not wish to put in the standard screening or when the contiguous property owners desired something other than the County's standard screening or whether this was to be answered by the Staff. The Board felt that these questions should be solved in the Department of Preliminary Engineering. The Staff requested the Board make a formal resolution to this effect.

Therefore, Mr. Charles Runyon made the following resolution:

"I move that the Director of Environmental Management be advised that with reference to the recently adopted screening ordinance, the Director be empowered to determine and recommend the best screening proposal for a particular plan. This proposal may consider the possible requirements or suggestions of the affected property owner if variation from the standard screening norm is proposed.

The Director shall negotiate with the developer and if agreement cannot be reached, the Zoning Administrator shall be consulted, his decision shall be determined, and if that decision is unsatisfactory, then the matter shall be brought to the BZA as a variance application.

This recommended procedure shall be that established as policy for administering the screening ordinance."

Mr. Swetnam seconded the motion.

For clarification, Mr. Runyon stated that if the suggested plan does not conform to the Standard County requirements, Preliminary Engineering and the

Page 13, January 8, 1976

developer shall attempt to determine a suitable alternative and may check with the contiguous property owner for suggestions. Then if they cannot reach an agreement, they can go to the Zoning Administrator and his decision is the one that would have to be binding. If either party doesn't agree, then they can appeal to this Board with a formal application.

013

The motion passed unanimously with all members present.

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Jane C. Kelsey

By Jane C. Kelsey
Clerk to the Board of Zoning Appeals
Submitted to BZA on January 22, 1976.

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED February 17, 1976
DATE

Submitted to other Boards,
Commissions and Departments on
February 18, 1976.

The Regular Meeting of the Board of Zoning Appeals for January 14, 1976 met in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Tyler Swetnam and Charles Runyon.

The meeting opened with a prayer by Mr. Barnes.

10:00 - PLEASURELAND TRAVEL CENTER, INC. appl. under Sec. 30-7.2.10.5.4 of the Zoning Ordinance to permit continued display, sales, service, rental and storage of recreational vehicles (renewal of expired SUP S-93-71), 8131 Richmond Hwy., 101-2((1))28, S-221-75.

PLEASURELAND TRAVEL CENTER, INC. appl. under Sec. 30-6.6 of the Zoning Ordinance to permit display area within 15' of front property line (50' required), V-222-75.

Mr. Sidney E. Martin, 2507 Phillips Drive, submitted notices to property owners which were in order.

Mr. Harvey Mitchell, staff member from Zoning Enforcement, stated that he wished to point out before the hearing begins that there is an error in the staff comments. The Special Use Permit for Pleasureland was granted in 1971 but the variance application was denied.

Mr. Martin explained why the Special Use Permit had expired without his re-applying. He stated that his attorney had all the papers and he died. It took quite some time before he received even a portion of the papers involving this corporation. Therefore, he wasn't aware that the Special Use Permit had expired or the conditions under which the Permit had been granted.

Mr. Martin stated that he wished to continue to operate just as he has been doing since 1971. There have been no complaints to his knowledge regarding this operation. The plats show the area where he plans to park the trailers. These are new trailers and are not junky looking. This use will not be detrimental to the neighborhood. Last July, 1975 the Zoning Office issued a violation for parking too close to Route 1. It was at that time that he discovered that the Special Use Permit had expired.

Mr. Smith stated that according to the Staff Report, the applicant had never complied with the Site Plan requirements and had not received a Non-Residential Use Permit, therefore, the Special Use Permit was never valid.

Mr. Martin explained that the reason for the need for the variance is because the trailers must be displayed in such a way that potential buyers driving up Route 1 can see them. If he has to set the trailers back 50', the potential buyer would only be able to see one trailer that is in front of the office. The rear portion of this property is zoned R-17. However, this property has been used for commercial uses prior to the time when there was a Zoning Ordinance. He stated that he would submit to the Board a letter from Mr. Claude Ramsey, 8130 Richmond Highway, who remembered how this property was used all the way back to 1946.

Mr. Smith stated that this was a decision for the Zoning Administrator to make as to whether or not this rear property that is presently zoned R-17 could continue to be used for this commercial use.

Mr. Kelley stated that this Board could not grant the Special Use Permit on the R-17 portion of the property. He stated that the Board would need the square feet of the property that will be under Special Use Permit.

Mr. Runyon computed the square feet and stated that there is 28,410 sq. ft. of land in the C-G zoned portion and 12,844 square feet in the R-17 zoned portion of this land.

Mr. Martin stated that his main justification for the variance is because of the physical layout of the two primary structures that already exist on the property.

Mr. Kelley stated that he visited the property on January 12th and could not agree that there is a necessity for this variance. He stated that he felt it would help the business if the applicant removed those trailers from the front of these buildings. Mr. Kelley stated that he did not believe the Board could grant a Special Use Permit on the building that is used as a machine shop. He suggested that Alexandria Surveys give the Board a plat showing only that portion of land that will be operated under this Special Use Permit for this trailer sales operation only.

014

This case was deferred until February 10, 1976 for new plats and these plats should show no display spaces in front of the existing buildings. This was Mr. Kelley's motion. The plats should show only that area that will be used for this operation and should not include the machine shop. Mr. Swetnam seconded the motion.

Mr. Smith stated that he could not support the variance portion of this application.

Mr. Runyon stated that this is only a temporary use. This could be granted on a conditional basis since this is an interim use for this property.

The motion passed 5 to 0.

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10:30 - CHRISTIAN ASSEMBLY appl. under Sec. 30-7.2.6.1.11 of the Zoning Ordinance to permit amendment to existing SUP S-38-75 for change in location and size of church, 2218 Cedar Lane, 39-4((1))2 & ((2)) 2, 3 & 4, S-253-75.

Mr. Jack Zirkle, representing the applicant, submitted notices to property owners which were in order.

Mr. Zirkle stated that when they originally applied for the Special Use Permit they did not realize the cost of the project. Now they find they must change the configuration and size of the building to make this project less costly. The structure will be a metal prefab structure, one story with no basement. There was a sketch of the proposed structure in the file.

There was no one to speak in favor or in opposition to this application.

 RESOLUTION

In application S-253-75 by Christian Assembly under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit amendment to existing Special Use Permit, No. S-38-75 for a change in the location and size of the building, 2218 Cedar Lane, 39-4((1))2 & ((2))2,3&4, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 14, 1976, and

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

1. That the owner of the property is Christian Assembly Church.
2. That the present zoning is R-17.
3. That the area of the lot is 7.0095 acres.
4. That conformance with the Site Plan Ordinance is required.
5. That the site was previously granted a Special Use Permit for a church under Special Use Permit S-38-75 granted May 14, 1975.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The applicant shall dedicate to 25' from center line of Bell Lane. Further, if the applicant proposes to use Bell Lane for access then the street construction for Bell Lane will be required.

7. All other provisions of the previous Special Use Permit shall remain in effect.

Mr. Kelley seconded the motion. The motion passed 5 to 0.

10:50 - BRADDOCK ROAD YOUTH CLUB, INC. appl. under Sec. 30-7.2.6.1.1 of the a.m. Zoning Ordinance to permit changes in existing Special Use Permit S-586-67 for additional structures and deletion of parking, NE intersection of Braddock and Wakefield Chapel Roads, 70-3(1)11, S-254-75.

Mr. Watson, 8702 Rayburn Drive, Annandale, Virginia, represented the applicant. He presented notices to property owners which were in order.

Mr. Watson stated that this Club sponsors youth educational programs for children, ages 5 through 19, in the games of soccer, football primarily. North Springfield Little League also offers a baseball program for children ages 8 through 18. Both these organizations utilize the fields for their activities. In August, 1975, they were notified of violations that exist on the property. They have a storage trailer that was not on the plat of the original Special Use Permit in 1965 when they first came before this Board. In addition, they have not put in the parking lot as they originally proposed. They have added a scorekeeper's box which is about 8'x10'. The storage trailer is now in violation of the setback requirements because of the widening of Braddock Road. The Club presently uses the commuter parking area which is on the other side of Wakefield Chapel Road. There is also parking on the east side of Glen Park Road. They attempt to discourage people from parking in violation on Glen Park Road where the no parking signs are location. However, they are not always successful.

The next speaker was

Mr. Rick Lockett, Park Glen Heights Subdivision, just across Glen Park Road, President of the Homeowners Association. He stated that Glen Park Road is the only street that provides access to their subdivision. When there is parking on both sides of the road, which there has been in the past for these ball games, there would be no way an ambulance or fire truck could get into their subdivision if it was needed. This has been a problem since he moved into this subdivision in 1972. He suggested that the Club designate someone to serve as traffic policeman to direct the parking of cars for this use.

Mr. Smith stated that the Club will certainly have to do something about this problem. Under a Special Use Permit, there can be no parking on the streets. He stated that he was aware that this is difficult to police, but it will have to be done.

Mr. Watson agreed that the Club would have someone guide the people into the proper parking area for these games.

Mr. Lockett stated that they have called the Police Department in the past and it has a temporary effect on the problem. Audrey Moore's office has recorded over 200 calls regarding this problem. He stated that his association also objects to the ~~Johns-On-The-Spot~~ that the Club now on Glen Park Road.

Mr. Smith stated that that is required by the Health Department, but perhaps they could move it back as much as possible, or screen it.

Mr. Barnes suggested that the subdivision representatives and the Club's representatives get together, sit down, and talk out these problems and see if they could not be worked out amiably.

016

Mr. Larry Fones from the Fairfax County Recreation Department spoke in support of this application.

Mr. Clifford Wheeler spoke in support of the application.

017

RESOLUTION

In application S-254-75 by BRADDOCK ROAD YOUTH CLUB, INC. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit changes in existing Special Use Permit, S-586-67, NE intersection of Braddock and Wakefield Chapel Roads, 70-3(1)11, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 14, 1976.

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

- 1. That the owners of the property is Jack R. Jones & W.S. Hoge, III, Trs.
- 2. That the present zoning is R-17.
- 3. That the area of the lot is 16.09 acres.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The parking shall be in designated parking areas as defined in the memorandum from the applicant that is in the file.
- 7. That the existing trailer be brought into conformity with the required setbacks of the zone, or removed.

Mr. Runyon seconded the motion.

The motion passed 5 to 0.

Mr. Smith reminded the applicant that there could be no parking along Glen Park Road in accordance with the requirements of the Ordinance. He stated that if anyone has any problems with this situation, whether it be parking or any other problem, that they should contact the Zoning Administrator and he will send out an inspector and try to get the problems worked out.

Page 18, January 14, 1976

11:10 - ALEXANDRIA BIBLE PROTESTANT CHURCH appl. under Sec. 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of church, 5944 Telegraph Road, 82-4((1))36,37&38 (106,968.51 sq.ft.), Lee District, (R-17), S-255-75.

018

Mr. Russell Jenkins, representing the church, submitted notices to property owners which were in order. He stated that this church is proposing to have 212 seats. This plan that is before the Board meets the requirements of the Ordinance as it relates to parking and to setbacks of the building. The church will be constructed of brick veneer.

Jane Oliver, 5934 Wilton Road, spoke in opposition, representing Wilton Woods Subdivision Civic Association. She presented a Petition with 84 names on it. She stated that this is almost 100 percent of the people in the immediate vicinity of the church. She stated that their main objection is the increase in traffic that this use will have on the already congested roads. There are two dentist offices across the street, a church two blocks away and a third church about three blocks away. She stated that there have been many accidents at this location. Most of the people in this neighborhood purchased houses in what they thought was single family residential. There is already enough non-residential in their neighborhood. There is a public school and 2 other churches. They did not oppose the other church that went in because it was on a larger parcel of land and was not just shoved in between two houses as this one is.

Mr. John O'Boyle, 3313 Sharon Chapel Road, contiguous property owner, testified before the Board regarding the close proximity of the church's parking lot to his property. He had not seen the plans. The Board showed both he and Mrs. Oliver the plans for the church.

Mr. O'Boyle stated that he felt there would not be enough parking on this property as it is now proposed. He stated that he questioned the run-off problem that will be caused by this parking lot and this building being added to this small parcel of land.

Mr. Runyon explained to Mr. O'Boyle that if this Special Use Permit is granted the plan then goes to the Site Plan Review office. At that time, the citizens can have additional input as far as screening, etc., is concerned. The policy of storm water is that there will be no greater water discharge from this site when the church and parking lot is constructed than it is now. When the site plan is presented, there will be another notice posted on the property and five property owners will have to be notified, therefore, the citizens will have some input then also.

Mr. Jenkins stated that, in answer to Mr. Runyon's earlier question about moving the parking further away from the property line, the topography of the land is such that the parking area will be suppressed about 6' below that of the property line.

Mr. Runyon stated that that makes the situation worse. He stated that if the parking lot drops 4', then there should be 8' to make a minimum 2 to 1 slope, or there should be a retaining wall.

Mr. Jenkins stated that they are not intending to build a retaining wall, but they do intend to comply with the slope requirements.

Mr. Runyon stated that a 3 to 1 slope would be preferable and to get that the applicant would need 8' to 12' between the paved area and the property line. Six feet would not even support much of a tree that would give screening for the adjoining properties.

Mr. Kelley stated that he agreed.

Mr. Runyon stated that even though this is handled through the Site Plan Office, the only thing Site Plan can do is ask for a minimum requirement. He stated that he would suggest a 15' buffer. That would delete the four parking spaces that are immediately behind the house and place them at the head of the entrance aisle. There is room enough to move those spaces over and put them on the front.

Mr. Jenkins disagreed with this and stated that they had placed the parking that way because they have an older congregation and they wanted to get the parking lot as near the building as possible.

RESOLUTION

In application S-255-75 by Alexandria Bible Protestant Church under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of church, 5944 Telegraph Road, 82-4((1))36,37&38, Lee District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 14, 1976.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 106,968.51 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The seating capacity of the proposed church is 212, and is to be of brick construction is to be used for the building.
7. A minimum of 43 parking spaces will be required.
8. All necessary landscaping and/or screening is to be provided and maintained to the satisfaction of the Director of Environmental Management with a buffer along the Northeast property line sufficient to provide suitable screening. Landscaping and screening is required.
9. The proposed entrance should comply with the minimum requirements of the VDH and Fairfax County.

Mr. Barnes seconded the motion. The motion passed 4 to 1. Mr. Runyon voted No.

11:30 a.m. - HOWARD & PEARL WILLIAMS appl. under Sec. 30-6.6 of the Zoning Ord. to permit construction of pool closer to front and side lot lines than allowed by the Ordinance (38' from front, 50' required; 16' from side, 20' required), 7506 Box Elder Ct., 30-1((10))1, (22,949 sq.ft.), Dranesville District (RE-0.5), V-256-75.

Mr. Williams submitted notices to property owners which were in order.

Mr. Williams stated that this variance is requested in order to construct an 18'x48" above ground pool. The property is a corner lot. The County has a 20' wide storm sewer easement across the entire back portion of the property. The land drops from 6' to 8' behind the house. This was a factor in the construction of a split-level house on the property. The property becomes flat as it approaches the site selected for the pool. The walls of the above-ground pool cannot support the weight of an outside force, therefore, the area on which the pool sits must be flat.

Mr. Runyon suggested the Board consider granting Mr. Williams a variance on the one side property line on the edge of the storm sewer easement instead of granting a front variance. He stated that he realized that the applicant would have to do a little grading, but the land is not that steep in the back. He stated that he was not in favor of granting this variance to a front setback.

Mr. Smith agreed and stated that he felt Mr. Runyon's suggestion was a good one.

There was no one to speak in favor or in opposition to this application.

Mr. Runyon moved to defer this case for a period of one week in order for the applicant to move the pool out of the front yard and place it at a location where it will need a side yard variance only.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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The Board then took up the Deferred Case of Bernard C. Cox, Re-Evaluation, that was supposed to be for decision only. The inspector, however, had still not been able to make an inspection of the property because Mr. Cox was out of town and would not return until the 26th of January.

Mr. Blaine Friedlander, Mr. Cox's attorney, stated that he would meet with the inspectors on the property on January 26th, late in the afternoon, in order to inspect the property. He would contact Mr. Cox's daughter and inform her to inform Mr. Cox that it is imperative that Mr. Cox be present at that time.

Mr. Swetnam told Mr. Friedlander that it is his purpose to dispose of this matter the next time this case comes before this Board.

Mr. Runyon stated that the Board will have this case resolved on the 28th. It is not fair to the Zoning Inspectors and to Mr. Covington to continue to drag this case on.

Therefore, this case was deferred until January 28, 1975 as a Deferred Case to come up after the Regular Agenda Items which will be after 2:00 P.M.

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11:45 - FREDERIC RICHMOND, appl. under Sec. 30-6.5 of the Zoning Ordinance a.m. to appeal the Zoning Administrator's decision that repairing of construction equipment is not allowed in a C-G zone, 6239 Quander Road, 83-3(1)53A, (30,177 sq.ft.), Mt. Vernon District, (C-G), V-257-75.

Mr. Smith read a letter from Mr. Richmond stating that he would be out of town on this date and would like a deferral.

Mr. Smith then read the letter from the Clerk to the Board telling Mr. Richmond that the case had already been advertised and the property posted for this hearing and therefore the staff was unable to defer the case. Mr. Richmond was told that he should have an Agent present to either present the case or request the deferral.

Mr. Smith also noted the violation notice in the file dated October 17, 1975 for permitting the storage and repairing of heavy industrial equipment in a C-G zone.

There was no one present to represent Mr. Richmond's case. However, he had included a justification in the file.

Mr. Smith stated that since this is an appeal of a decision of the Zoning Administrator, the Board can proceed with the hearing without the applicant being present.

There were two other people in the room interested in this application.

Mr. Ash, Zoning Inspector, presented photographs of the property to the Board. He stated that the pictures were taken at 11:15 a.m. January 13, 1976.

020

Page 21, January 14, 1976
 FREDERIC RICHMOND (continued)

Mr. Ash stated that Mr. Richmond is the property owner. Mr. Ispan who represents a construction firm in Springfield is the man in charge of keeping the heavy equipment. 021

Mr. Covington stated that it would require I-E zoning for a contractor's yard, which is what this is. A contractor's yard is a yard that deals with the repair and storage of heavy equipment, construction equipment. C-G would permit the repair of automobiles.

Mr. H. G. Lux, 2324 Windsor Road, in Belle Haven immediately across the stream looking down on this yard, in opposition to the yard and this appeal, spoke to the Board requesting that no variation be made to the zoning and how the Zoning Administrator interprets the uses that are allowed in the C-G zone.

Mr. Smith stated that Mr. Richmond in his request asks the Board to allow this temporary use for at least a period of a year. Mr. Richmond in his justification stated that the property has been used for at least two years for the repairing and construction of automobiles and trucks and the requested use for repairing and storage of construction equipment is very similar.

Mr. Smith stated that the Board has no right to grant a temporary use of the property for the type of construction equipment and repair that is requested. The owners of the property can use the property in the manner in which it is zoned and the allowable uses in this zone and for that reason, the Board and the Zoning Administrator is not denying him the reasonable use of his land.

Mr. Runyon moved that in application V-257-75 by Frederic Richmond under Section 30-6.5 of the Zoning Ordinance to appeal Zoning Administrator's decision that repairing of construction equipment is not allowed in a C-G zone at 6239 Quander Road, that the Board of Zoning Appeals uphold the decision of the Zoning Administrator and further that Mr. Richmond be given thirty (30) days to clear the violation.

Mr. Kelley seconded the motion.

The motion passed 5 to 0.

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DEFERRED CASE: GOOD SHEPHERD CATHOLIC CHURCH appl. to permit construction of additions to existing church and to permit temporary use of single family dwelling for church offices, corner of Mt. Vernon Hwy. & Surrey Drive, 110-2((1))22A & ((15))6, S-251-75 (Deferred from 12-17-75 for a report from Public Works and Design Review regarding drainage problems and a report from the Church's engineer concerning what can be done to help alleviate this problem.)

Mr. Smith read a letter from the County Executive's Office stating:

"Attached hereto is a copy of my memorandum to Supervisor Warren I. Cikens, Mount Vernon District, which outlines the scope of drainage problems encountered on the property of Mrs. Willa L. Ames, 8715 Mount Vernon Highway. The storm water runoff conveyed through Mrs. Ames' property by the natural drainage swales has been increased by the development of upstream properties. Any further development of these upstream properties without provisions for adequate drainage through Mrs. Ames' property would certainly worsen the existing conditions. The proposed church additions, as shown on Attachment II, would add considerable impervious areas to the upstream properties.

As noted in the aforementioned memorandum, a closed pipe system or paved ditches could adequately convey the storm water runoff through Mrs. Ames' property. However, funds are not currently available for this construction. Therefore, approval of the subject request should be contingent upon provision of adequate drainage through Mrs. Ames' property by the Good Shepherd Catholic Church.

Should additional information be required concerning this matter, please contact this office."

Mr. Victor Ghent, engineer and land surveyor, representing the Church stated that he would like for Mr. Smith to also read the letter that he had written and also the memo from Design Review on this subject.

Mr. Smith asked if the Church contributed to pro-rata share for off-site drainage at the time the site plan was approved originally.

Mr. Ghent stated that at the time the site plan was originally approved in '67, there was no particular policy for pro-rata down stream corrections for small drainage sheds. The original site plan covered everything that is on the plan before the Board today with the exception of the 1.3 acre corner piece of land which is in woods and is still being left in woods. The Church did not contribute anything for off-site drainage.

Mr. Smith read a letter from Mr. Ghent dated December 31, 1975 (which can be found in the file on this case). Mr. Ghent stated that on the plan is a statement regarding development storm water analysis. The analysis figures are derived from formulas in the Fairfax County Standards Manual which they are required to use when computing detention. The analysis considers the area of the proposed additions and indicates that using the roof detention there will be an 11% reduction of runoff in that area after the additions are completed. This type of detention is an expensive addition to the cost of construction, he stated.

Mr. Smith then referred to a letter from the Director of Design Review, Stuart Territt, dated January 6, 1976. This letter stated that the Church property, Mt. Vernon Estates and Wessynton subdivisions were all developed in conformance with the County ordinances that were in effect at the time of development. The additions now proposed for the Church also meet the present development requirements of Fairfax County. The proposed additions to the Church will have storm water detention sufficient to prevent an increase in runoff from the site. That department suggested several methods that could be used to obtain additional detention for the present runoff.

Mr. Ghent stated that he was involved with the engineering work on this site when the original site plan was submitted and approved. The off-site drainage question came up at that time and there were some conferences with Mrs. Gates who lives next door to Mrs. Ames. He stated that he thought Mrs. Ames was in on the discussions also. The State Highway Department was in on the conferences also. The existing culvert would not take the water. The water ran over the streets and water would stand in the streets in a heavy rain storm. The Highway Department's position at that time was that the developer did not have to do anything beyond their property. The Highway Department would not enlarge the pipe, the Church had to. The Church enlarged both of the road crossings at the insistence of the County staff and the Highway Department in order to get site plan approval for the Church. This was very expensive.

Mr. Ghent stated that the subdivision to the north was also under construction. He stated that what he was trying to point out is that at no time prior to the completion of the church could there have been any increase on the Ames property that was contributed directly by the Church. He stated that the Church was forced to increase the size of the pipe under the street. He had proposed an alternative solution to the storm drainage problem. That proposal was to take the storm water from the north crossing and pipe it down 235 to the south crossing and combine both at that point. Since then the Wessynton Subdivision has been developed which picked up part of that south crossing and has put pipes in which would eliminate that alternative unless you took up the existing pipes and enlarged them. At that point in time, the Church was willing to enter into an agreement for its proportionate share. At that time, there were only six or seven owners involved and none of the property had been developed. Now, there are subdivision lots with numerous owners. The only property left that hasn't been developed is the portion that the Church is going to build on.

Mr. Ghent estimated that to try to correct the problem now would cost around \$15 or \$20 thousand dollars.

In answer to Mr. Smith's question, Mr. Ghent stated that the Church is not now contributing to pro-rata share for off-site drainage because of the roof top water retention system that is being installed.

Mr. Smith stated that probably when the Church put in the larger pipe, it allowed water to flow faster toward Mrs. Ames' property and that brought about the additional problems.

Mr. Kelley stated that he had viewed the Church property and the surrounding properties and he could not see how anyone could blame all the water run-off problems on this Church. The water is coming down from as far as you can see there, and to blame all this run-off water on Good Shepherd Church is asinine.

Mr. Barnes suggested that the Church and Mrs. Ames have a more cooperative spirit and get together and talk this problem out.

072

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Mr. Smith stated that he did not feel that anyone is blaming the applicant, but everyone is trying to see if there is a solution to the problem.

Mr. Runyon stated that the testimony has been that the applicant is actually reducing the run-off

Mrs. Ames, 8715 Mount Vernon Highway, testified that when the Church was first under construction she discovered that they were going to put the large pipe under the road that would cause additional drainage of water onto her land. She called the Church and requested that the Church send someone over to discuss this problem. The priest and the engineer, Mr. Ghent, came over and when she complained that the pipe would cause more water to drain on her property, the priest said, "That is your tough luck." The engineer said, "If you don't like what we are doing, sue." Mrs. Ames stated that she did not have the kind of money it would take to sue the Catholic Church. She also stated that she did not think it was the thing to do anyway. She stated that she tried to get the Church to pipe the water down past her property, but the amount of money she would have to pay would have been so large that she could not afford it. She stated that she had all this that she had been told by the Church and Mr. Ghent in her notes from all the way back to when the Church was first under construction. She stated that Mrs. Gates the property owner that was next door would vouch for this. The Church was the first thing that went in. The Church put in the large drainage pipe under the road that caused the problem on her property. Another development went in later and joined into that drainage pipe. She stated that her property is all she has and she doesn't see why it has to be ruined just to develop someone else's property.

Mr. Smith stated that the Board has been told that this addition with its roof water retention system will not increase the water run-off, but decrease it. This Board has no power to require that the County put pipes through Mrs. Ames' property. There is nothing more the Board can do other than what has been done in requesting that the proper County agencies look into the problem. The Board hopes the County will find some way to get the water out of Mrs. Ames' yard.

Mr. Barnes stated that Mr. Ghent knows everybody in the County and perhaps he can get something done either by the County or by the Church to help this problem get solved.

Mr. Kelley stated that the County is the one that is going to have to take care of this property. It cannot be hung on the Church.

Mr. Swetnam agreed and stated that Mr. Wilson's communication was undoubtedly politically motivated and he regreted that it has gone this far. The Public Works Department needs to take care of this situation.

Mr. Smith suggested that the final decision be deferred until January 28, in order for him to view the property.

Mr. Runyon stated that he felt a motion is in order to go ahead and approve this application. This Board and the Board of Supervisors defer too many of these cases hoping the problems will go away. The problem is not going to go away. The applicant meets the requirements of the Zoning Ordinance. This Board has investigated the reasons for the problems and what can be done about it. The testimony has indicated that the applicant is reducing the run-off. This is an age-old problem. He stated that he felt it is time to make a decision.

Mr. Swetnam stated that he agreed with Mr. Runyon.

Mr. Smith stated that he would like to look at the property before he votes to satisfy himself as far as the physical conditions are concerned. He stated that he could not support the resolution to grant until he has seen this property. He stated that he felt the County Executive is due some consideration.

Mr. Kelley stated that he would then suggest that the case be deferred until January 28.

Mr. Ghent stated that the applicant has no objection to a deferral.

Mr. Kelley moved that this case be deferred until January 28, 1976 for decision only.

Mr. Barnes seconded the motion. The motion passed 3 to 2 with Messrs. Swetnam and Runyon voting No.

// APPROVAL OF MINUTES - Mr. Kelley moved that the Minutes for December 2, 1975 be approved as read and the Minutes of December 17, 1975 be approved with minor corrections. Mr. Barnes seconded the motion. The motion passed 5 to 0.

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023

Page 24, January 14, 1976

AFTER AGENDA ITEMS: CHESTERBROOK SWIMMING CLUB, INC., S-289-75 - Request for out-of-turn hearing for request for two additional tennis courts.

Mr. Smith read a letter from the applicant stating that they need the out-of-turn hearing in order to begin construction as soon as possible in order to have the courts ready to go for spring.

Mr. Smith stated that everyone has the same problem with wanting to begin as soon as possible.

Mr. Kelley agreed and stated that he would move that the applicant take his regular turn which would be February 17, 1976.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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SPRINGFIELD CENTER LIMITED PARTNERSHIP & LOGETRONICS, INC., V-246-75.

Mr. Runyon moved that in his motion to grant this variance last week, he should have included all of Preliminary Engineering's suggestion. He therefore moved that the resolution be amended to reflect this. (See amended motion for January 8, 1976.)

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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CHANGE IN RESOLUTIONS CONTAINING CONDITION REQUIRING LANDSCAPING AND SCREENING.

Preliminary Engineering suggests that if the Board does not want the landscaping and screening waived that the Board word the condition to so state. In other words, in cases where the Board does not want this waived put "Landscaping and screening is required. Landscaping and screening is to be provided to the satisfaction of the Director of Environmental Management."

The Board agreed that in the cases where they did not want the screening waived, that they would add the first sentence as per the suggestion and continue to use the second sentence that the landscaping and screening will have to be to the satisfaction of the Director of Environmental Management.

Mr. Runyon put this into motion #6rm. Mr. Barnes seconded his motion. The motion passed 5 to 0.

Mr. Runyon stated that the motion on the application for Alexandria Bible Church that was granted this morning should be changed accordingly.

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Mr. Runyon stated that on the motion regarding the Screening Ordinance that he had made on January 8, 1976, that the word "shall" be changed to "may" and the clarification be further clarified to read, "...if the suggested plan does not conform to the standard County requirements, Preliminary Engineering and the developer shall attempt to determine a suitable alternative and may check with the contiguous property owner for suggestions. Then if they cannot reach an agreement, they can go to the Zoning Administrator and his decision is the one that would have to be binding. If either party doesn't agree, then they can appeal to this Board with a formal application.

Mr. Barnes seconded his motion for this change. The motion passed unanimously with all members present.

// The meeting adjourned at 4:00 p.m.

Jane C. Kelsey
By Jane C. Kelsey, Clerk to the
Board of Zoning Appeals
Submitted to BZA on Jan. 28, 1976 .

Submitted to other Boards, Depts. and
Commission on Feb. 18, 1976 .

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED *February 10, 1976*
DATE

024

The Regular Meeting of the Board of Zoning Appeals for January 22, 1976 was held in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Charles Runyon; Tyler Swetnam; and George Barnes. Mr. Loy Kelley was absent.

The meeting was opened with a prayer by Mr. Barnes

10:00 - FAIRFAX BAPTIST TEMPLE, 9524 Braddock Road, S-258-75, Request to permit private school of general education in existing church for 200 children.

Rev. Calvert, representing the church, submitted notices to property owners which were in order.

Rev. Calvert explained the philosophy that they plan to teach in this school. He stated that the school will have a Christ centered curriculum. They will begin the school with 5 year olds and go through the 6th grade. They will operate from 8:30 a.m. to 3:30 p.m., Monday through Friday. They do plan to bus the children. They have 1 bus now and plan to obtain several more. In answer to Mr. Smith's question, Rev. Calvert stated that these busses will be painted the yellow school bus color and will comply with the State requirements as to lights and lettering.

There was no one to speak in favor.

Mrs. Buller, 2820 Twinbrook Road, a contiguous property owner, spoke on her own behalf and also represented the Surrey Square Citizens Association. She asked for a deferral of this case until their Association has had time to evaluate it.

Mr. Smith stated that the applicant has fulfilled the notice requirements and had presented his case to the Board. Therefore, the hearing must continue.

Mrs. Buller stated that this property is too small for a school for 200 children. The adjacent property cannot be properly screened because the parking lot is almost up to the property line. Some of the trees that the church has put in for screening have died. The trees are very small and do not do an adequate job of screening. The plats do not indicate where the recreation equipment will be and, therefore, the plats do not indicate screening around that recreation equipment to shield it from the view of the contiguous property owners. The traffic is already bad along this road and a school for 200 children will make it much worse and it will also be hazardous for the children.

Rev. Calvert in rebuttal stated that the church will replace the dead trees as soon as possible. They had not planned any additional landscaping or screening. They plan to use the entire grass area for the playground. At the present time, they only have one mobile trailer on the site.

Mr. Smith stated that surely they could get the 200 children in the existing brick building without using the trailer. The trailer was granted a temporary Special Use Permit for a period of two years only. That was granted about a year ago.

Rev. Calvert stated that the existing building will house all the school children. The church had 400 in Sunday School last week.

Mr. Runyon stated that it appears that this application meets the standards for Special Use Permit uses in R Districts. The screening question needs to be addressed. That will be done at the time of site plan submission. At that time, the adjacent property owners will have an opportunity to make an input on the type of screening that should be used.

Mr. Runyon moved to grant the Special Use Permit for a period of 3 years with the Zoning Administrator empowered to grant 2 one year extensions. This way should the school cause a problem to the neighbors because of insufficient screening or traffic, the Board can review the problem.

Mr. Smith disagreed that the applicant should have to come back to the Board in five years since this is in a church that exists at the present time.

Mr. Barnes agreed.

Mr. Smith stated that the new noise ordinance would take care of any problem that relates to noise. He asked Mr. Runyon to eliminate the time requirement from the Resolution. He stated that the applicant also wants the school to go to the 12th grade eventually.

The resolution was amended and reads as follows:

025

RESOLUTION

In application S-258-75 by Fairfax Baptist Temple under Section 30-7.2.6.1.3.2 of the Zoning Ordinance to permit a private school of general education, 9524 Braddock Road, 69-3(1)21, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 22, 1976.

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

1. That the owner of the property is Trs. of Central Baptist Church of Springfield.
2. That the present zoning is RE-1.
3. That the area of the lot is 4.8485 acres.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the building and uses indicated on the plan submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The number of students will be 200 with ages 5 to 19 years.
7. Hours of operation are from 8:00 a.m. to 4:00 p.m. during the school session.
8. All busses and/or other vehicles used for transporting children shall comply with County and State standards in color and light requirements.
9. Landscaping and screening is required. The landscaping and screening is to be provided to the satisfaction of the Director of Environmental Management. (See discussion during hearing.)
10. The operation shall be subject to compliance with the inspection report the requirements of the Fairfax County Health Department, the State Dept. of Welfare and Institutions and obtaining a Non-Residential Use Permit.
11. All other limitations and conditions set forth in the original Special Use Permit for the church shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed 5 to 0. Mr. Smith stated that any changes in the playground, such as the installation of playground equipment would have to be brought to the Board by way of a new application. He noted that the applicant's agent said all the children could be in the existing brick building.

10:20 - JOHN E. & SANDRA ASHMAN, 925 Constellation Drive, V-260-75, Request a.m. to permit erection of garage 15' from side property line (20' req.).

027

Mr. Ashman submitted notices to property owners which were in order. He stated that his house is built at such an angle on the lot that he needs 5' additional feet toward the rear of the garage in order to construct this garage. There is no place else on the property to construct this garage. There is a septic field on the south side of the property. There is also not enough room in the back where a larger variance would be required in order to construct.

Mr. Runyon stated that the variance is only on one corner of the garage. If the house had been placed square on the lot, the variance would not be necessary.

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

RESOLUTION

In application V-260-75 by John E. and Sandra Ashman under Section 30-6.6 of the Zoning Ordinance to permit erection of garage 15' from side property line, (20' required), 925 Constellation Drive, 13-1((3))71, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 22, 1976, and

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is RE-0.5.
- 3. That the area of the lot is 23,073 sq.ft.

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

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

- (a) the unusual condition of the location of existing building on the lot.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain buildings permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Kelley was absent.

The Board recessed for 10 minutes to discuss legal matters with the County Attorney.
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Page 28, January 22, 1976

10:30 - WALNUT HILLS RACQUET CLUB, INC., appl. under Sec. 30-7.2.6.1.1 of the a.m. Zoning Ordinance to permit tennis club, 3442 Annandale Road, 60-1(1) 14, 15, 7A and part of 13, (20.09 acres), Providence District, (R-12.5) S-261-75. 028

Mr. John Hazel, attorney for the applicant with offices on University Drive in Fairfax, submitted notices to property owners which were in order.

Mr. Hazel stated that he had included all the documents pertaining to the contract of sale and the lease agreement in the file with this application. Walnut Hills is a non-profit, non-stock corporation which is a country club devoted to tennis. The applicant will operate the club under a lease from the Monticello Management Corporation. The property is under contract to purchase from this management corporation.

Mr. Smith read the names of the incorporators who were: James G. Arthur, 6300 Colette Drive, Alexandria, Virginia; Frances LaScala, 250 S. Whiting Street, Alexandria, Virginia and Margaret E. Losyk, 6913 Kenyon Drive, Alexandria, Virginia.

Mr. Hazel stated that the Walnut Hills Racquet Club, Inc.'s Board of Directors will be local people. They anticipate that the membership will be drawn from the local Annandale area. He stated that they have been working with the local residents and the citizens associations in the area to work out all the details. Annandale Road, on which this is located, is a four lane secondary road with curb and gutter and major street improvements.

Under the existing land development policies of the County, this land could be developed into 70 single family lots. The owner of the property, Summit Lodge, formerly called Chalk Estates, Inc. has determined to dispose of this property Mr. Hazel stated. The applicant feels that this property has a better and a more desirable use than R-12.5 development.

Mr. Hazel submitted slides showing how this property could be developed under the present R-12.5 zoning category. The left side of this property will be developed into single family residences but the remainder will be developed as this community use. This use will preserve some of the natural beauty of the property by retaining many of the old trees and the beautiful house which will be used as the club house. The only area that could be impacted by this use would be the area immediately across Arnold Lane. They have provided what they feel is an excessive amount of parking, but they complied with the Board's rule of 1 parking space for every 3 family members. They feel they will never need this amount of parking except during tournaments. They plan to only use Arnold Lane for emergency access. They feel the traffic impact will be less for this use than if the property should be developed into single family homes. The plan is for 9 indoor tennis courts, an indoor swimming pool and 8 outdoor courts. There are two caretakers homes on the property which they would also plan to use for that purpose. They plan to have locker rooms and a pro-shop located on the lower part of the property as indicated on the plan. The hours of operation will be limited to 7:00 a.m. to midnight. The architectural plans have not been worked out as yet. They hope to get some input from the citizens. This club will depend on community support for its success. There have been no membership drives because there is no Special Use Permit. At this point, there is nothing to offer the citizens. The proposed membership fee is \$2,000, Mr. Hazel stated in answer to Mr. Barnes' question. This will be a family membership club.

Mr. Zudkin, 3346 Arnold Lane, stated that he wasn't speaking in opposition, but she was interested in finding out about the lease agreement and whether or not it is a long term lease. He stated that he felt, and this is the general feeling of the others in the neighborhood, that this use would be quite preferable to having 70 houses on this property for two reasons, one being traffic and the other the overload on the sewerage facilities. He stated that he hoped that the problems with the architectural facade could be worked out. Mr. Stetling, 3400 Arnold Lane, just south of Mr. Zudkin who just spoke, stated that the only question he had was on the parking area. He stated that if the excess parking area was only going to be used when there was a tournament, he saw no reason why that parking area could not be grass. The Arnolds who owned this before Chalk used the grass for excess parking when they had large gatherings. He stated that this additional parking would make additional water run-off when there is a big rain. Holmes Run has been taxed quite a bit already by Holmes Run Acres Subdivision and the other developments that have gone in and this will cause additional flooding conditions. He also asked that during construction that the access on Arnold Lane not be used at all. He stated that the large trucks that came in to do some work when Mr. Chalk owned this property did quite a bit of damage to the road.

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WALNUT HILLS RACQUET CLUB, INC. (continued)

Rose Mary Martin, 3425 Annandale Road, stated that she felt this organization would have difficulties making a success with the fee of \$2,000. She was concerned with what happens to these facilities should this project fail.

Mr. Smith stated that he would assume that they would not start construction until they had enough memberships.

Karen Sher, who owns property on Mason Lane, inquired about the term of the lease. She was also concerned about the failure of this organization.

Mrs. Lassiter, 3406 Arnold Lane, requested that the necessary overflow parking be allowed on the grass instead of requiring asphalt. She objected to the use of the access on Arnold Lane for anything but emergency equipment.

Carol Stilling, 3400 Arnold Lane, Lot 5, questioned the number of parking spaces and requested that this be reduced if possible if this is an excess number of parking spaces.

Mr. Smith stated that he did not feel it is excessive. 300 spaces would not take care of any major tournaments. It would take care of local tournaments probably. There would be no chance of a major tournament at this facility at all.

Ms. Stilling questioned the lighting.

Mr. Smith stated that there is no indication that there will be any lights on the parking areas according to the plats that are before the Board.

Ruth Minker, 7435 Mason Lane, stated that she is a widow and her home values mean a lot to her and she is very concerned about this application.

Mr. Hazel stated that they would be glad to reduce the number of parking spaces for the initial installation of this use. Then should there be a need for additional parking, they will install more spaces in the future. They anticipate a long term lease. As to the architectural design of the building, they are not sure and hope to have discussions with the citizens in the area to see what type of building would be preferable. He suggested that after these meetings, the architectural plans could come back to this Board for review and approval. The Arnold Lane access would be used only for emergencies.

Mr. Barnes agreed that this was a good idea.

Mr. Runyon inquired if the building that is on the right hand side of the plan before the Board could be shifted 45 feet toward the east to lessen the impact. Those trees that are there will be impacted by the way the plan is now.

Mr. Hazel stated that that building was placed at that location because of the topography to try to get a grade that would require minimum cut and fill.

Mr. Runyon stated that the topography on that particular part of the property is sloping toward the stream. There is no topography shown on the plan before the Board.

Mr. Hazel stated that the location of that building would depend on the ultimate size of the pool building.

Mr. Runyon said he thought they could slide the whole thing along the vertical axis. He suggested they delete the parking along Arnold Lane and make that a service road and shift the building so that it does not come any closer than 100' and leave more room to protect those large trees.

Mr. Walter Mitchell, architect, stated that he believed they could move the building one-half that distance. The control factor would be the ultimate configuration of the pool building. There is a possibility that the pool will not be covered.

Mr. Runyon stated that he would like for Mr. Mitchell to take this plan as he has marked it up and work with it. He stated that he had delineated in brown the areas that he would like to see changed in order to make more buffer on Arnold Lane. He asked that Mr. Mitchell bring in a new plan to give more buffer in accordance with these suggestions.

Mr. Runyon moved that the case be deferred for one week in order for the applicant to address these problems and bring in a new plan and also give the Board members a chance to check the record on a previous application on this type use. This would be for decision only.

Mr. Barnes seconded the motion. The motion passed 3 to 1. Mr. Kelley was absent and Mr. Swetnam voted No. Mr. Swetnam stated that he was ready to make a decision today as he could see no problem with this application.

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11:15 - WESTMORELAND SQUARE HOMES ASSOCIATION appl. under Sec. 30-6.6.5.4 of a.m. the Zoning Ord. to permit 6' fence to remain in front setback area along Kirby Road, V-263-75. 030

Mr. George Pope, member of the association, presented notices to property owners which were in order. He stated that he had notified all contiguous property owners and property owners across the street in accordance with the requirements. He notified the property owners as indicated in the Real Estate Assessment office.

Mr. Pope stated that this fence is in place now. They put up the fence to keep out trespassers who were doing damage to the property. They did not realize they were doing this in violation to any law. They contracted with Hechinger to put up this fence. He went into the details about the problems they have had with vandalism and the erosion problem that the children caused by sliding down the banks prior to this fence being erected. He said they needed a 6' fence because the children would not be as apt to climb over it.

Mr. Gordon Firth spoke in objection to this application because of the institutional look this fence has which he felt was not in the residential character of the neighborhood. He felt it is an eyesore.

Mr. McElvey, directly across from this fence on Kirby Road, spoke in objection to this case. He stated that the applicant has shown no reasonable justification for the variance, the fence is unsightly and it is also hazardous because, in case of brush fires, the fire trucks would not be able to get to them. They would not object to a lower fence because that would keep out trucks that used to dump trash there.

Mrs. Gore, 2207 Wellfleet Drive, spoke in opposition to the fence. She stated that she objects to any fence.

Mr. Smith stated that the applicant could keep a 4' fence by right.

Mr. Pope in rebuttal stated that the purpose of the fence was to control the misuse of their property.

Mr. Smith stated that this justification is no different from any other property in the County.

Mr. Runyon stated that the fence is up as a result of an error and he assumed the error was the ignorance of the law. However, he felt the fence would not impair the purpose and intent of the Zoning Ordinance. He stated that he drives by this property every day and he has never even seen the fence so it must not be too obtrusive. There is a 6' fence along Kirby Road down at the Chesterbrook Elementary School. It is the same type fence.

RESOLUTION

In application V-263-75 by Westmoreland Square Homes Association under Sec. 30-6.6.5.4 of the Zoning Ordinance to permit 6' fence to remain in front setback area, Kirby & Westmoreland Roads, 40-2((23)) part of C-1, Dranesville District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 22, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RT-10.
3. That the area of the lot is 9.443 acres.

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

That the applicant has satisfied the Board that non-compliance was the result of an error in the location of the fence subsequent to the issuance of a building permit and

That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County.

Mr. Barnes seconded the motion.

The motion passed 3 to 1. Mr. Smith voted No. Mr. Kelley was absent.

11:30 - ROBERT PLUTCHOK appl. under Sec. 30-6.6.5.4 or 30-6.6 of the Zoning Ordinance to permit shed to remain closer to property line than allowed by Ord. (9'6" from side, 15' required), 7310 Stafford Road, V-262-75.

Mr. Tom Kerns, 2507 Brentwood Place, architect for some previous work done to this property, represented the applicant. Notices were submitted to the Board and they were in order.

Mr. Kerns stated that Mr. Plutchok has put two additions to his home. The addition in 1970 required a variance to the front setback. The addition to the rear did not require a variance. Mr. Plutchok was not aware that a structure such as this shed required a building permit. He needed a shed to store garbage cans and bicycles and he constructed this himself. This location was chosen for the shed because it is the most practical and it is also a level spot on the property. He was 90 percent finished when he was notified that he was in violation. At that time, Mr. Kerns stated that Mr. Plutchok asked him to draw up the plans to go before this Board. The shed is approximately 6'x8' and 3'x5'.

Mr. Reeves C. Westbrook, one of the contiguous property owners, spoke in objection to this application. He read his statement of objection which can be found in the file on this case. He felt that this application did not meet the requirements of the ordinance for unusual physical conditions of the property under Section 30-6.6 and that he did not meet the requirements of Section 30-6.6.5.4 since the applicant was at fault. The violation does not result from an error in location following the issuance of a building permit since no building permit was applied for. He stated that further the shed is a focal point for the collection of trash and garbage. He submitted several photographs showing the shed and its contents as could be seen from his property. He stated that he felt this variance for this shed to remain would be detrimental to the use and enjoyment of his property and to grant would impair the intent and purpose of the Ordinance. He gave background history for the various additions that had been made to this property.

Mr. Kerns, in rebuttal, stated that he did not feel Mr. Plutchok intended to violate the requirements of the Ordinance. He placed this shed at a location so that no landscaping would have to be removed and because this location was practical and functional.

In answer to Mr. Smith's question, Mr. Kerns stated that the shed could have been placed elsewhere on the property without violating the setback requirements of the Ordinance. However, it would have been more difficult to build at any other location. Also it would be more visible at any other location. There is quite a bit of plantings between the homes. Before the shed was built, this was where the trash cans were kept.

RESOLUTION

In application V-262-75 by Robert Plutchok under Section 30-6.6.5.4 and Section 30-6.6 of the Zoning Ordinance to permit shed to remain closer to property line than allowed by the Zoning Ordinance, 7310 Stafford Road, 93-3((4))56, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property

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PLUTCHOK (continued)

owners, and a public hearing by the Board held on January 22, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 16,979 sq.ft.

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

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

That the Board has found that this shed was constructed without first having obtained a building permit.

That the granting will impair the intent and purpose of the Zoning Ordinance and will be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Kelley was absent.

Mr. Smith stated that his decision to vote for the motion is the fact that the applicant had received a front setback variance and made an addition to the house previously which was in the required setback area. To allow this shed to remain at this specific location in violation to the setback requirements would certainly be in violation of the spirit of the Zoning Ordinance.

Mr. Barnes asked how long Mr. Plutchok should be given to remove the shed.

Mr. Swetnam stated that he felt this question should be addressed to the Zoning Administrator.

Mr. Smith stated that he should not be given more than 30 days.

11:30 - LEARY EDUCATIONAL FOUNDATION, INC., S-264-75.
a.m.

Mr. Smith read a letter from Mr. William Hansbarger, attorney for the applicant, stating that his office had failed to get out the required notices to property owners. He requested a deferral of this case until March 16, 1976 to allow this to be done.

Mr. Barnes so moved.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Kelley was absent.

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11:50 - WEAVER BROS., INC. & JAMES H. DODGE ET AL. appl. under Section 30-6.6
a.m. of the Ord. to permit tennis court closer to center line of street than allowed by Ord. (28' from center line, 60' required) and closer to side than allowed by Ord. (15' from side, 25' required), 3600 block of Lee Jackson Hwy., The Promontory Apts., 44-2 & 34 ((1))9, (14,400 sq.ft.), Centreville Dist., (RM-2), V-265-75.

This hearing began at 3:05 p.m.

Mr. Donald Stevens, attorney for the applicants, at 4084 University Drive, Fairfax, submitted notices to property owners which were in order.

Mr. Stevens stated that this property was zoned in the early 60's. Part of the Brookfield Subdivision lies in this RM-2 section. The site plan is presently pending and this zoning calls for a far greater density than what they are submitted in their site plan. There are 500 apartments in this development. The owners would like to place two tennis courts in this location on the plan that is before the Board. The tennis courts do not pose a problem, but

032

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the fence around them do since any fence that is more than 7' high constitutes a structure under the Zoning Ordinance. Without this variance, they could only place one tennis court on this property. They feel they should place two here since there will be 500 apartments in this development. Promontory Drive is not a dedicated public street, but a street within the apartment project itself. The Zoning Administrator's interpretation is that it is a street and the front setbacks will be required. Because of the topography of the land, the courts cannot be moved elsewhere on the property. The entire lower portion of the property is in floodplain of Flatbranch Creek. Almost one-half of the site will be dedicated to the Park Authority and is in flood plain. The contiguous property is zoned commercial and is presently occupied by a store.

033

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-265-75 by Weaver Bros., Inc. and James H. Dodge, et al. under Section 30-6.6 of the Zoning Ordinance to permit tennis court closer to side line and center line of street than is allowed by the Zoning Ordinance, 3600 block of Lee Jackson Hwy., 44-2 & 34((1))9, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 22, 1976, and

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

1. That the owner of the property is James H. Dodge, et al., Trustees.
2. That the present zoning is RM-2.
3. That the area of the lot is 14,400 sq.ft.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or structures involved:

- (a) exceptional topographic problems of the land.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Kelley was absent.

12:10 - KRISPY KREME CORP., V-275-75 OTH.

p.m.

Mr. Smith read a letter from the applicant stating that they had failed to send notices to property owners.

The Board deferred this case to the earliest possible date since the applicant will have to close down if they do not construct the addition that will house the necessary toilet facilities. This date was 12:10 P.M. on February 10, 1976.

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DEFERRED CASE: HOWARD & PEARL WILLIAMS, V-256-75, appl. to permit construction of above-ground pool closer to front and side property lines than allowed by Ord., 7506 Box Elder Court, (RE-0.5). Deferred from January 14, 1976 for viewing by Board members to determine whether or not the pool could be moved to a different location other than in the front yard. 034

The Board had learned from the applicant last week that this above-ground pool had been purchased last summer. They came into the County and got the permit, went home and erected the pool in their yard and then were called by the County and told that they could not have it there. They took the pool down, but would like permission to put it up again before this summer.

The Board was in receipt of a letter from the applicant stating that they had gone over their property when they returned home from the Board meeting last week and could not find a suitable location for the pool other than that that was before the Board in the front setback area. They have severe drainage problems and part of their property is in a storm sewer easement.

Messrs. Barnes and Swetnam felt that a pool of this sort should not have to comply with the setback requirements of the Ordinance.

Mr. Smith reminded them that the Board of Zoning Appeals could not change the Ordinance.

After considerable discussion regarding moving the pool to various locations on the property, Mr. Runyon made the following motion.

RESOLUTION

In application V-256-75 by Howard W. and Pearl M. Williams, under Section 30-6.6 of the Zoning Ordinance to permit front yard of 38' and side yard of 14' for temporary pool, 7506 Box Elder Court, 30-1((10))1, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 14, 1976 and deferred to January 22, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 22,949 sq. ft.

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

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

- (a) exceptional topographic problems of the land.

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance is for a period of two (2) years and shall expire January 30, 1978.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Kelley was absent.

035

AFTER AGENDA ITEM: BARCROFT INSTITUTE, Special Use Permit S-173-70 granted to American Health Services, Inc. (Letter from Don Stevens, attorney for the applicant, answered the Board's questions that the Board had raised at its meeting of January 14, 1976, regarding the ownership of Barcroft Institute. He also commented on the requested sign.)

Mr. Stevens stated that the only sign the facility has at the present time is the small sign that is beside the door which says, "Barcroft Institute". The facility would like to have a sign that indicates that it is a nursing home, "Barcroft Institute" and that it is also a psychiatric treatment center, "Dominion Psychiatric Treatment Center". This would be a free standing type sign in front of the building. He stated that he could not understand why anyone would object to this type sign or even why they have to get permission from this Board.

Mr. Smith stated that this addition of a sign is a change and any change has to be approved by this Board. A major change would require a public hearing.

Mr. Stevens stated that there is no question about coming back for the public hearing. They will forget the sign first.

Mr. Runyon stated that he didn't think the problem is the sign, but what is on the sign. The opposition to this facility was to the fact that the psychiatric treatment was going to go in there. One of the justifications for allowing this use was that it would be low-keyed. The Board assured the residents there that this would be very low-keyed and to put the words "psychiatric treatment" on the sign would not be very low-keyed. The Board in accordance with the residents' request does not wish to advertise the fact that the psychiatric facilities are even there. He stated that, if he remembered correctly from the time of the hearing, the representative from the facility stated that most of the cases that are in the facility are there on referral anyway. Therefore, there is no need for advertising, just identification. The Board understands after Mr. Stevens' explanation in his letter that this is not a change of ownership. He stated that he would suggest a sign using the words "Dominion Center - Barcroft Institute".

Mr. Runyon moved that the words "Dominion Center - Barcroft Institute" be used on this sign and that the size of the sign be in accordance in size to the one that the Board granted previously.

from Mrs. Jakoboski

The one previously granted was in accordance with the letter of February 3, 1975 where she stated that the sign would be 24" x 36" and would be placed in front of the building about 33' from the building and 10' from the curb line.

Mr. Barnes seconded the motion.

The motion passed 3 to 1 with Mr. Smith voting No. Mr. Kelley was absent.

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AFTER AGENDA ITEM: January 22, 1976
CARROL DOUGLAS & PEGGY ROSE PROFFIT, V-26-75, Granted March 26, 1975. On the plats approved by the Board, there was a brick addition that was proposed to be removed. Now the applicant wishes to keep the addition and has moved the property lines in order to still have the proper setback. The area of the two lots remain the same.

Mr. Runyon moved that in application V-26-75 the applicant be allowed to make the property line adjustment between the two lots because it doesn't change the intent of the original application's granting.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Kelley was absent.

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AFTER AGENDA ITEM: GOOD SHEPHERD CATHOLIC CHURCH, S-251-75 (This case was deferred January 14, 1976. The property owner that is across the street writes to say that he was not notified as required by the State Code. Real Estate Assessments still does not have his name as the record owner. The record owner according to their records is still Mrs. Gates. Mrs. Gates was notified. Mr. Arpad de Kovacs requests that his letter be made a part of the record.

036

The Board requested the Clerk to make Mr. DeKovacs aware of the ^{real estate} records and the Board will also note his letter for the record.

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REQUEST FOR OUT OF TURN HEARING - DRS. NICHOLAS B. CIRILLO AND CAROL KENNEDY, S-13-76, Scheduled for March 9, 1976. The applicants requested an out of turn hearing because of contract obligations. The earliest time the case could be heard would be March 2, 1976.

Mr. Smith stated that he could not see the reason for an out of turn hearing. Most of the cases before the Board have contract problems. The contract was signed in November and expires January 29. He stated that he didn't see how a hearing on March 2, 1976 would help.

Mr. Runyon agreed. Mr. Swetnam agreed. Mr. Barnes stated that he would like to put the case on as soon as possible in cases like these. The applicant might lose the contract on the property if there is a long delay.

Mr. Smith stated that the delay hasn't been the fault of the Board. The application was just received.

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APPROVAL OF MINUTES

Mr. Swetnam moved that the minutes for November 19 be approved as submitted and that the minutes for December 10, 1975 be approved with the correction that he had suggested be made added to page 495 on the B.P. Oil case.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Kelley was absent.

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Mr. Runyon stated that for the record he would like to acknowledge Mr. Gurski's memo to the Chairman of the Board of Zoning Appeals with reference to two of the Board of Zoning Appeals cases. One case is S-278-75, John Campbell et al., a request to permit private storage lockers, that the Board will hear on February 3, 1976. The other case is S-283-75 and V-284-75, James H. Boone, T/A James II Auto Sales, for an increased number of display cars and a variance to permit those cars closer to the property lines than allowed by the Ordinance. The Clerk has placed those memos in the file on each of those cases and the Board will consider them at the time of the public hearing on these cases.

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The Board meeting adjourned at 4:15 P.M.

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Jane C. Kelsey
By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the BZA on February 3, 1976

APPROVED February 17, 1976
DATE

Submitted to other Boards, Commissions and Departments on March 4, 1976

An Extra Meeting of the Board of Zoning Appeals was Held in the Board Room of the Massey Building on Wednesday, January 28, 1976. Board Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Tyler Swetnam and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - HARVEY BARRY JACOBS, M.D. appl. under Sect. 30-7.2.6.1.14 of the a.m. Zoning Ordinance to permit home professional doctors office, 11607 Foxclove Road, 26-4((5))(2)55, (120,321 sq.ft.), Centreville Dist., (RPC), S-266-75.

This case began at 10:25 because the applicant's attorney was detained in Court for a few minutes on another case.

Mr. Ken Sanders, 10560 Main Street, attorney for the applicant, submitted notices to property owners which were ruled in order by the Chairman.

Mr. Sanders stated that this application is for a doctor's office in the home for Dr. Jacobs, who is a surgeon and medical doctor who lives at this address with his family. There are photographs in the file which will show how this home is situated in relation to other homes in the area. The home is hidden from view of all adjacent properties by trees. He stated that he wanted to make it clear to the neighbors that this is not a rezoning, but a Special Use Permit. The doctor complies with all the requirements of Section 30-7.2.6.1.10 of the Zoning Ordinance. This will not adversely affect the contiguous property. This is almost three acres of land.

Mr. Smith stated that to clear up the question on rezoning, this use is under Section 30-7.2.6.1.14 of the Ordinance which requires the applicant to live in the premises. This is not a rezoning, but a Special Use Permit to change the land use of the property under application.

Mr. Sanders stated that this is the doctor's permanent home.

Dr. Jacobs stated that he now practices on East Capitol Street in Washington, D. C. and he will open another office this coming Monday in Manassas. Most of the surgery is done at the Washington Hospital Center and in Virginia at the Commonwealth Doctors' Hospital in Fairfax. He stated that he does research and writes medical journals. He stated that he hopes to have another physician work with him in his home and he would like for each of them to have two employees. They would see only a few patients per day. The closest facility would be at Lake Anne in Reston which is a 6 or 7 minute drive. There are also offices in Hunter's Woods. The nearest medical facility is the Georgetown-Reston Medical Center which is about 4 miles away. He stated that he now has no medical facilities in his home and could not even doctor a neighbor who might get hurt or sick.

Mr. David Edwards, member of the Board of Directors, spoke on behalf of the Reston Homeowners' Association in opposition to this application. His main point of opposition was because this is in an RPC District. The RPC was a long range plan for a large area where all uses were planned in detail. Each use, residential, commercial, industrial, etc. were given their place in this plan. Therefore, as changes take place in Reston, they take place in an orderly fashion in an already planned area. He stated that he is also concerned about the clarity of the Ordinance as it relates to this use, but he was aware that that would have to be taken up with the Board of Supervisors.

Mr. David Wells, employee of the Reston Community Association, 11753 North Shore Drive, explained that the covenants for all the residential homes in Reston prohibit commercial uses being made of these homes. He stated that this use would be in violation to these covenants.

Mr. William Roundtree, 11622 Foxclove Road, resident of this area for 8 years and of this residence for four years, stated that he had been selected as spokesman for their neighborhood to speak in opposition to this application. He stated that he had submitted Petitions containing 69 names of residents in this area who are in opposition to this use. He asked that his statement be entered into the record.

Mr. Smith stated that his statement would be entered into the record on this case, and would be, by reference, included in the minutes of this meeting. (See file).

Mr. Roundtree's main points of opposition were that this would change the residential character of the neighborhood, that the increased vehicular traffic would cause a hazardous condition, this commercialism would violate Zoning amendment 248, RPC zoning and planning concepts, violates the protective covenants of Reston which prohibits the use of residential property for business purposes, and could constitute a health hazard in that the septic tank and field might be overloaded and overflow onto adjacent private property and into a public stream/flood plain in the rear of the home. He stated that there is no demonstrable need for a medical or business office in their residential area. He asked the Board to deny the application.

Mr. Roundtree stated that Dr. Jacobs is presently conducting a business in his home with a computer terminal and approximately two to three employees.

Mr. David Hill, attorney representing the homeowners, spoke in opposition to this application. He submitted his statement to the Board which he requested be placed in the record.

Mr. Smith agreed to place a copy of Mr. Hill's statement in the record and incorporate, by reference, this statement in the minutes of the meeting on this case. Mr. Hill asked on behalf of those neighbors that he represents that the Board deny this application.

Mr. Claude Kennedy, Zoning Inspector for the Centreville District, stated that he made an inspection of this property just last week and spoke with Dr. Jacobs. Dr. Jacobs was very cooperative and showed him the entire house. There were two ladies doing paper work, utilizing two small rooms in the lower level of the house. Dr. Jacobs indicated that he was having the ladies do the billing work and other paper work. There was no examining facilities.

In answer to Mr. Smith's question, Dr. Jacobs confirmed that these two ladies were his employees.

Mr. Kennedy stated that Dr. Jacobs had a computer hookup.

Mr. Smith states that these uses that Mr. Kennedy has just described constitutes a zoning violation.

Mr. Ken Sanders in rebuttal to the opposition stated that the question of need is not a determination that should be before this Board. There is no reason to show public need as long as what Dr. Jacobs is doing does not adversely affect the public welfare. Dr. Jacobs is willing to limit the number of patients to one per hour, if necessary. The billing activity has no impact on Reston and he could see no way this use would affect these people. He stated that he felt this opposition is an over reaction to this proposal. Dr. Jacobs has two children and he doesn't want a lot of traffic coming into his home. He stated that he hasn't seen a traffic study done and he objected to someone saying that their children will be endangered by the traffic that Dr. Jacobs will create. He stated that he did not think that testimony is credible evidence. /that

Mr. Smith stated that the major question here is the compatibility and whether or not this use is in harmony with the residential area.

Mr. Sanders stated that Reston is in the RPC zoning category and it has no special privileges. The Fairfax County Zoning Ordinance allows for Special Use Permits to be granted in all residential areas. Some of the names on the petition are not of people who are what you would call "near neighbors" to this particular property.

Mr. Smith stated that this Board is here to judge a case on its merits according to land use and its compatibility with the residential area involved. The petition itself is not a major factor in this Board's determination of an application. The question on covenants is a private, civil, legal matter and is not a question that can be considered by this Board.

Mr. Sanders, in answer to Mr. Smith's question, stated that the lots surrounding Dr. Jacobs is from one-half to three-fourth acre. Dr. Jacobs has almost three acres and he owns an additional lot contiguous with the one his home is on.

In answer to Mr. Swetnam's question, Mr. Sanders stated that Dr. Jacobs does plan to put an addition on his house, but that addition is for the use of his family, not for the use of his offices.

038

039

Mr. Kelley questioned the article that had been sent to the Board regarding the health care plan and the volunteer work that Dr. Jacobs did in that regard.

Dr. Jacobs stated that this work has nothing to do with his home and this application. He stated that he is a volunteer and he has 2 or 3 volunteers come to his house about one-half day per week to do work on this health care plan. These volunteers address envelopes in their own homes for this work. He stated that he actually needs more than two employees for his own practice. He stated that he needed to be allowed to have four. He stated that he needed to have another physician come in to practice with him in order that that physician can take over the practice when he goes on vacation. In answer to a question a member of the audience had, Dr. Jacobs confirmed that the telephone number 620-2555 that was listed on the article concerning the health care program was one of the numbers of the National Health Care Plan, Inc. and one of the phones is in his home.

A member of the audience brought up the parking problems and stated that the doctor has inadequate parking on his lot for this use.

Mr. Smith stated that the Board is aware of the conditions regarding the parking.

Mr. Kelley stated that he agreed with Mr. Edwards' remarks that the Zoning Ordinance does need to be amended as it pertains to this particular use. He stated that within the RPC zoning, he felt that there is adequate space available for facilities of this type without having them in the home. The RPC plan has been successful and is working very well. This Board considers a case on its merits and has heard testimony on both sides of the question.

He stated that he was prepared to make a motion.

RESOLUTION

In application S-266-75 by Harvey Barry Jacobs, M.D. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit home professional doctors office, 11607 Foxclove Road, 26-4(5)55, Centreville District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 28, 1976.

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

- 1. That the owner of the subject property is Harvey Barry and Theresa S. Jacobs.
- 2. That the present zoning is RPC.
- 3. That the area of the lot is 120,321 square feet.

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

That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Swetnam seconded the motion.

Mr. Smith stated that this use is not compatible and is not in harmony with the residential character of the area surrounding it, even though this lot is larger than most of the lots in the area. It appears from the testimony here today that the doctor is now engaged in an operation that is in violation with the residential zoning ordinance also. He stated that he was quite surprised to find that he has two employees working in this residential area in connection with his practice. It does appear that he is in violation of the residential zoning category, but that is an area for the Zoning Administrator to interpret.

The motion passed 4 to 0. Mr. Runyon was out of the room.

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10:20 - JAMES D. HARROVER, JR. appl. under Section 30-6.6 of Ord. to permit a.m. construction of 2 car garage closer to side and front property lines than allowed by the Ord., (6' total of 20', 8' total of 24' required on sides; 23' from front, 30' required), 8807 Bridlewood Dr., 88-2((4))117, (R-17Cluster), V-267-75.

Mr. Harrover presented notices to property owners which were in order.

Mr. Harrover's main justification for this request was because he is on a corner lot and his house sits diagonally on that lot. He wishes to enclose the existing 1 car carport and make a 2 car garage. He stated that he had owned the house for almost 5 years. He stated that there is no way he can build a 2 car garage without a variance.

It was the consensus of the Board that this request was not a minimum variance request.

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

In answer to Mr. Swetnam's question, Mr. Harrover stated that he would be willing to cut the variance request down and only make the addition on the other side of the carport 10 feet.

RESOLUTION

In application V-267-75 by James D. Harrover, Jr. under Section 30-6.6 of the Ord. to permit construction of 2 car garage, 8807 Bridlewood Drive, 88-2((4))117, County of Fairfax, Virginia, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 28, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17Cluster.
3. That the area of the lot is 11,732 sq. ft.

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

That the applicant has presented testimony indicating that physical conditions exist which under a strict interpretation of the zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with the application in accordance with specific setbacks as indicated below. This variance is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. That the addition be 10'0" wide.
4. That the addition conform to the present architecture of the existing structure.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Runyon seconded the motion. The motion passed 4 to 1. Mr. Kelley voted No.

040

041

10:35 - UNITED COMMUNICATIONS CORP. (CONTRACT PURCHASER) appl. under Section a.m. 30-7.2.2.1.3 of Ord. to permit change of ownership of radio station, 2455 Fox Mill Road, S-268-75.

Mr. Dexter Odin, attorney for the applicant with offices at 4031 University Drive, presented notices to property owners to the Board which were in order.

Mr. Odin stated that the transfer of the Special Use Permit from My Staff, Inc to United Communications Corporation is for the same use that this radio station has been providing over the past 10 years. This is Radio Station WOHN which serves an area from Reston to 10 miles west of Leesburg and from Manassas to the Potomac River. They anticipate no changes in the operation or in the physical facilities on the property. There is in the file a copy of the license from the FCC.

Mr. Smith commented that he hoped there would be no change in the format for the radio station since it is a good station with good broadcasts.

There was no one to speak in favor or in opposition to this application.

Mr. Odin stated that the engineer who prepared the plats for this application and the president of United Communications Corporation are present to answer any questions the Board might have.

The Board had no questions.

RESOLUTION

In application S-268-75 by United Communications Corp. under Section 30-7.2.2.1.3 of the Zoning Ordinance to permit change of ownership for radio station, 2455 Fox Mill Road, 25(1)76C, Centreville District, (RE-1), Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on January 28, 1976.

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is RE-1.
- 3. That the area of the lot is 10.94 acres.
- 4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use

is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. All terms and conditions set forth in S-21-73 and V-42-73, shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Runyon had to leave the meeting before the Board made this motion.

 10:50 - JAMES ERNEST AND NORMA KATE PARKER appl. under Section 30-6.6.5.4 of a.m. the Ord. to permit garage to remain closer to side property line than allowed by the Zoning Ordinance, (7.4' from side, 12' required), 5503 Easton Drive, V-269-75.

Mr. Parker presented notices to property owners to the Board which were in order.

Mr. Parker stated that he and his wife contracted with Century Contractor to construct this garage. It was the contractor's responsibility to obtain the necessary permission from the County and the contract so stated. However, after the garage was almost finished, the Zoning Inspector came by and told them that they were in violation of the Zoning Ordinance because the garage was too close to the side property line. The contractor has now skipped town and has left him with unpaid bills from subcontractors, a garage that is not finished and which is in violation of the County's laws. He stated that he had brought suit against the contractor and they are now trying to recover some of their losses through the bonding company. He stated that he had given the Board a copy of the contract and a copy of the checks with which he had paid the contractor for his services.

The Board agreed that this certainly was not fault of the applicant. There was no one to speak in favor or in opposition to this application.

 RESOLUTION

In application V-269-75 by James Ernest and Norma Kate Parker under Section 30-6.6.5.4 of the Zoning Ordinance to permit garage to remain closer to side property line than allowed by the Zoning Ordinance (7.4' from side, 12' required), 5503 Easton Drive, 80-1((2))(2)47, Annandale District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners and a public hearing by the Board held on January 28, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 15,208 square feet.
4. That the request is for a minimum variance of 4.6 feet.

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

That the applicant has satisfied the Board that non-compliance was the result of an error in the location of the building, and

That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

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

042

2. The applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Runyon was not present for this case.

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11:05 - PAUL REIBER appl. under Section 30-6.6.5.4 of the Zoning Ord. to permit carport to remain closer to front property lines than allowed by Ord. (47.2' from front property line on Swinks Mill Road, 50' required; and 38.5' from center line of access road on east side of property, 75' required), 1156 Swinks Mill Road, V-270-75.

Mr. Reiber presented notices to property owners which were in order.

Mr. Reiber stated that he owns some property in the back of the subject property. For 25 years they have used a 20' lane on the south side of the property for access to that rear lot. However, he has now sold some land to the rear of this property to a developer. The County requires that there be a 50' road built on the north side of the property to reach the proposed lots. That proposed road is going to come too close to the existing carport making that carport in violation to the Zoning Ordinance of Fairfax County. When they put in the 50' road, the County requires that they give them 25' adjacent to Swinks Mill Road. Therefore, the carport will be too close to that also. The structure has been in existence for 15 or 16-years.

Mr. Smith stated that it looked as though the only reason he needs the variance is in order to dedicate on Swinks Mill Road and to provide access in accordance with County requirements. He asked if there would be any need for additional variances on the back lots.

Mr. Reiber stated that, to the best of his knowledge, there would be no need for additional variances. He stated that they have been advised that the proposed access is the only means of access to these back proposed lots.

There was no one to speak in favor or in opposition to this application.

 RESOLUTION

In application V-270-75 by Paul Reiber under Section 30-6.6.5.4 of the Zoning Ordinance to permit carport to remain closer to line than allowed by Ord. (47.2' from front property line on Swinks Mill Road, 50' required; and 38.5' from center line of access road on east side of property, 75' required), 1156 Swinks Mill Road, 20-4(1)52, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 28, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 44,779 square feet.
4. That the dedication of 25 feet for a new road brings the existing building within the setback requirement.

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

That the applicant has satisfied the Board that the following conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

(a) location of existing building prior to dedication of 25' for new road.

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

Mr. Barnes seconded the motion. The motion passed 4 to 0. Mr. Runyon was not present for this case.

Mr. Runyon returned from Court.)

11:20 - JOHN C. CAMPBELL appl. under Section 30-6.6.5.4 of Ord. to permit a.m. garage to remain closer to side property line than allowed by Ord., (13.5' from side, 20' required), 6509 Terry Drive, V-271-75.

Mr. Campbell presented notices to property owners which were in order.

Mr. Campbell stated that in 1955 he came to get a building permit for his house. At that time, the plans had the garage included. Because of financial difficulties, he was not able to construct the garage. In 1966 he started to build the garage and had just about finished when the inspectors came by and told him that he had to get a building permit. He applied for a building permit, but was not issued one because the garage was too close to the property line. He completed the garage and has been using it ever since. Now he and his wife are getting a divorce and have to sell the house. They need the variance in order to clear the records in order to sell this house. When he originally placed the house on the lot, there were two people building on either side on his lot. He placed the house so that it would be centered between the other two houses equally.

Mr. Runyon stated that this is one of those cases that make you wonder how people can get into the predicaments they find themselves. If this was considered in other than these circumstances, the Board would probably grant the variance because of the way the building is located on the lot. In this particular case, it makes the Board less than happy to grant such a variance. However, the garage was approved on the original plans for this house and perhaps Mr. Campbell felt this gave him permanent permission to construct it.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-271-75 by John and Charlotte Campbell under Section 30-6.6.5.4 of the Zoning Ordinance to permit garage to remain closer to side property line than allowed by the Ord. (13.5' from side, 20' required), 6509 Terry Drive, 90-1(12)247, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 28, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 17,444 sq. ft.

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

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

- (a) condition of the location of the existing building,
- (b) that the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

044

045

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. Applicant will obtain building permit and secure inspection to insure structural quality of the garage.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be responsible for fulfilling his obligation to obtain building permit, a residential use permit and the like through the established procedures.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

11:40 - ROBERT R. REYNOLDS, JR. appl. under Section 30-6.6 of Ord. to permit a.m. enclosure of carport to garage closer to side property line than allowed by Ord., (8.3' total of 18.3' on sides, 8' total of 20' req.), 7904 Marysia Court, R-12.5 Cluster, V-272-75.

Mr. Reynolds presented notices to property owners which were in order.

Mr. Reynolds' main point of justification for this variance was the irregular shape of the lot. He stated that the proposed garage is to be constructed by enclosing and slightly extending to the rear an existing carport/driveway. There is a sharp slope in the backyard and that space is occupied by a porch. There is no other reasonable site on the lot for this proposed addition. The lot misses the lateral distance requirement by only 1.7 feet. The architecture of the proposed addition would be in keeping with the appearance of the existing structure and similar structures in the Saratoga Subdivision.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-272-75 by Robert R. Reynolds, Jr. under Section 30-6.6 of the Zoning Ordinance to permit enclosure of carport to garage closer to side property line than allowed by Ord., (8.3' total of 18.3 on sides; 8' total of 20' required), 7904 Marysia Court, 98-2((6))316, Springfield District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 28, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 8,720 sq. ft.
4. That the applicant requests a minimum variance of 1.7 feet to the minimum requirement.

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

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

- (a) exceptionally irregular shape of the lot.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

The Board recessed for lunch at 1:00 P.M. and returned at 2:15 P.M. to continue with the regular agenda items.

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11:55 - STUART STREET MEDICAL ASSOC., LTD., & WOODLAKE TOWERS, INC. appl. under a.m. Section 30-2.2.2 Col. 2 of RM-2M uses to permit medical office, 100 S. Manchester Street, (RM-2M), S-274-75, OTH.

The applicant did not have proper notices. The case was deferred until a later time under the applicant could either find his notices or renotify the contiguous and nearby property owners.

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AND W. FRANKLIN REED & B. F. SAUL REAL ESTATE INV. TRUST
12:15 - AMOCO OIL CO./appl. under Section 30-6.6 of Ord. to permit construction p.m. of canopy closer to front property line than allowed by Ord., (15' from front, 22' required) 6630 Richmond Hwy., (C-D), V-282-75. DEFERRED

DEFERRED CASE:

12:15 - AMOCO OIL CO. appl. under Sec. 30-7.2.10.3.1 of Ord. to permit canopy p.m. addition over existing gas pumps, 6630 Richmond Hwy., (C-D), S-240-75. (Deferred from 12-17-75 for variance application).

James J. Haywood, representing the applicant, with offices in Baltimore, Md. presented notices to property owners which were in order.

Mr. Haywood stated that the pumps that they would like to cover with a canopy are already existing. This is to better serve the public, to keep the customers dry while using the self-service pumps.

The Board amended the variance request to include the name of the owner of the property, W. Franklin Reed & B. F. Saul Real Estate Investment Trust.

In answer to Mr. Smith's question, Mr. Haywood stated that there will be no advertising on the canopy. He stated that this particular type canopy was erected in Montgomery County, Maryland, but instead of using white facade, they have changed to a black facade. This particular canopy would have black facade, if this is granted. The size of the canopy as indicated on the plats before the Board is 24'x32'. The setback would be 15' from the property line on Southgate Drive. He stated that he is in possession of a letter from the owners of the Beacon Mall Shopping Center indicating that they are in favor of this canopy. He stated that they are now under lease with Giant Food. He stated that the lease is approximately 15 years with 3 five year extensions.

Mr. Smith stated that there is an existing Special Use Permit for this station

There was no one to speak in favor or in opposition to this application.

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047

RESOLUTION

and W. F. P. Reed, Jr. & B. F. Saul, Real Estate Investment Trust and In application V-282-75 by AMOCO OIL CO./under Section 30-6.6 of the Zoning Ordinance to permit construction of canopy closer to front property line than allowed by the Zoning Ordinance; (15' from front, 22' required), 6630 Richmond Hwy., 93-1((1))part of 1A, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 28, 1976, and

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

- 1. That the owner of the property is W. F. P. Reed, Jr. & B. F. Saul, Real Estate Investment Trust.
- 2. That the present zoning is C-D.
- 3. That the area of the lot is 22,500 square feet.

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

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

- (a) unusual condition of the location of existing pump island.

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

- 1. This approval is granted for the location and the specific structure indicated in the plat included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. The architectural detail of the proposed canopy shall conform to that as shown in the photo submitted and shall contain no signs or advertising.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a non-residential use permit and the like through the established procedures.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

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In application S-240-75 by AMOCO OIL CO. under Section 30-7.2.10.3.1 of the Zoning Ordinance to permit canopy addition over existing pumps, 6630 Richmond Hwy., 93-1((1))pt of 1A, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on December 17, 1975 and deferred to January 28, 1975 in order for applicant to apply for variance.

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

- 1. That the owner of the property is W. F. P. Reed & B. F. Saul Real Estate Investment Trust.
- 2. That the present zoning is C-D.
- 3. That the area of the lot is 22,500 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law:
 That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without Board of Zoning Appeals approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The architectural detail of the proposed canopy shall conform to that as shown in the photo submitted and shall contain no signs or advertising.
7. All other provisions of the previous Special Use Permit shall remain in effect. This is an amendment to the existing Special Use Permit for the addition of a canopy only.

Mr. Runyon seconded the motion.

The motion passed 5 to 0.

DEFERRED CASE: January 28, 1976

GOOD SHEPHERD CATHOLIC CHURCH, S-251-75 (Heard December 17, 1976, deferred to January 14, 1976 and again on January 14, 1976 until January 28, 1976)
 Decision Only.

Mr. Smith stated that he could not understand why there was no pro-rata share for all of these developments.

Mr. Swetnam stated that that is why he said it was a County problem.

Mr. Kelley stated that he had visited the site on two occasions and he also felt this is a County problem. He stated that he did not think it is fair for one property owner to be responsible for the drainage problems that are caused by numerous owners and developers.

RESOLUTION

In application S-251-75 by Good Shepherd Catholic Church under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of addition to existing church and to permit temporary use of single family dwelling for church offices, on property located at corner of Mt. Vernon Hwy. and Surrey Drive, 110-2((1))22A & ((15))6, Mt. Vernon Dist., County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property

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owners, and a public hearing by the Board held on December 17, 1975 and deferred on subsequent dates to January 28, 1976.

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

1. That the owner of the subject property is Bishop of Arlington Catholic Church.
2. That the present zoning is RE-0.5 and R-12.5.
3. That the area of the lot is 11.278 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.
6. That the applicant was granted a special use permit (S-17-74) on April 17, 1974, for additions to its facilities on property located here and although it was subsequently granted a 6 month extension, it was unable to begin construction by October 17, 1974, when the special use permit expired.
7. This current application seeks to renew S-17-74 for essentially the same additions to the existing facilities, but with the addition of an adjoining lot in a residential subdivision and temporary use of the dwelling on that lot for church offices.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. All necessary landscaping and screening is to be provided to the satisfaction of the Director of Environmental Management and be maintained.
7. The applicant is hereby granted temporary use of a residence located at 8720 Braddock Avenue, Alexandria, Virginia as a church office for a period not to exceed two (2) years.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

Page 50, January 28, 1976

RE-EVALUATION HEARING ON SPECIAL USE PERMIT FOR RIDING STABLE, S-182-73, BERNARD C. COX, (Deferred from October 7, 1975 and on subsequent dates, for decision only).

050

Mr. Smith stated that this case was deferred in order for the zoning inspectors to make an inspection of the premises and determine whether or not Mr. Cox has cleared all violations of the Zoning Ordinance.

Mr. Jack Ash, Zoning Inspector, stated that he and Mr. Koneczny, Senior Zoning Inspector, met with Mr. Cox and Mr. Cox's attorney, Mr. Blaine Friedlander, on the property at 3:30 p.m., January 26, 1976. There were no pinball machines on the property in the building that they checked. There was a tractor trailer on the property which is in violation to the Zoning Ordinance. They informed Mr. Cox and Mr. Friedlander of this violation. Mr. Friedlander and Mr. Cox agreed to move the tractor trailer promptly as soon as the ground freezes so they can get it out without getting mud all over the road. Mr. Cox did not know that this was a violation to the Zoning Ordinance. They did not check the contents of this vehicle.

Mr. Friedlander stated for the record that that vehicle did not and does not contain any pinball machines or any other machine in violation to the Zoning Ordinance.

Mr. Smith asked Mr. Koneczny and Mr. Ash if they have any suggestions for the Board on the disposition of this case.

Mr. Koneczny answered that they do not at this time. He stated that since this has been a constant problem, it will take constant supervision and regular checks and follow-ups as often as possible to see that the property is being used properly.

In answer to Mr. Smith's question, Mr. Cox stated that he does have the Special Use Permit posted on the property.

Mr. Kelley stated that he felt Mr. Cox should either keep his house in order or his Special Use Permit should be revoked.

Mr. Swetnam agreed.

Mr. Edwin Woodburn, 3804 Skyview Lane, in answer to Mr. Smith's question if he had seen any transporting of pinball machines, stated that just an hour before the inspector came on Monday a tractor trailer arrived at the Cox property and backed into the property. However, he stated that he did not know whether or not the truck picked up or delivered anything. It wasn't there long.

Mr. Cox testified as to the type of articles he has in the trailer. He stated that he had six very old juke boxes, an old antique wheelbarrow and that these were antiques that he collected for his own personal enjoyment and he did not run an antique shop. In answer to Mr. Kelley's question, he stated that he had read the conditions set forth in the Special Use Permit.

Mr. Kelley stated that he felt the Board should give Mr. Cox a clear cut decision as to what the Board expects him to do and the next violation he would be subject to a revocation of the Special Use Permit.

Mr. Runyon agreed and asked Mr. Cox to state on the record what he intends to do and what the Special Use Permit says is what Mr. Cox actually intends to do. He read, "The hours of operation are from 9:00 a.m. to 5:00 p.m., Monday through Friday. Parking shall be required for visitors and employees. Facilities shall be used only for horseback riding and no other uses are permitted. No storage or repair of vehicles or rides is permitted. The maximum number of horses is to be 30." He asked if this is the intent of what the operation will be and asked that Mr. Cox answer "Yes" or "No".

Mr. Cox answered "Yes".

Mr. Runyon: "For the record, I would move that in the re-evaluation hearing on Special Use Permit, S-182-73, Bernard C. Cox, that the Special Use Permit continue in operation with the understanding of both the Board and the applicant that any violations of the items enumerated on the Special Use Permit shall constitute a revocation of the Special Use Permit and at this point the re-evaluation be dismissed."

Page 51, January 28, 1976

Mr. Kelley seconded the motion.

Mr. Koneczny asked that this motion be clarified as to the hours and days of operation.

Mr. Runyon: "The hours of operation are Monday through Friday, 9:00 a.m. to 5:00 p.m." That is what is stated on the permit that is hanging on the wall in his building.

/(Mr. Cox's building)
Mr. Koneczny stated that that has been a controversial item in the past.

Mr. Runyon: "I think we further clarified that later on in our proceedings that there were some Saturday afternoons for half an hour or so that he would have to unload them and sometimes in the morning, but we asked him not to do that earlier than, I think we agreed that it was 8:00 or 9:00 o'clock. I'm not sure of the hour. There was a time when he would come and pick up the ponies and take them to charitable functions. I am aware of that because there were many times that the Lions Club has used some of his rides. But, I think we are talking about ponies and that was it. The only time that we discussed something about a ride being in there was when it was hooked to a truck that was picking up the ponies. But, that was the only exception that we had ever discussed. That was just to pick up the ponies and take them to a function and drop them off which shouldn't take more than 30 minutes."

Mr. Friedlander: "On June 11, 1975 at a hearing, before I was in the case, Mr. Runyon had stated to this Board that the picking up of horses and depositing them was a use not contemplated by this use permit to which the Board did not disagree and I understood throughout our conversations that he had that right."

Mr. Runyon: "That's what I'm saying. I am reiterating that for his benefit, and that shouldn't take longer than 30 minutes for him to pick them up and drop them off."

Mr. Friedlander: "So, the transporting in and out of horses for various social functions is permitted?"

Mr. Runyon: "Again, you say, -- that is a consideration that we have the right to consider since it is under a Special Use Permit and our request is, for the record, that that is the only way that we would permit activities other than during the hours of from 9:00 to 5:00."

Mr. Friedlander: "As I understood the Special Use Permit, that meant that the rides would not be within the boundaries -- the riding of horses and only horses would be permitted only during those hours."

Mr. Runyon: "Correct."

Mr. Friedlander: "He can move horses in and out and if he had a ride hooked onto the back of the truck that would be permissible and would not be subject to the hours of this Special Use Permit?"

Mr. Runyon: "Except that they are not to remain on the property any longer than 30 minutes to an hour".

Mr. Barnes: "No mechanical rides."

Mr. Runyon: "Really, that is downplayed. Hopefully, he would not have to have those things hooked on very often, but there will be times, I'm sure, when he is bringing both of them and that is when we are talking about a 30 minute or hour duration, maximum."

Mr. Friedlander asked if the motion of the Board to revoke contemplated a hearing or not.

Mr. Smith stated that it doesn't unless the applicant appeals it. He has the right, within 10 days, to request a hearing on a revocation. If the applicant appeals it, we cannot revoke it without a hearing. He is entitled to a hearing if his Special Use Permit is revoked, if he so requests within 10 days after he is notified of the revocation.

Mr. Friedlander stated, "Fine, sir."

Mr. Runyon stated that that was the intent of his motion.

051

Mr. Woodburn stated that this is the very point that the citizens are concerned about. Mr. Cox has 30 horses and weekends are his busiest days. He transports from April through the summer every horse that he has from his property to where he wants to use them. That means that he will have 8 or 10 or 12 truck trips in there beginning anywhere from 7:00 in the morning and returning at 8:00, 9:00 or 10:00 in the evening and that is the thing that disturbs the community most and that is, the intense activity during the weekends.

Mr. Kelley: We have granted a Special Use Permit for the hours stated and I can understand maybe running over 30 minutes, but he knows the conditions of 9:00 to 5:00 and I don't think the neighbors, Mr. Woodburn and the others, if you talk about maybe 30 minutes -- but, what we are doing is opening this up. In all fairness, I don't think Mr. Cox has worked with us, or his attorney, in trying to straighten this out, and if we give him an hour leeway he is going to take 2 hours. He stated that he felt Mr. Cox should live by the Special Use Permit.

Mr. Runyon stated that maybe it would be better if Mr. Cox had no Special Use Permit. Then, he could go in and get those horses and transport them in and out any time he wanted to. He stated that that operation has been there for awhile.

Mr. Koneczny stated that there may be a little conflict here. The reason Mr. Cox was here initially was under the definition of riding stable which says "where horses are kept for any purpose where there is a fee". There is a fee when you take the horses off the premises and rent them out. This is the reason for the Special Use Permit. There was a controversial question initially whether he should be brought in for a Special Use Permit or not. The Board said, at that time, that he should have one. The primary purpose is for Mr. Cox to take the horses off the premises. This is where the impact is coming, on Saturday and Sunday evenings.

Mr. Smith stated that this Board has no jurisdiction over the activities of the animals off the premises.

Mr. Koneczny stated that the picking up and delivery of animals is on the premises.

Mr. Smith stated that that is not included in the Use Permit except for normal transfer of animals to and from one grazing area to another. He stated that it certainly was not his intent to give Mr. Cox a blank order to go out and do something that would have a greater impact than what he could normally do by right. This is the only case where this problem has existed. Perhaps it should not have been granted at all if this is what Mr. Cox felt he was getting, to pasture his animals here and move them out any time he wanted to to commercial locations or other locations where he utilizes the animals for a commercial use. Mr. Cox has to realize that he is under a Special Use Permit and out the activities down to where they will not afford a greater impact on the residential area than would normally transpire.

In answer to Mr. Smith's question, Mr. Cox stated that he does have people come out to ride the animals on his property, but it is very little.

Mr. Smith stated that that was the reason for granting the Special Use Permit. He stated that Mr. Cox told the Board that he wished to have a riding school.

Mr. Cox stated that he made the application in the first place because the Zoning Department advised him to do so.

Mr. Smith stated that he had kept the Zoning Inspectors and the Zoning Administrator busy for a number of years, not only at this location but at another location. He stated that Mr. Cox had constantly violated the Zoning Ordinance.

Mr. Runyon asked for the question on the motion.

The vote was 5 to 0.

Mr. Smith: "Mr. Cox, this will put you on notice that if you violate any of the conditions in the Special Use Permit in the future, it means an automatic revocation of the Special Use Permit. You will be notified and you will have an opportunity to appeal to the Board for a hearing within a period of ten (10) days after you receive the notification."

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052

DEFERRED CASE: WALNUT HILLS RACQUET CLUB, INC., S-261-75 (Deferred from 1-22-76 for new plats. DECISION ONLY.)

053

The new plats had been submitted showing the building near Arnold Lane moved 100' from the property lines giving more space for the existing trees to remain and provide a better buffer.

Mr. Runyon stated that he had discussed this with the adjoining residents and they are pleased that this has been done.

There were two people in the audience and they concurred with Mr. Runyon's statement.

RESOLUTION

In application S-261-75 by WALNUT HILLS RACQUET CLUB, INC. & MONTICELLO MANAGEMENT CORP. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit tennis club, 3442 Annandale Road, 60-1((1))14, 15 & 7A & 13, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 22, 1976 and deferred to January 28, 1976 for decision only and new plats.

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

- 1. That the owner of the property is Chalk Estates, Inc.
- 2. That the present zoning is R-12.5.
- 3. That the area of the lot is 20.09 acres.
- 4. That compliance with the Site Plan Ordinance is required.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plan submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without Board of Zoning Appeals approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Parking shall be provided for 322 automobiles.
- 7. Hours for outdoor tennis is 8:00 a.m. to 10:00 p.m.
- 8. The ingress and egress to Arnold Lane shown on the plan shall be for emergency access only.
- 9. Hours of operation shall be 7:00 a.m. to 12:00 midnight. Any after hours parties shall require approval of the Zoning Administrator. (6 per year)
- 10. The membership shall not exceed 950.
- 11. Architectural plans of the building are to be brought back to the Board of Zoning Appeals for approval.

Mr. Swetnam seconded the motion. The motion passed 3 to 1. Mr. Kelley abstained since he was not present at the public hearing. Mr. Smith voted No because he felt this was commercial recreation and should have gone to the Board of Supervisors.

The Board reminded the applicant that all parking must be on site.

AFTER AGENDA ITEM:

REQUEST FOR OUT OF TURN HEARING -- FAIRFAX COUNTY PUBLIC SCHOOLS

The Fairview Elementary School needs some additional space. The School Board wishes to place a temporary structure there to house the additional students. This structure will come too close to the property line. Therefore, they need a variance. It is important that they get this structure erected as soon as possible to alleviate the crowded conditions.

Mr. Smith stated that this is a public need and he felt the out of turn hearing request should be granted for the earliest possible date.

The Board granted the out of turn hearing for March 2, 1976.

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The meeting adjourned at 4:00 p.m.

Jane C. Kelsey
By Jane C. Kelsey, Clerk to the
Board of Zoning Appeals
Submitted February 17, 1976

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: March 2, 1976
(date)

Submitted to Board of Supervisors,
Planning Commission and other
Depts. Feb 14, 1976

054

055

The Regular Meeting of the Board of Zoning Appeals for February 3, 1976 was held in the Board Room of the Massey Building. Members: Daniel Smith, Chairman; Loy P. Kelley, Vice-Chairman; George Barnes; Tyler Swetnam; and Charles Runyon. Mr. Barnes was absent.

The meeting was opened with a prayer by Mr. Covington, the Assistant Zoning Administrator, at 10:30 a.m.

10:00 - ALEXANDRIA MONTHLY MEETING OF FRIENDS, S-280-75 a.m. case

Mr. Horace Buckman, 8117 Bainsbridge Road, Alexandria, Virginia, submitted notices to property owners which were in order.

Mr. Buckman stated that this has been a Quaker Meeting House since 1853. They have been meeting at this location except while the soldiers occupied it during the Civil War. He stated that they wish to add another large room and also indoor restroom facilities which they have never had previously. They have obtained permission from Fort Belvoir to tap their sewer and water lines. They have 40 to 50 people attending services each Sunday. They have benches for around 100. The membership is around 50 to 60.

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

Mr. Smith stated that the Board has received a memo from Donovan E. Hower, Chairman, Architectural Review Board, dated January 14, 1976, stating that at the December 11, 1975 meeting of their Board, the plan for the addition to the Woodlawn Friends Meeting House by its owners, Alexandria Monthly Meeting of Friends, was unanimously approved. The Architectural Review Board was involved in this case because of the location of the meeting house within the Woodlawn Historic District.

Mr. Buckman stated that the architecture of the addition will be of the same plain nature as the original building so that there will be no variation between the two exteriors.

Photographs of the existing building were in the file.

RESOLUTION

In application S-280-75 by Alexandria Monthly Meeting of Friends under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit addition to existing church on property located at the west side of Richmond Highway (U.S. No. 1) and Woodlawn Road, 109-2((1))38, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on February 3, 1976.

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

1. That the owner of the property is the Society of Friends.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.401 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.
6. That the County's Architectural Review Board has approved the plans for the addition.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable

to other land.

2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The seating capacity is 100.

7. Landscaping and/or screening is to be provided to the satisfaction of the Director of Environmental Management.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Barnes was absent.

10:20 - MR. & MRS. J. M. FITZPATRICK appl. under Section 30-6.6 of Ord. to permit addition to be constructed closer to side property line than allowed by the Ordinance, (10' from side, 15' required), 1811 Briar Ridge Court, 31-3((22))5, (20,264 sq. ft.), Dranesville District, (R-17), V-276-75.

Mr. Stanley Wilson who works for the contractor, the Hechinger Company, stated that he had not notified the property owners. He requested a deferral. He also stated that the Staff had raised the question of whether or not the plats were adequate. The plats show only the portion of the addition that will need the variance and not the portion that will not need a variance.

Mr. Smith stated that the Board needs to see all of the proposed construction on the property in order to properly consider the variance request.

Mr. Runyon moved that this case be rescheduled for March 2, 1976 for a full hearing for proper notices.

Mr. Swetnam seconded the motion. The motion passed unanimously.

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10:35 - FRANK J. TALBOT, M.D. appl. under Section 30-7.2.6.1.10 of the Zoning Ordinance to permit medical office, 1517 Collingwood Road, 102-4((1)) parcel 28A, (24,200 sq. ft.), Mt. Vernon District, (R-12.5), S-277-75. (Hearing began at 11:05 a.m.)

Mr. Donald Stevens, attorney for the applicant, with offices on University Drive in Fairfax, Virginia, submitted notices which were in order.

Mr. Stevens identified the land uses that surround this property. He stated that to the east is the Church of Christ Scientist, immediately across the street is the Mount Vernon Day Care Center and the Oak Meadow Nursing Home which abuts the Mount Vernon Community Park. There is a commercial nursery just to the west on the north side of Collingwood Road and a cemetery further west on Collingwood Road.

Mr. Stevens submitted to the Board a study done by the Medical Staff Planning and Programming Committee which he stated asserts that there is a great need for general practicing physicians. He submitted a letter from the Administrator of the Mount Vernon Hospital endorsing this application. In answer to Mr. Smith's question, Mr. Stevens stated that he did not know whether or not the Administrator lives in the area.

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Mr. Stevens stated that Dr. Talbot lives in the Hollin Hills Subdivision. He has owned the subject property for several years. It has previously been used for a residence. He stated that the proposed addition is approximately the same size as one floor of the existing dwelling. Dr. Talbot never occupied the house himself. He has owned the property for 2 1/2 years. It was occupied up until about three months ago.

Mr. Smith stated that he would accept the report from the Administrator of the Mount Vernon Hospital, but he did not feel he would be an aggrieved party and this report would serve only to indicate his interest in the medical facilities in the area.

Mr. Stevens stated that he also would like to submit letters and petitions from neighbors and the Collingwood Springs Citizens Association that is immediately to the south. He stated that there are relatively few residents on Collingwood Road. The house that Doctor Talbot owns is 5 or 6 years old and the majority of the residences are much older.

Mr. Smith accepted the letters and petitions for the file. He stated that the petition was signed by a representative of the Nativity Lutheran Church and a representative of the Aldersgate Methodist Church and residents residing at 1712, 1804, 1815, 1813, and 1816 Collingwood Road. He stated that he assumed it was Collingwood Road, but only the number was indicated on the petition. A letter was received from a representative from the Mount Vernon Pre-School and a representative of the Oak Meadow Nursing Home and Robert Wineland, M.D. whose address is 1451 Belle Haven Road. These letters speak to the need for this use.

In answer to Mr. Smith's question, Mr. Stevens stated that Dr. Talbot now practices medicine in Maryland, but he has lived in Northern Virginia for a number of years. He is on the staff at several Fairfax County hospitals. He stated that he will retain his practice in Maryland for an interim period. He will associate in this proposed office with Dr. Tinker. This application is for two doctors and two employees for each doctor.

Dr. Talbot's statement in the file indicated that this office would occupy the lower level of the existing house (1,078 square feet) plus a 1,326 square foot extension to the rear of the house. The upper level of 1,078 square feet will be living quarters. He proposes to be open from 9 AM to 12 Noon on Saturday and from 9 AM to 5 PM Monday through Friday. The average number of patients seen for each day will be from 20 to 50. There are 15 parking spaces provided.

Mr. Stevens stated that the Highway Department plans to improve Collingwood Road. Dr. Talbot will be required to install curb and gutter and widen the road. He will also have to install sidewalks.

Mr. Stevens stated that this use will not increase the traffic at peak hours. The parking is fully screened from Collingwood Road. The parking would accommodate the maximum of 6 employees and 6 to 8 patients that might be there at any one time.

Mr. Kelley stated that he noticed in Dr. Talbot's statement in the file that there would be from 20 to 50 patients there during each day. That would be from 40 to 100 trips per day in and out of this property. Since there are medical offices nearby that the doctors could use, he stated that it seemed to him that that would be better.

Mr. Stevens stated that one of the problems of going out and renting space in a medical office building is the cost.

Mr. Kelley stated that that is a concern in every type of business that one might go into.

Mr. Smith stated that since Mr. Stevens stated that there were already several uses in that area by Special Use Permit that another use by Special Use Permit might have an adverse effect on the residential character of the neighborhood. This is putting a commercial use in a residential zone. The other uses are community uses, such as the school and the churches.

Mr. Stevens disagreed that this is a commercial use. Dr. Tinker may very well decide to live in this house. He stated that if this use is to be permitted anywhere in Fairfax County, then he could think of no place that would be better, but in a neighborhood that has already taken on an institutional character and where the people most affected would welcome the use that is proposed. This is a permitted use under the present Zoning Ordinance, he stated.

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Mr. Smith stated that the other factor is that the doctor proposes to expand this existing building and will more than double the first floor space.

Mr. Runyon stated that after reading the requirements for this use under the present Zoning Ordinance, he fails to see where this use doesn't meet these requirements.

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

Mr. B. R. Eggar, 2102 Prices Lane, Chairman of the Planning and Zoning Committee of the Mount Vernon Council of Citizens Associations, spoke in opposition to this application because they feel that this use is undesirable and unwarranted at this location on Collingwood Road since it is one of the most dangerous roads in the County and is likely to remain so. The Virginia Department of Highways says that they do not have any money for improvements for this road now or will they have at any time in the near future. One of the two access roads from Route 1 to Fort Hunt Road is Collingwood Road. This is also an access to the new hospital, the fire station, the school and they feel this road is too narrow to increase the traffic by at least 40 to 100 per day. There are no shoulders on this road in some places. He stated that most of the letters in favor speak to the need for this use. Less than one mile away from the subject property is a new medical center. One medical office building has already been built and another is approved for building. There must be over 100,000 square feet coming there in that medical office building. There are also other locations on Route 1 that are already zoned commercial.

Mrs. John T. Spellman, 3424 Ayers Drive, Mount Vernon District, spoke on behalf of herself and her neighbor, Mrs. William A. Russell, 1205 Cedardale Lane, Alexandria in opposition to this application. Her main points of opposition were the hazardous road conditions, increased traffic, and the incompatibility with the residential zoning district. Mrs. Russell in her letter to the Board requested that either deny or defer this application until a study can be made about the safety of the road and also until such time as the County can look into the number of doctors making requests for such permits in residentially zoned areas.

Muriel Artery, resident of Sherwood Hall Lane, which is near Collingwood Road, spoke on her own behalf in opposition to this application. She stated that she is Chairman of the Zoning and Planning Committee of the Sherwood Hall Homeowners Association, but that Committee did not have an opportunity to meet because they did not know about the application in time to call a meeting. She stated that after discussion with some of her neighbors, they asked her to come to speak in opposition to this application. Her main points of opposition were to the traffic impact and the hazardous conditions of Collingwood Road. She also requested that a study be done by the County together with the Supervisor of the Mount Vernon District to try to intergrate all of these doctors into their district in a compatible manner. She stated that otherwise, the residential character of the neighborhood will be changed.

Mr. Smith stated that he agreed that when the Board grants several Special Use Permit uses in one area that it would change the character of the area from residential to semi-commercial.

Mr. Smith read the names and address of the people who had written in opposition to this application. They were: Mr. W. L. Smith, 3401 Batters Sea Lane; John T. Spellman 3424 Ayers Drive; Joseph Riolo, 8225 Mt. Vernon Hwy., Mrs. Nina J. Barentine, 1122 Chadwick Avenue, Alexandria; and Richard A. Pollard, 3307 Batters Sea Lane, Alexandria.

Mr. Stevens asked the Board to look at where these people who are in opposition live as compared to where the people live who are in favor.

Mr. Smith reminded him that the people who wrote in favor are mostly from other institutional uses, such as the nursing home and school. The doctor who wrote in favor also operates out of a commercial zoned district, COLLINGWOOD ROAD DISTRICT.

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Mr. Stevens stated that he could understand the opposition's point of view if Dr. Talbot were trying to buy a house for this purpose in the middle of the Collinwood Springs Subdivision or Hollin Hills Subdivision. Perhaps the character of the neighborhood has changed but no additional change will be caused by Dr. Talbot's office. The immediate community has indicated no opposition at all.

Mr. Smith stated that if the Board constantly grants uses by Special Use Permit in residential areas, it certainly would change the character of the area and change the uses in that area. You would have eventually a zoning change by Use Permit. He stated that this is the thing that concerns him. There are a number of doctors that have purchased houses in this area for this purpose. They are not here to serve the community, they are here to serve the hospital complex. There has been planned and constructed medical office space to serve this hospital (that is available nearby.)

Mr. Swetnam stated that the only thing he could find in the Ordinance that might conflict with this use is Section 30-7.1.1 which addresses the traffic problem. The applicant has submitted a plan showing dedication and the installation of curb, gutter and sidewalk which will take care of the traffic concern. The character of the area has been changed prior to this application. He stated that probably the whole zoning has been changed by the granting of Special Use Permits by this Board and others. He stated that he did not find anything anywhere in this Ordinance that would prevent this use from being granted.

RESOLUTION

In application S-277-75 by Frank J. and Suzanne C. Talbot under Section 30-7.2 .6.1.10 of the Zoning Ordinance to permit a medical office on property located at 1517 Collingwood Road, 102-4((1))28 A, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 3, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 24,200 sq. ft.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering changes) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

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TALBOT (continued)

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The architectural character of the present house shall be preserved.
7. The hours of operation shall be from 8:00 a.m. to 8:00 p.m.

Mr. Runyon seconded the motion.

Mr. Runyon stated that to pursue the condition No. 6 regarding the residential character of the neighborhood, that is difficult to define. He stated that he felt the policy making body of this County, the Board of Supervisors, should, as Mrs. Artery stated, determine how this Board is going to define these uses, particularly in this particular area. The residential character of the neighborhood has been altered, not specifically by Use Permits. The three churches were there by right before the new Ordinance required churches to come before this Board. He stated that he did not feel this doctor's office will create a strain on the character of this local residential neighborhood. It meets all the standards of the Ordinance. If the Board is looking for more standards, it should ask the Board of Supervisors to give it additional criteria. At this point, this Board would be hard pressed to deny this application on the facts of this case, not the gut reaction or different information on traffic.

Mr. Smith stated that he disagreed with Mr. Runyon since he did not feel this application meets the standards of the Ordinance.

Mr. Kelley stated that he felt the Board must make a decision on each individual case. He stated that he agreed with Mr. Runyon that the Board of Supervisors should give the Board more criteria, but the Board has to act on the facts as presented on this case today. There is space available in a nearby medical office building. You can saturate an area with Use Permits and there is a saturation point to be reached and it is reached here.

Mr. Swetnam agreed that this case is marginal, but he felt his resolution is in order.

The vote was Messrs. Runyon and Swetnam voting Aye and Messrs. Kelley and Smith voting No. Mr. Barnes was absent. Since this was a tie vote, there was no resolution of the case.

Mr. Runyon offered a resolution to defer this case for final decision until the other Board member, Mr. Barnes, could have an opportunity to listen to the tapes of this hearing and study the file and determine if he can vote and perhaps make a decision then. He stated that the decision should be made no later than February 17.

Mr. Smith stated that if Mr. Barnes decides he doesn't want to vote since he was not present at the hearing, then the Board will have to hold another public hearing with all members present.

Mr. Swetnam stated that Mr. Runyon is leaving February 17.

Mr. Swetnam seconded Mr. Runyon's motion and the motion passed 4 to 0.

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10:55 - JOHN CAMPBELL, ROBERT A. CARLONE & JAMES H. McMULLIN, A PARTNERSHIP a.m. appl. under Section 30-2.2.2005162 of SUP. uses and CG here to permit private storage lockers to be constructed, 7511 Fordson Road, 92-4 (1)64, (2.0039 acres), Lee District, (CG), S-278-75.

Mr. McMullin, 4040 North Fairfax Street, represented the applicants before the Board. Notices to property were in order.

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Mr. McMullin stated that this is a partnership/formed to construct this facility. The land is owned by three Campbell brothers. There is a memorandum of agreement between the three people.

Mr. Smith stated that the Board would have to have a copy of the agreement, and the lease or some type of agreement between the partnership and the owners of the land before this Board could hear this case unless the application was amended to reflect only the owner of the property.

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The application was amended with the concurrence of all partners and the owners of the property to read Alan E. Campbell, et al. the record owners of the property. 061

Mr. McMullin acting as agent for the owners with the concurrence of the owners stated that this is a vacant parcel of ground. There is a motel directly in back of this site, a shoe store to the rear also. They conducted a marketing survey. 79 percent of the families surveyed said they like this idea, 46 percent indicated a positive intent to use the facility and only 21 percent responded negatively. He stated that regarding the comments of the Dept. of Comprehensive Planning to downzone this property, he had contacted the Supervisor for the District and the owners of the contiguous properties that would also be downzoned and they were all very surprised about it. Mr. Joe Alexander, the Supervisor for this District, said that it was never his intent that this be downzoned and he felt it should remain in the C-G zoning category. There are 24 listed uses by right for this C-G zone, most of which would have more traffic impact and other impact to the residential community than would this use. This use is not in any sense an industrial use because it has no appeal to industrial users. He stated that they believe that this use will provide a reasonable use for the land.

Mr. Kelley stated that he felt that the Office of Comprehensive Planning has made studies of this area and the Board should strongly consider their comments which suggest that the use proposed in this application is inappropriate to the subject parcel of land in terms of the currently effective Comprehensive Plan.

Mr. Smith stated that this land is currently zoned C-G and the applicant has the right to use the land for any C-G use.

Mr. McMullin stated that they had met with the New Hybla Valley Citizens Association on two occasions and he felt that that association had no objections to the use as they propose, but they wish to have several conditions added to the resolution if the Board grants this use.

Mr. Smith read a letter that had just been received from that association. It contained several conditions and requests that the Board of Zoning Appeals had no control over.

Mr. Kelley made a motion to deny the application.

Mr. Runyon stated that he did not know what the rule is, but he would second Mr. Kelley's motion for the purposes of discussion even though he had no intention of supporting it. He stated that he felt that this proposed use is one of the best uses that could be put on this parcel of ground. It would be a very quiet use and would generate less traffic than practically any other C-G use and the traffic that is generated would be during off-peak hours. He asked Mr. Kelley what standards he felt this use did not meet. He stated that the Board granted a similar application down on Route 1.

Mr. Smith stated that he thought there was undeveloped RE-1 land across the street from that property down on Route 1.

Mr. Runyon stated that it nevertheless was residentially zoned land that could be developed.

Mr. Smith stated that the citizens association has requested an 8' fence which would probably shield this use from the residential area, but this Board has no authority to grant a variance for an 8' fence to be placed on this property. He stated that he felt this is an intense use with total lot coverage.

Mr. Runyon stated that there is no restriction on lot coverage in any C-G use.

Mr. Kelley stated that in answer to Mr. Runyon's question on compliance with the standards for Special Use Permit uses in C or I districts, that he felt this use would have a visible impact on the residential area that would make it incompatible with that area.

Mr. Swetnam stated that this is a far better use than a 7-11 store would be for instance.

The vote was: Messrs Smith and Kelley voting Aye for the motion and Messrs. Runyon and Swetnam voting No against the motion. The case was not resolved. Mr. Runyon moved that this case be deferred to no later than Feb. 17 for decision only in order for Mr. Barnes to listen to the tapes and study the case and possibly vote on the resolution. The motion to defer was seconded by Mr. Swetnam and passed 4 to 0.

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The Board recessed at 1:30 and returned at 2:40 to take up the following case.
11:15 - ROBERT A. CARLONE, CHARLES T. McCOURT & JAMES H. McMULLIN, A PARTNER-
S.H.P. SHIP, S-279-75.

This hearing started at 2:40.

Mr. McMullin requested that this case be deferred because they do not have a partnership agreement drawn up as yet.

There was no one in the room interested in the case other than the applicants.

Mr. Runyon stated that there had been someone present interested in this case and she left a note that she would like for the applicant to contact the Bren Mar Citizens Association concerning several minor items on this application.

Mr. McMullin stated that the applicants would be glad to contact that citizens association.

Mr. Runyon moved that the case be deferred until February 10, 1976 for a full hearing.

Mr. Swetnam seconded the motion and the motion passed unanimously.

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11:35 - (MRS.) JANE A. ROGERS T/A TARA SCHOOL, INC. appl. under Section 30-7.2.6.1.3 of the Ord. to permit renewal of SUP for school of general education, 1426 Crowell Road, 18-2((3))4, (6.52 acres), Dranesville District, (RE-2), S-273-75.

Mr. Rogers presented notices which were in order. He stated that this request is for an extension and there will be no other change in the use. Mary Gwinn, resident across the street from the subject application, and Vice-President of the Crowell Corner Civic Association, stated that they are in favor of the granting of this request, but hopes that there will be no expansion in the future.

Mr. Rogers stated that he has a minister present to speak in favor.

Mr. Smith stated that he had not indicated that he wished to speak at the time he called for speakers in favor of the application, but he would make a note of it for the record.

Mr. Rogers requested that there be no limitation as to number of years on this Special Use Permit.

Mr. Smith stated that that is the Board's policy not to grant for any more than five years unless the use is in a school or church building.

RESOLUTION

In application S-273-75 by Jane A. Rogers T/A Tara School, Inc. under Section 30-7.2.6.1.3 of the Zoning Ordinance, 1426 Crowell Road, 18-2((3))4, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 3, 1976.

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

1. That the owner of the property is Ross F. and Jane A. Rogers.
2. That the present zoning is RE-2.
3. That the area of the lot is 6.52 acres.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.

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

4. The granting of this Special Use Permit does not constitute an exemption of the requirement of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. This permit runs for five years from the date of expiration, July 18, 1976 to July 18, 1981.

7. All terms and conditions set forth in S-231-71 granted January 18, 1972 shall remain in effect.

Mr. Runyon seconded the motion. The motion passed 4 to 0. Mr. Barnes was absent.

February 3, 1976

DEFERRED CASES: HUTCHISON, V-245-75 (Deferred from 1-8-76 to give the applicant an opportunity to clear violations.)

Mr. Koneczny, Senior Zoning Inspector, stated that some of the violations have been cleared. There are still two vehicles on the premises that do not have inspection stickers and they are in no condition to get inspection stickers. The newspapers and trash has been cleared out of one of the vehicles, however. He has removed the dump truck, so there has been some improvement.

Mr. Hutchison said that the other vehicle would be off the property by the end of the week. He gave a lengthy reason why he had not yet removed it.

The decision of the Board was to not make an affirmative decision on this case as long as there are outstanding violations. This has been the general policy of the Board in time past. The Board will take action on the 17th of February and the applicant is to clear all violations by February 7, 1976. If the applicant hasn't cleared the violations, the Board may have to deny this application. This was Mr. Runyon's motion to defer. Mr. Kelley seconded the motion. The motion passed unanimously.

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February 3, 1976

DEFERRED CASES: STUART STREET MEDICAL ASSOC. LTD. & WOODLAKE TOWERS, S-274-75 (Deferred from 1-28-76 for proper notices.)

The applicants were represented by Mr. Steven Best, 4069 Chain Bridge Rd., Fairfax. Notices were presented to the Board by way of signatures from all the people to whom certified notices had been sent. These people certified that they had previously received certified letters notifying them of this hearing. Mr. Best stated that he had sent those receipts to the Clerk's Office by his secretary. However, those receipts are not in the file and there is no indication on the front of the file as there usually is when notices have been turned in that those receipts had ever been received.

The Board reluctantly accepted this type notification.

Mr. Best stated that this application is for Stuart Street Medical Associates. They are presenting this application for a Special Use Permit to locate medical offices in building number 2 of Woodlake Towers. Some years ago a permit was granted for doctors and dentists for building number 1 as part of the uses that were allowed in Col. 2 of Section 30-2.2.2 RM-2 uses. Woodlake Towers also constructed separate commercial facilities in building number 2

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for the same uses. It has been determined that the Board can allow a doctor's office in this particular building as one of those uses. The Zoning Administrator had allowed those uses in building number 1 and there was a question whether the same uses could be permitted in building number 2, but there was an agreement between the County Attorney and Woodlake Towers that those uses could be permitted by the Board of Zoning Appeals. There was an agreed Order that was signed on April 17, 1975 which was the result of discussions with the Zoning Administrator, the County Attorney and his clients. The Court then, in effect, held that this Board could consider the application of doctors and dentists in this building.

Mr. Smith stated that there had been a change in Zoning Administrators since the first application.

The statement in the file indicated that there would be four physicians, all licensed to practice in the State of Virginia, and ten employees. The medical office would be located in the commercial section of the building, located on the ground floor, away from the residential section of the building. There are currently no physicians in any of the three buildings to serve the tenants of the building. The hours of operation would be from 9:00 a.m. to 5:00 p.m., Monday through Friday. The maximum number of patients that would be in the office at any one time would be fifteen, and the normal number of patients would be ten. The average number of patients in the office during the day would be between fifty and sixty. The traffic impact would be minimal as it would be during non-peak hours.

Mr. Covington confirmed that this application was filed under the property section of the Ordinance which says that he can have limited commercial facilities within a multi-family dwelling, such as drugs, perfumery, florist, barber or valet, beauty shop, news stand, coffee shop, deli, stenographic service or a use similar to the above provided such facilities are designed primarily for the use of the residents of the multi-family dwelling and further that there shall be no entrances direct from the street to such businesses and no signs or other evidences indicating the existence of such businesses visible from the outside of the building.

There was no one to speak in favor or in opposition.

RESOLUTION

In application S-274-75 by Stuart Street Medical Associates, Ltd. and Woodlake Towers, Inc. under Section 30-2.22 Col. 2 RM-2 M to permit medical offices on property located at 3100 South Manchester Street, 51-4((1))part of 14, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 28, 1976 and deferred to February 3, 1976.

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

1. That the owner of the subject property is American Trading Real Estate Company, Inc.
2. That the present zoning is RM-2M.
3. That the area of the lot is 11.6957 acres.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

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date of expiration.

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The hours of operation are 9:00 a.m. to 5:00 p.m., Monday through Friday

7. The maximum number of patients is to be 15 at any one time.

8. The parking for this use shall not interfere with that of the normal residents of the project.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Barnes was absent.

COURTNEY SCOTT, V-244-75 (Deferred from 1-8-76 to give the applicant an opportunity to see if he could move the pool away from the property line.)

Mr. Scott had presented new plats showing the pool 12' from the property line. The original plat showed the pool 8' from the property line. He stated that this is as far as he is able to move the pool because of the shape of the lot and the flood plain easement. He stated that he had applied for permission to partially build in the flood plain.

RESOLUTION

In application V-244-75 application by Courtney Lee Scott under Section 30-6.6 of the Zoning Ordinance to permit a swimming pool to be constructed closer to the side property line than allowed by the Ordinance (8' from side, 20' required), 6950 Kyleakin Court, 21-4((17))38, Dranesville District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous property owners and property owners across the street, and a public hearing by the Board held on January 8, 1976 and deferred to February 3, 1976, and

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 32,948 sq. ft.

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

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

- (a) exceptionally irregular shape of the lot,
- (b) exceptional topographic problems of the land, including the rear portion of the lot being in flood plain.

NOW, THEREFORE, BE IT RESOLVED that the subject application be and the same is hereby granted in part with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not

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transferable to other land or to other structures on the same land.

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

3. This variance is for a 10 foot side yard.

4. This variance shall expire if the Board of Supervisors does not grant permission to construct within the flood plain.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Kelley seconded the motion.

The motion passed 4 to 0. Mr. Barnes was absent.

AFTER AGENDA ITEM: COLIN DEVELOPMENT COMPANY, V-241-75, V-242-75 & V-243-75.

Mr. Ed Dove came before the Board and stated that these three cases are scheduled for February 10, 1976. However, he has not been able to get the notices out. He stated that he arrived at the Post Office at 5 minutes 'till 12:00 Noon last Saturday, but the Post Office would not allow him to send these letters since they were preparing to close.

In answer to Mr. Smith's question, Mr. Dove stated that all three houses are sold. The builder has been cited with violation notices. They did not know the houses were in violation until they were informed by the County.

Mr. Runyon stated that this request is concerning decks that have been constructed to the rear of these houses. The deck construction comes under a section of the Ordinance where there is great controversy and there are two different interpretations within the Zoning Office. He moved that these cases be deferred until March 16, 1976. He stated that at the time these three cases were originally scheduled there was no one present interested in the cases other than the applicant.

Mr. Kelley seconded the motion. The motion passed unanimously.

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MEETING DATES FOR MARCH 1976.

The Board approved March 2, 9, 16 and 23, 1976 for meeting dates. There is a backlog of cases which will require the fourth meeting to be held in order to comply with State Code requirements.

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DISCUSSION ON NEW NOTIFICATION PROCEDURE - The Board discussed the opinion from the Attorney General which stated that the Board of Zoning Appeals notification processes does not come under the new amendment to the State Code that requires that all contiguous property owners and property owners across the street be notified. The Board discussed what type of notification procedure it would require under its by-laws. It was the Board's decision to wait until next week's meeting to arrive at a final decision on this. Mr. Smith's suggestion was that the Board go back to the original method of notification to property owners which was notify at least 5, 2 of which must be contiguous to the property in question. He stated that he felt that the 5 should be changed to 10. The Board did not vote on this, however.

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FAIRFAX BAPTIST TEMPLE. The Board was in receipt of a letter from Virginia G. Bullard, 4820 Twinbrook Road, Fairfax, dated January 30, 1976 enclosing a signed statement from Francis M. Rush, 4816 Twinbrook Road and David J. Yamarik, 4810 Twinbrook Road, stating that they had not been notified.

Mr. Smith stated that the Real Estate Assessments Department does not reflect the owners to be Rush and Yamarik. The owners of record were notified in accordance with the Board's instructions and were, therefore, in order. He asked the Clerk to so notify Mrs. Bullard.

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REQUEST FOR REHEARING - CROWN CENTRAL PETROLEUM, S-218-75

Mr. Smith read a letter from Mr. James R. Tate, attorney for Edsall Park Civic Association, requesting a rehearing. The basis for the request was that the public had no reasonable notice prior to the BZA hearing on the Crown application that the Board of Supervisors would grant a Susquehanna rezoning application, since the Planning Commission had unanimously recommended that the Susquehanna application be denied.

Mr. Smith stated that this is not a basis for a rehearing by this Board. The zoning on the property under application by Crown was zoned C-N at the time the Board heard the case. The owner has the right to use his land under the C-N zoning. It happened that the owner had requested a Special Use Permit, but there are many uses that could go in there by right.

Mr. Kelley stated that he agreed. He stated that when the Board of Supervisors granted the Susquehanna rezoning, they were aware of the C-N zoning of this parcel.

Mr. Swetnam moved that the request for a rehearing be denied.

Mr. Kelley seconded the motion.

The motion passed 3 to 0. Mr. Runyon abstained as he did on the decision on this case since he had done some engineering work for Crown.

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The meeting adjourned at 4:45 P.M.

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Jane C. Kelsey
By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to BZA Feb. 17, 1976

APPROVED March 2, 1976
DATE

Submitted to Board of Supervisors,
Planning Commission and other
Departments March 3, 1976

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The Regular Meeting of the Board of Zoning Appeals met in the Board Room of the Massey Building on Tuesday, February 10, 1976. Present: Loy Kelley, Vice-Chairman; George Barnes; Charles Runyon and Tyler Swetnam. Mr. Daniel Smith, Chairman, was not present.

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The meeting was opened with a prayer by Mr. Barnes.

Mr. Kelley announced that he would be Chairing the Board for the day because Mr. Smith was in the hospital.

10:00 - ALBERT COHEN appl. under Sect. 30-6.6 of Ord. to permit construction of warehouse closer to ingress-egress easements than allowed by Ord., (6' to center line of easement on w. side of prop. and 20' from center line of easement on n. side of prop.; 75' required), 2926-2966 Telestar Court, 49-4(1)44, (83,722 sq. ft.), Providence Dist., (IL), V-250-75 (Deferred from 12-17-75 for proper notices).

Mr. Laurence G. Roman, attorney and agent for the applicant, presented notices to property owners which were in order.

Mr. Roman stated that Mr. Cohen was the first to develop property in the Telestar complex and he put in the road that is Telestar Court. Approximately three years, Mr. Cohen attempted to develop the parcel that is before the Board today. He was ready to go forward and the sewer moratorium was imposed. He had intended at that time to construct condominium office space; however, he did not go through with this because when the sewer moratorium hit, he lost his financing. Thereafter, the economy was in such a state that it was no longer feasible to construct that type of structure. The present plan is to put up small warehouse space in conformity with the type of structures that are permitted in that area. In order to make use of the new concept, Mr. Cohen would have to extend the building to the property lines just as he had when the plan was originally approved for the original construction. Up until a few months ago, he could have gone ahead with his original plans that were approved by the Site Plan Office in 1972, at which time he could have constructed the building up to the property line as he has now planned. When they came in to revise that site plan, they were told that it was not a revision but a complete new plan because of the change in the structure. That change related to putting up a one story structure instead of three stories. The property contains 83,722 square feet and has a 75' from center line setback requirement. The taking of that 75' setback would result in the taking of 40,000 square feet. The property has two fronts and requires two front setbacks. This required setback would result in the confiscation of the property if these setbacks are imposed. Any setback at all almost destroys the economic feasibility of constructing the warehouse as proposed. The ingress-egress easements that they are required to set back from are undeveloped roads.

Mr. Kelley stated that he had viewed the property and this is quite an unusual situation. The road seems to be used but it is only a dirt road and extremely narrow.

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

Mr. Steve Luxford, attorney for Mr. Heath who is owner of Henry's Wrecker Service, stated that on Mr. Heath's behalf he would ask the Board to deny this application. Mr. Heath owns lots 39 and 40 which are contiguous with Mr. Cohen's property. There is a lot of confusion concerning the road. He stated that his client originally used Randolph Road, but the Circuit Court early this year said they could not use that road, therefore, his client has to go up Mayberry to Porter and up Porter to Gallows Road to get access to his property. To do that it is necessary to go past Mr. Cohen's property. A corner of Mr. Cohen's warehouse is proposed to abut the road. He stated that his client operates a towing service and uses both small and large tow trucks. The road is only 12' wide at present. They are presently in negotiations with the County to widen Mayberry and to make some improvement to that access road to Gallows Road. To place a warehouse up to the property line on that road would constitute a traffic hazard for Mr. Heath's trucks or for any other persons who must use this road. Therefore, they are object to this variance request. They are, however, willing to try to work out this problem with Mr. Cohen and they have made overtures to him, but he hasn't given them any response at all.

In answer to Mr. Kelley's question, Mr. Luxford stated that the Court declared this a public road early this year.

Mr. Frank E. Williams, Jr., president of Williams Enterprises, owner of Lot 41 which is adjacent to the subject property, stated that he has been a party

to the Court litigation over the usage of these streets in this particular area. He stated that they were forced by the Court to use Ransell Road which was their primary access. They were forced to use Porter Road which comes into Mayberry Street, which is the street in question, and is 12' wide. He stated that he operates a steel construction business and has a great deal of traffic in and out of that road. They have been there since 1964, before Mr. Cohen was there. That road was used at that time. He stated that he did not think that even under the previous Zoning Ordinance prior to 1959, would Mr. Cohen have been able to construct his proposed building up to the property line. He stated that he and the other property owners that use that road have been in negotiations with the County Attorney and the State Highway Department and they have had some indications that Mayberry will be widened. Certainly if a building is put right to the property line, the State could not widen the road. He stated that they have the right of access to their property. The property was rezoned by the Board of Supervisors for industrial uses. He stated that this proposed construction would certainly affect their properties adversely.

Mr. Robert Wright, who stated that he has interest in some property along this 12' easement that is the subject of discussion today, spoke in opposition to this application based on the same reasons as the previous speakers who spoke in opposition.

Mr. Roman, in rebuttal, stated that he felt they were entitled to some relief since one-half of their property would be unusable if they have to comply with the present setback requirements. He stated that he also felt they should have some relief since the County had previously approved a plan with a building up to the property line just as they have now proposed.

Mr. Kelley stated that this is past history and this Board has no control over what the County might have approved. The Board has to consider each case on its own merits based on the requirements of the Zoning Ordinance.

There was no one else to speak on this application and the public hearing was closed.

RESOLUTION

In application V-250-75 by Albert Cohen under Section 30-6.6 of the Zoning Ordinance to permit construction of warehouse 6' to center line of easement on the west side of property and 20' from center line of easement on north side of property (75' required), 2926-2966 Telestar Court, 49-4((1))44, Providence District, County of Fairfax, Virginia, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local news paper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 10, 1976, and

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

1. That the owners of the property are Albert and Betty Cohen.
2. That the present zoning is I-L.
3. That the area of the lot is 83,722 sq. ft.

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

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

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion. He stated that the road is too narrow now and to build the building up to the property line would make it hazardous. He felt the Board could not do anything with this request as of now.

Mr. Runyon stated that there is a problem with access into those areas to the rear and the Ordinance says that principal access is that which is provided to properties to the rear, whether it is an existing street or not. To grant this variance would limit greatly what could be done with this access. It would jeopardize any alternatives. This application does not meet the hardship requirements as stated in the Ordinance. The only hardship that has been shown

has been economic hardship and that is one that this Board cannot consider.

The motion to deny passed 4 to 0. Mr. Smith was absent.

10:20 - SALVATION ARMY appl. under Sections 30-7.2.5.1.3 and 30-7.2.6.1.11 of a.m. the Zoning Ordinance to permit construction of church and institution for temporary care and housing of children, east side of Route 123 and Route 620, 68-1((1))11, (218,037 sq. ft.), Annandale District, (RE-1), S-281-75.

Frank Eubanks, representing the applicant, submitted notices which were in order.

Mr. Eubanks stated that they presently are located in an old building and they have great need for a new location. They hope to erect a 21,000 square foot building at the subject site to house a chapel and an emergency children's shelter. This children's shelter would be available for children from 2 years of age to 12 years of age. These would not be children who have had any mental problems or police problems or anything of that nature, but those children who have met with catastrophes such as fires in the home or domestic relations cases. The shelter will be designed to provide a home-like atmosphere in a healthy environment for children who will require a temporary sanctuary until their own homes are ready or other permanent arrangements can be made. The children will stay in this sanctuary less than 30 days, housing 30 children. The proposed structure will be a warm brick building set back from Route 123 and any residence, with only the Chapel and Salvation Army masthead projecting toward the road, becoming an architectural symbol of the Corps' dual nature. The traditional Salvation Army insignia will be cast in metal and embrace flagpoles carrying the banners of our Country, our State and the Corps. A graphic interpretation of the insignia's inscription, "Blood and Fire," will be rendered in stained glass, set in a pylon at the center of the Chapel facade. The blood of Christ will be represented with three brilliant red drops below a blue and white dove representing the Holy Spirit. Yellow-orange flames will rise above. The rich hues of these symbols will shine brightly to the interior during the day and softly glow to the outside after dark.

Mr. Eubanks stated that character building and community service will be the primary motivation for activities in the multi-purpose building, library, crafts and games rooms. These well-equipped spaces will serve as double-duty assembly rooms, Home League room, dining room or classrooms.

He stated that the entire property will be fenced to allow added protection to adjacent property owners. The building design will be compatible with existing nearby structures. The Commanding Officer's residence will be built on Princess Anne Court and will be fenced for the privacy of the Commander and his family.

Mr. Eubanks stated that about 19 letters of endorsement have been sent in to the Board.

Mr. Kelley acknowledged receipt of these letters. Mr. Kelley stated that over 315 people in Fairfax County have signed the Petitions in support of this application.

In answer to Mr. Runyon's question, Mr. Eubanks stated that they intend to comply with all County Ordinances and they will dedicate as requested by the Department of Preliminary Engineering.

Mr. Shear, who lives in the adjacent community and is president of the Country Club View Civic Association, stated that his association had a special meeting and they would like to encourage approval of this application.

There was no one to speak in opposition. There were no letters in the file in opposition.

Mr. Kelley stated that he wanted to state for the record that it is a pleasure to see such community spirit and cooperation. He stated that in this case the community has worked with the applicant and the applicant has worked with the community.

Mr. Eubanks, in answer to one of the Board member's questions stated that the facility will be used by 150 parishioners. They will have 7 regular employees. The Children's shelter will be directed by professionals. The facility is to serve all of Fairfax County.

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Mr. Runyon stated that it is with pleasure that he offers the following motion in application S-281-75 by Salvation Army under Section 30-7.2.5.1.3 and 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of church and institution for temporary care of children on property located at east side of Route 123, 1500' south of Route 620, 68-1((1))11, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS; following proper notice to the public by advertisement in a local newspaper; posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 10, 1976.

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

1. That the owner of the subject property is Trustees of Presbytery of Potomac, Inc. The applicant is the contract purchaser.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.00544 acres.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith was absent.

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- 10:40 - JAMES H. BOONE T/A JAMES II AUTO SALES appl. under Section 30-7.2.10. a.m. 5.4 of the Zoning Ord. to permit increase in number of displayed cars to 23 cars, 6236 Richmond Hwy., 83-3-(1)22A, (20,310 sq. ft.), Lee District, (CG), S-283-75.
- 10:40 - JAMES H. BOONE AND DWYER, INC. appl. under Section 30-6.6 of the Ord. a.m. to permit display area closer to front property lines than allowed by Ord., (20' from line, 50' required), 6236 Richmond Hwy., 83-3((1))22A, (20,310 sq. ft.), Lee District, (CG), V-284-75.

Notices to property owners were presented to the Board by Mr. Victor Rinaldi, attorney for the applicant.

Mr. Rinaldi stated that the plat before the Board will show the effect of the 40' setback that is required from both streets, and the sharpness of the angle of the property and its configuration. Because of these factors, only 15.19 percent, or 3,087 of the 20,310 sq. ft. of this property is usable for display. The applicants recognize that the original fifty foot setback requirements have been waived to 40' because of the cooperation by the owner in the dedication of property for street widening. An extreme hardship is imposed not only

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by the forty-foot setback requirement, but also, the topography of the subject property, which lies substantially lower than Richmond Highway and presents absolutely no obstruction to the visibility of passing motorists on Richmond Highway or Kings Highway.

Mr. Covington confirmed that the setback requirement for this particular piece of property is 40 feet.

Mr. Rinaldi stated that this request is for an amendment to an existing Special Use Permit that was granted by this Board on March 26, 1975. At that time a limitation was imposed for 10 cars which Mr. Boone felt he could live with. However, since he had not been in this business for himself at this location previously, there were several unknowns. He had thought that he would sell the larger, higher priced car and, therefore, would not have the turnover that the smaller, cheaper cars would have. Because of the general economy and the gasoline prices, the larger cars were not selling and he has been selling the smaller economy cars which requires a larger turnover in order to make a profit. He also must buy from a buyer who comes around on occasion and offers to sell him a group of cars. If Mr. Boone cannot buy the entire lot, the buyer will not sell him any cars at all. The limitation of 10 cars on the lot at any one time has severely restricted Mr. Boone in his business.

Mr. Rinaldi stated that this use is not a permanent use, but a temporary interim use of the property. He asked the Board to grant this Special Use Permit for a limited period in order for Mr. Boone to continue in this business until such time as the owner can develop the entire parcel of land.

The Board discussed the comments that were made by Preliminary Engineering and also the comments made by Charles F. Lewis, Area IV Plan Manager.

Mr. Rinaldi stated that the previous use of this property was for the sale of recreational vehicles which created a much greater impact on the neighborhood than this use. The owner has sought to find a use that could accommodate this property, but with little success with the exception of a used car lot.

Mr. James Boone, 5819 Shallott Court, Alexandria, Fairfax County, stated that he had never done business in Fairfax County before he started this project. He signed a 5 year lease and then found out that he had to come before this Board and get a Special Use Permit. He stated that he had tried to operate without having any violations. He stated that he would be happy if the Board would allow him to have 5 or 6 cars. He stated that if he did not get a few more cars, he would not be able to survive. He had to let his employees off. This is a small operation.

Mr. Swetnam stated that Mr. Runyon has been working with the plat and has come up with several alternative plans for the display area. He asked Mr. Rinaldi and Mr. Boone to come forward and look at the plan Mr. Runyon had drawn.

Mr. Rinaldi looked at Mr. Runyon's plan and was satisfied that it was a workable plan.

Mr. Runyon stated that the way he had drawn the display area, it would allow display 20' from Kings Highway, but the 40' setback requirement would remain along Richmond Highway.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-283-75 by James H. Boone T/A James II Auto Sales under Section 30-7.2.10.5.4 of the Zoning Ordinance to permit the number of display cars to 20 on property located at 6236 Richmond Highway, 83-3((1))22A, County of Fairfax, Virginia, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 10, 1976.

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

1. That the owner of the subject property is Dwyer, Inc. The applicant is the lessee.
2. That the present zoning is C-G.
3. That the area of the lot is 20,310 sq. ft.
4. That the site is presently operating under Special Use Permit S-33-75 granted March 26, 1975.
5. That the proposed use is an interim use only.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C Districts as contained in Section 30-7.1.2 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. There shall be a display area for a total of 20 cars.
7. March 1980 shall be the expiration date of the revised Special Use Permit.
8. All other provisions of the existing Special Use Permit shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith was absent.

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In application V-284-75 by James H. Boone and Dwyer, Inc. under Section 30-6.6 of the Zoning Ordinance to permit display area closer to front property lines than allowed by Ord. (20' from line, 40' required), 6236 Richmond Highway 83-3((1))22A, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 10, 1976, and

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

1. That the owner of the property is Dwyer, Inc.
2. That the present zoning is C-G.
3. That the area of the lot is 20,310 sq. ft.

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

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

- (a) exceptionally irregular shape of the lot,
- (b) exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part with the following limitations:

- 1. This approval is granted for the location and the specific displayed area that is indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This variance shall run for five (5) years and is subject to receipt of revised plats.
- 4. The variance is to permit a 20' restriction line from Kings Highway only and the U.S. 1 restriction of 40 feet that is required by the Ordinance shall remain in effect.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain a non-residential use permit and the like through the established procedures.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Smith was absent.

Mr. Boone expressed his appreciation to the Board. He stated that for the last year he felt that everyone in the County was against him and he had lost confidence, but he felt that this Board and its members were really human beings.

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11:00 - JOHN B. POZZA appl. under Section 30-6.6 of the Zoning Ord. to permit a.m. enclosure of carport closer to side prop. line than allowed by Ord. 7914 Lake Pleasant Drive, V-285-75.

Mrs. Rita Pozza appeared before the Board, but she did not have notices that had been mailed at least 10 days prior to the hearing. She requested a deferral.

Mr. Swetnam moved that the case be deferred until March 23, 1976 to give the applicant an opportunity to properly notify property owners.

Mr. Barnes seconded the motion.

There was no one in the room interested in the application either in favor or in opposition.

The motion passed 4 to 0. Mr. Smith was absent.

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11:15 - ST. MARK'S CATHOLIC CHURCH appl. under Section 30-7.2.6.1.11 of the a.m. Zoning Ord. to permit construction of additional parking, 9970 Vale Road, 37-4((1))42, (19.62194 acres), Centreville District, (RE-1), S-286-75.

The hearing began at 11:50 a.m.

Rev. Cassidy, pastor of the church, submitted notices to property owners which were in order.

Rev. Cassidy stated that this request is to permit the addition of 138 spaces in their first phase and 36 spaces in the second phase. They presently have 89 spaces. This would make a total of 263 parking spaces. The church has a seating capacity of 650, which requires only 130 parking spaces. However, they are serving approximately 1,000 families who attend seven services on the weekend. The services during holidays have about twice the attendance and the lack of insufficient parking creates a hazardous condition since many of the

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people park on the adjacent streets. The membership of the church has been growing as the area continues to add new houses. There are 2 new developments under construction now that are within the confines of their parish.

076

There was no one to speak in favor or in opposition.

RESOLUTION

In application S-286-75 by St. Mark's Catholic Church under Section 30-7.2.6 .1.11 of the Zoning Ordinance to permit additional parking, 9970 Vale Road, 37-4((1))42, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 10, 1976.

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

1. That the owner of the subject property is Catholic Church Diocese of Arlington.
2. That the present zoning is RE-1.
3. That the area of the lot is 19.62194 acres.
4. That the church is an existing church.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be in conformance with the requirements of the Director of Environmental Management.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0.

Mr. Smith was absent.

DEFERRED CASES:

11:30 - DON SIDER & COLIN DEVELOPMENT CORP., V-241-75,
a.m. EDMUND VAN GILDER & COLIN DEVELOPMENT CORP., V-242-75,
SAUL A. JACOBS & COLIN DEVELOPMENT CORP., V-243-75.

These cases were deferred from 12-17-75 for proper notices. The applicant appeared before the Board at the last meeting and requested a second deferral since he had again failed to get the notices out on time. In view of the fact that there had been no one present interested in these applications at the time of the original hearings, the Board deferred these cases to March 16, 1976.

There were two ladies present in the audience who stated that they wished to speak in favor of these applications.

Mr. Kelley stated that it would not be necessary for them to return at the March 16, 1976 meeting. The decks are already constructed and come in under the mistake section of the Ordinance. He stated that he saw no problem with these applications.

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DEFERRED CASE:

12:10 - KRISPY KREME CORP. V-275-75, 5616 Leesburg Pike, C-G, appl. under
p.m. Sect. 30-6.6 of Ord. to permit construction of addition closer to
front property line than allowed by Ord. (Deferred from 1-22-76 for
proper notices.)

Mr. Joseph Messick, Winston Salem, North Carolina, represented the applicant before the Board.

Mr. Messick stated that they need the variance in order to construct better restroom facilities in accordance with Health Department requirements. There is no place else on the property to add this addition due to existing easements.

In answer to Mr. Kelley's question, Mr. Messick stated that they plan to use the same type materials as are in the existing building.

Gladys Beaver, 3445 Rockspring Avenue, Falls Church, spoke before the Board. She stated that she was speaking also for Mr. and Mrs. Edward W. Cate, Jr., 3450 Rock Spring Avenue and the residence located at 3447 Rock Spring Avenue. Mrs. Beaver stated that their primary concern is the screening of the building from the residential area adjacent to this property. She stated that proper screening is needed to relieve the neighbors from the noise created by this use. They are concerned that the building will be extended so that only 15' will exist between their building and the property line. She stated that most of the parking is done on the Rock Spring Avenue side and not the other side. There is only one entrance and exit to this shop and that is also on the Rock Spring Avenue side. If there was an entrance on the other side, people would park there and that would create less impact on the residential neighborhood.

The Board showed Mrs. Beaver a copy of the plats showing the proposed addition.

Mr. Kelley read into the record the letter from the Health Department requiring the applicant to install restroom facilities in accordance with the Code which necessitated this addition and caused the need for the variance.

There was no one else to speak on this application.

Mr. Swetnam stated that he had prepared a motion and he felt the conditions that he would include in his motion would cover the problems Mrs. Beaver has mentioned.

RESOLUTION

In application V-275-75 by Krispy Kreme Corp. under Section 30-6.6 of the Zoning Ordinance to permit construction closer to front property line than allowed by Ord., 5616 Leesburg Pike, 62-1((3))1 & 3 & ((1))12A, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeal adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property

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077

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owners, and a public hearing by the Board held on the 22nd of January, 1976 and deferred to February 10, 1976 for proper notices, and

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

1. That the owner of the property is Rudolph Investment Corp.
2. That the present zoning is C-G.
3. That the area of the lot is 35,044 sq. ft.

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

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

(a) exceptional topographic problems of the land, i.e. existing easements.

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. That the architectural appearance shall conform to that of the existing building.
4. That landscaping and screening is required and shall be as directed by the Director of Environmental Management.

Mr. Barnes seconded the motion.

The motion passed 3 to 0. Mr. Smith was absent. Mr. Runyon abstained.

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DEFERRED CASE:

PLEASURELAND TRAVEL CENTER, INC., S-221-75, appl. under Sec. 30-7.2.10.5.4 to permit continued display, sales, service, rental and storage of recreational vehicles, 8131 Richmond Hwy., 101-2((1))28.

PLEASURELAND TRAVEL CENTER, INC. appl. under Sec. 30-6.6 of the Ord. to permit display area within 15' of front property line (50' required), V-222-75.

(These cases were deferred from January 14, 1976, for new plats showing no display spaces in front of the existing building and proper leases. The plats should also show only that area that will be used for this operation and should not include the machine shop.)

The plats had been received and were reviewed by the Board members. The lease and sublease had been submitted for the file.

Mr. Martin, the president of the corporation, stated that the engineer had also changed the entrance and driveway through the property. That drive is now adjacent and south of the C & M Machine Shop. This will get the customers further off the street and will be safer for them. He stated that the plat now shows 19 customer parking spaces. The display spaces has been reduced to 24 spaces along the front. These spaces are in line with the building.

Mr. Runyon stated that, as he remembered from the public hearing, this was to be an interim use for this property.

079

In application S-221-75 by Donald F. Dorris & Gloria A. Dorris and Pleasureland Travel Center, Inc. under Section 30-7.2.10.5.4 of the Zoning Ordinance to permit continued display, sales, service, rental and storage of recreational vehicles on property located at 8131 Richmond Highway, 101-2 ((1))28, Mt. Vernon District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on the 2nd day of December, 1975 and deferred to subsequent dates to February 10, 1976, and

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

1. That the owner of the property is Donald F. and Gloria A. Dorris.
2. That the present zoning is C-G.
3. That the area of the lot is 28,410 sq.ft.
4. That compliance with the Site Plan Ordinance is required.
5. That the applicant has been operating a sales and rental lot for recreational vehicles pursuant to Special Use Permit S-93-71 granted June 1, 1971. A requested variance V-91-71 to permit display area 20' from U.S. #1 was denied.
6. A Non-Residential Use Permit was not obtained pursuant to S-93-71 and the Special Use Permit expired June 1, 1972. On August 28, 1975, Notices of Violation were issued for operating without a Special Use Permit and for displaying merchandise within the required 50' setback.
7. The current applications seek to renew S-93-71 with a variance to permit display area to 15' from U.S. #1.
8. The rear portion of the lot is zoned R-17, which apparently was not known at the time of the 1971 granting. Vehicle storage on that part of the lot, as indicated on the plat, would not be permitted. The existing buildings on the C-G portion of the lot are non-conforming as to the required setback from the R-17 zoning boundary line.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without Board approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The permit shall run for Two (2) concurrent years, along with the variance, V-222-75.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith was absent.

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RESOLUTION

In application V-222-75 by Donald F. and Gloria A. Dorris and Pleasureland Travel Center, Inc. under Section 30-6.6 of the Zoning Ordinance to permit display area within 20' from front property line (50' required), 8131 Richmond Highway, 101-2((1))28, Mt. Vernon District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on December 2nd, 1975 and deferred to February 10, 1976.

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

1. That the owner of the subject property is Donald F. and Gloria A. Dorris
2. That the present zoning is C-G.
3. That the area of the lot is 28,410 sq. ft.
4. That the use is an interimmuse only.

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

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

- (a) exceptionally narrow lot,
- (b) unusual condition of the location of the existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board.
3. This variance applies only to the 45'x81' display area shown on the plat and shall be located no closer than 20.5' from the front property line which is in line with the existing building.
4. The variance shall run for a period of two (2) years.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Smith was absent.

DEFERRED CASE: FEBRUARY 10, 1976

ROBERT A. CARLONE, CHARLES T. MCCOURT & JAMES H. McMULLIN, a partnership, appl. under Sec. 30-7.2.10.5.6 of the Zoning Ord. to permit handball and racquetball facility to be constructed, corner of Whittier and Emerson Avenues 30-2((9))32, 33, 34 & 35, (30,000 sq. ft.), Dranesville Dist., C-G, S-279-75. (Deferred from February 3, 1976 for applicant to present the partnership papers for the file), FULL HEARING.

The applicant had submitted the partnership papers for the file. The partnership would be known as McLean Handball and Racquetball Club Limited Partnership. The agreement indicated that the partners would be: general partners, James H. McMullin and Robert A. Carlone and the general partners and all other parties signatory to the agreement would be James T. McCourt and Julia M. McCourt, who would be known as the limited partners.

The copy of the contract to purchase was also in the file.

Notices to property owners were submitted by Mr. Robert A. Carlone and were in order.

Mr. Carlone stated that the use they propose for a handball and racquetball facility is compatible with the existing adjacent neighborhood. The proposed hours of operation will be from 7:00 a.m. to 11:00 p.m. with an anticipated use of the facilities by approximately 200 participants daily. A staff of one to two qualified personnel will supervise activities. They expect an estimated average of twelve cars per hour will be driven to and from the facility from within a four mile radius of the site.

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(Mr. Carlone)

He stated that they have coordinated their plans with the McLean Planning Committee and the Bren Mar Civic Association. Both these groups are on record in the file as being in support of their application.

Mr. Carlone stated that they would accept the suggestions of Preliminary Engineering that were included in the Staff Report. He submitted to the Board a rendering showing how the proposed structure would look when complete. He stated that this plan has been reviewed by the McLean Planning Committee and that committee requests that there be no unfinished cinderblock or other similar unfinished masonry visible from the exterior of the structure.

Mr. Kelley stated that the McLean Planning Committee has sent a letter to the Board in support of this application with the requested condition being that there be no unfinished cinderblock. The Office of Comprehensive Planning had also requested an architectural facade be provided.

Mr. Carlone stated that there are no major points that that committee has raised that they cannot live with. He agreed that the parking lot will be screening and landscaped in such a way so as to prevent the glare from automobile lights from shining onto neighboring properties.

Mrs. Huber, 6655 Chilton Court, speaking for herself and Mr. Ted Cooke, stated that due to the late submission of this application, they were not able to have a general meeting of the Bren Mar Civic Association. However, informal discussion with several Bren Mar residents seem to indicate general approval of this concept. They too requested that there be conditions such as the McLean Civic Association and Planning Committee had suggested. She inquired whether this would be a private club or if anyone could stop and play tennis or handball.

Mr. Carlone stated that primarily this is a private club. There would be two hours during the day when it would be open for the public to use.

There was no one to speak in opposition.

RESOLUTION

In application S-279-75 by Robert A. Carlone, Charles T. McCourt and James H. McMullin, a partnership known as McLean Handball and Racquetball Club, application under Section 30-7.2.10.5.6 of the Zoning Ordinance to permit handball and racquetball facility to be constructed at the northeast corner of Emerson and Whittier Avenue, 30-2((9))32, 33, 34 & 35, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 3, 1976 and deferred to February 10, 1976.

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

1. That the owner of the property is Rosa M. Wickline. The applicants are the contract purchasers.
2. That the present zoning is C-G.
3. That the area of the lot is 30,000 square feet.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind,

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changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. That the requests of the Bren Mar citizens be addressed during the Site Plan process.

7. That the hours of operation are from 7:00 a.m. to 11:00 p.m.

8. That landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith was absent.

February 10, 1976

OUT OF TURN HEARING REQUEST -- AMERICAN FLETCHER CORP. (Cavalcade Homeowners Association).

Because of all the delays, etc. the applicant requested an out of turn hearing in order that they might be able to finish the pool before summer.

The Board denied the out of turn hearing and set the case for April 6, 1976.

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February 10, 1976

MINUTES APPROVAL

Mr. Barnes moved that the minutes for January 14, 1976 with the addition of "That this use will be subject to pro-rata share for off-site drainage." added to the resolution granting the Alexandria Bible Church application.

Mr. Swetnam seconded the motion and the motion passed unanimously.

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Mr. Runyon suggested that the Board send best wishes to Chairman Smith and send the Board's hope for his speedy recovery and return.

The Board members agreed.

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The meeting adjourned at 1:23 P.M.

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Jane C. Kelsey
By Jane C. Kelsey
Clerk to the Board of Zoning
Appeals

Submitted to BZA on 3-2-76

Submitted to Board of Super-
visors, Planning Commission and
other Depts. March 24, 1976

LOY P. KELLEY, VICE-CHAIRMAN

APPROVED March 16, 1976
DATE

082

The Regular Meeting of the Board of Zoning Appeals met in the Board Room of the Massey Building on Tuesday, February 17, 1976. Present: Daniel Smith, Chairman; Loy Kelley; George Barnes; Tyler Swetnam and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - THOMAS F. & BARBARA B. WARNER, V-287-75.

a.m.

Mr. Douglas Adams, attorney for the applicant, appeared before the Board on their behalf. No notices were presented.

Mr. Swetnam moved that the case be deferred to March 16 for proper notices.

Mr. Kelley seconded the motion. The motion passed unanimously.

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10:15 - BARRY S. TINDALL appl. under Section 30-6.6 of Ord. to permit structure a.m. to remain closer to side property line than allowed by Ord., (8.2' from side, 10' required), 6914 Willow Street, 40-4((19))(F)25 and pt. 23 & 24, (12,000 sq. ft.), Dranesville District, (R-10), V-288-75.

Mr. Tindall presented notices to property owners which were in order.

Mr. Tindall's main justification was the terrain of the land. He stated that he has a steep lot. The materials that he plans to use will be compatible with the existing structure.

Mr. Smith stated that the structure is at least 20 years old.

Mr. Tindall stated that this breezeway that he plans to add would put the garage that is already there in violation of the side setback requirements by 1.2 feet. No new encroachments would be made.

There were several letters in the file from contiguous and nearby property owners indicating their approval of this proposal.

There was no one else to speak on this case.

RESOLUTION

In application V-288-75 by Barry S. Tindall under Section 30-6.6 of the Zoning Ordinance - 8.2' from side, 10' required - for construction of addition to house and breezeway that will cause the garage that already exists to be in violation of the Zoning Ordinance, 6914 Willow Street, 40-4((19))(F)25 and pt. of 23, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on the 17th day of February, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 12,000 sq. ft.
4. That the property is subject to pro rata share for off-site drainage.
5. That the request is for a minimum variance of 1.8'.

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

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

- (a) exceptional topographic problems of the land,
- (b) unusual condition of the location of existing buildings.

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

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

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

3. The architecture and materials to be used in the additions shall be compatible with that of the existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Kelley seconded the motion. The motion passed 4 to 0. Mr. Runyon had not yet arrived.

10:30 - CHESTERBROOK SWIMMING CLUB, INC. appl. under Sec. 30-7.2.6.1.1 of a.m. Ord. to permit construction of 2 additional tennis courts, S-289-75.

Henry L. Olson, president of the Club and Board of Directors, 6444 Gurard Court, presented notices to property owners which were in order.

Mr. Olson stated that they propose these two additional courts in order to better serve their members. They do not propose to light these courts. They have just completed the lighting of the two existing courts which they received approval for from this Board last August.

In answer to Mr. Barnes question regarding the drainage problems, Mr. Olson stated that the drainage problems referred to by Mr. William Jones, the contiguous property owner, has now been corrected. The drainage on the two proposed courts will be toward the road and will be built in such a manner so that it will not contribute run-off toward the Jones' property.

Mr. Kelley asked if he was positive about this.

Mr. Olson, after consulting with someone from the audience, stated that the contractor tells him that the drainage from these two courts will not be toward the Jones' property.

Mr. Kelley asked Mr. Olson if they would go back to the contractor and will he be liable if the drainage does flow toward the Jones' property.

Mr. Olson stated that the contractor will be liable and he will assure the Club of that under the contract, that the drainage will be toward Kirby Road.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-289-75 by Chesterbrook Swimming Club, Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit construction of two (2) additional tennis courts, 1812 Kirby Road, 31-3((5))1 & 1A, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held February 17, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 6.1241 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That the property is presently operating under Special Use Permit, the most recent being S-137-75 granted August 1, 1975.

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

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That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without Board of Zoning Appeals approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 8:00 a.m. to 10:00 p.m.
7. All other conditions of the previously granted Special Use Permits shall remain in effect.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

10:50 - BILLY R. PASEUR appl. under Sec. 30-6.6.5.4 of Ord. to permit shed to remain closer to front property line than allowed by Ord. (4.7' from front, 40' required), 5629 Inverchapel Road, V-290-75.

The hearing began at 10:52 a.m.

Mr. Paseur presented notices which were in order. He stated that both Hechinger's and Sear's advised him that he did not need a building permit. He stated that he placed the shed at this location because it is the only level spot of land on the property. He could not place the shed in the back corner, as Mr. Barnes had inquired about, because there was a natural cedar line there and he did not realize that his property line went back that far until he had the survey done for this application.

Mr. Kelley stated that this request is for too great a variance.

Mr. Paseur stated that the shed blends in with the existing landscaping. The neighbors have no objections.

Mr. Kelley stated that this Board has the Zoning Ordinance to consider.

Mr. Paseur stated that this shed has been in existence for about eight years.

Mr. Smith stated that he should have obtained a building permit and he would have found that he could not place the shed at this location since the shed is 10'x10'.

Mr. Covington confirmed that he should have gotten a building permit since the shed was larger than 8'x10'.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-290-75 by Billy R. Pasuer under Section 30-6.6.5.4 of the Zoning Ordinance to permit shed to remain closer to front property line than allowed by the Zoning Ordinance, (4.7' from front line, 40' required) on property located at 5629 Inverchapel Road, 79-2((3))(24)9A, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 17, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 11,618 sq. ft.

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

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

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

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The motion passed 5 to 0 to deny.

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Mr. Runyon stated that this is one of those cases where the Board is put in a position of being the bad guys, but in this case there is no choice because of the Ordinance. There are no factors here that would permit the Board to approve this application. He inquired if the setback is 40' or 42.5'.

Mr. Covington stated that it is 42.5' because the Ordinance says that 40' is the front setback requirement, but accessory buildings cannot be in any front yard.

11:05 - CASA CUBA appl. under Section 30-7.2.6.1.1 of the Zoning Ordinance to a.m. permit civic and cultural center in existing structure, 7155 Telegraph Road, 91-4((1))42, (4 acres), Lee District, (RE-1), S-1-76.

Michael Houliston, attorney for the applicant, 5881 Leesburg Pike, Bailey's Crossroads, Virginia, submitted notices to property owners which were in order.

Mr. Houliston stated that Casa Cuba is a non-stock, non-profit Virginia corporation organized in January, 1973, for the purpose of providing cultural and civic programs to its one hundred fifty members. Of this number, only twenty to fifty have attended any one meeting or function. On December 11, 1973, Casa Cuba was accorded tax exempt status from the Internal Revenue Service in accordance with Section 501(c)(4) of the Internal Revenue Code as a Social Welfare Organization.

They intend to leave the two-story brick home on the premises as it now is except for those necessary repairs to meet Code requirements. The existing cabana as shown on the plat will be remodeled. The facade and architecture will be consistent with the present structure. They will add a new parking area as shown on the plat. The property will be connected to the County sewer. Their hours of operation are proposed from 10:00 a.m. until 12:00 p.m. in the summer and 5:00 p.m. to 12:00 p.m. in the winter. Casa Cuba will utilize the house for membership meetings and for the presentation of cultural programs. The grounds will be used for general recreation and in keeping with the tradition of the Knights of Columbus, they will allow the neighborhood civic groups to use the building on an ad-hoc basis. They also will allow the neighborhood to use the pool in the summer too. During the summer weekends, they expect no more than 25 to 50 automobiles to enter the premises from 9:00 a.m. to 9:00 p.m.

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A representative from Casa Cuba read into the record the names of the incorporators.

Mr. Houliston stated that of their 123 family members that they presently have 33 members are from Arlington, 48 from Fairfax, 40 from Maryland, 5 from the District of Columbia, 1 from New York and 4 from Florida. Based on this, the Zoning Administrator has determined that this is a community use as defined under Section 30-7 of the Code.

Mr. Covington, the Assistant Zoning Administrator, stated that Mr. Knowlton, the Zoning Administrator, accepted the application, but was leaving it to this Board to decide whether or not this is a community use.

Mr. Kelley stated that it is hard for him to understand how this can be a community use when some members are from out-of-state.

Mr. Covington stated that most country clubs have a number of members that live in Florida or elsewhere during a portion of the year, but remain on the roles of the Club.

Mr. Smith asked if Mr. Knowlton then interprets this use to be similar to a country club.

Mr. Covington said 'yes'.

Mr. Houliston stated that he had checked the record on the court case that spoke to this question, which was the Heart Association of Northern Virginia. That application was granted to have the Heart Association offices on Gallows Road. Judge Jennings said that the Heart Association was, in effect, establishing an office building for administrative support to serve the Heart Association functions which branch out into Washington, Arlington, Alexandria and Fairfax. Judge Jennings ruled in summary judgement that 'community' meant at least serving Fairfax County, not necessarily from where the membership is from.

In answer to Mr. Smith's question regarding letting the nearby community use the pool, Mr. Houliston stated that these people would not be members of the Club. They will only be charged a nominal fee to cover the lifeguard's salary.

Mr. Smith stated that that is considered commercial recreation. He stated that this would be similar to the Bull Run pool. The people using this pool would have to be members of this pool.

Mr. Houliston stated that they propose their maximum membership to be 250. This would also include honorary members.

Mr. Houliston stated that one of the uses of this property would be to have a library of Spanish books and Cuban literature, Cuban and Spanish art which would be made available to the community, if they are interested. Mr. Houliston stated that one of the conditions that the neighbors wish to impose is that they not serve alcoholic beverages. They are allowed to do this under Section 4 of the ABC laws. This would be for Club use.

Mr. Hector Carrello, member of Casa Cuba and a resident of Burke, Virginia, asked the Board to approve this application. He stated that he felt the Board denied the previous application for another location because of access to the property. He asked the Board not to discriminate against their minority group.

Mr. Smith stated that this is a country club type use on only four acres of land. He stated that he saw no big problems as long as the applicant here limits their activities to those such as the Knights of Columbus had with no outdoor activities other than the swimming pool use. He stated that he had been on this Board for many years and to his knowledge there has never been any discrimination as far as the decisions of this Board is concerned. He stated that he takes a dim view of Mr. Carrello's insinuations that there is, will be or has been any discrimination by this Board. He asked Mr. Carrello to give him some for instances where this Board has discriminated against someone, or some group.

Mr. Carrello stated that he knew of no case.

Mr. Smith stated that then Mr. Carrello had made a very unfair statement.

Mr. Frank Gregor, representative from the Fitzgerald Council Knights of Columbus, the owner of the land, stated that only 25 percent of their members were from Fairfax County. Most of the members were residents of Alexandria where their club was originally chartered.

The President of the Club spoke to the Board concerning the merits of the Club itself.

John Lozak, 5443 Dunsmore Road, a contiguous property owner, stated that a number of adjacent property owners had gotten together and drew up some specific conditions that they would like to have placed on the Special Use Permit should the Board grant it. He gave the Board a copy of these conditions that they were requesting. He also went into the problems that they had had previously when the Knights of Columbus was there.

Mrs. Plass, 5533 Dunsmore Road, spoke in opposition because her property looks straight into the pool. She also enumerated the problems that she and the other neighbors had had during the time the Knights of Columbus was there.

Mr. Gregory Gibadlo, 7200 Racepoint Way, a contiguous property owner, stated that his home is only about 32 paces from the edge of the swimming pool. He stated that for the past two summers he has had no peace. He stated that he had purchased his home in a nice residential area and it is hard for him to understand how this Board could consider putting a country club on this small parcel of ground.

Dottie Olson, 7241 Wickford Drive, submitted a petition to the Board with 48 homeowners in opposition and 12 in support. Of those 48, there are 38 in the Wellfleet Community which is the subdivision closest to this Club.

Dr. Ploss, 5533 Dunsmore Road, spoke in opposition.

Mr. Houlston in rebuttal stated that he hoped the Board would keep in mind that the violations and problems that have occurred at this property were no fault of the present applicant. They would agree to screen the property in such a way so as to provide a sound buffer between the pool area and the adjacent residences. He stated that he felt that evergreens in that area would be a good shrub to use since they grow much faster than trees. He stated that the Club could live with most of the restrictions that the neighbors wish imposed.

William Rose, Deputy Grand Knight with the Alexandria Council, stated that the Council has rented the property as a residence for some individuals for the past year.

In answer to Mr. Smith's question, Mr. Rose stated that they have on occasion rented the premises for other than residential uses.

Mr. Smith stated that that certainly was not permitted under a Special Use Permit.

Mr. Smith stated that he did not feel that this applicant should be held responsible for the misuse of the property by the previous holders of the Special Use Permit, the Knights of Columbus. He stated that he was amazed at the number of complaints about that organization and the things that they have done to violate the Zoning Ordinance, particularly in view of the acceptance of the community when that application first came in.

Mr. Barnes moved that this case be recessed until after lunch.

Mr. Runyon seconded that motion and the motion passed unanimously.

The Board heard one other case, recessed for lunch and returned to make a decision on this application.

Mr. Runyon stated that the Ordinance says that when an application meets the requirements for Special Use Permit uses, then this Board is empowered to grant that use. This particular case is on a piece of property that was previously approved for the Knights of Columbus organization. That organization had numerous problems and if they were in operation there, they were in violation. The Planning Commission in their discussion stated that there were certain items that had to be answered before they could recommend approval of this application. They determined that they could not support it in view of the facts that were before them. Based on the evidence presented to this Board

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and the restrictions that the organization has agreed to, he stated that he had prepared a motion.

RESOLUTION

In application S-1-76 by Casa Cuba under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit civic and cultural center in existing structure on property located at 7155 Telegraph Road, 91-4((1))42, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing held by the Board of Zoning Appeals on February 17, 1976.

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

1. That the owner of the subject property is Fitzgerald Knights of Columbus Home Association, Inc.
2. That the present zoning is RE-1.
3. That the area of the lot is 4 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That the property is subject to pro rata share for off-site drainage.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. No loudspeakers or P.A. system is to be permitted.
7. The membership is not to exceed 150.
8. The parking shall be for 50 automobiles.
9. Pool use is limited to membership only.
10. Hours of operation are from 9:00 a.m. to 9:00 p.m.
11. No lighting is to be utilized except for security.
12. Landscaping and screening shall be provided along the property lines abutting the residential uses and extra care shall be given around the existing pool to buffer both sight and sound.
13. No motorized vehicles are to be driven on the property except within the parking area for direct access.

14. No residents are permitted on the property except for the caretaker and his immediate family.

15. No onsite food preparation is permitted and no liquor license is to be permitted.

16. The applicant agrees to dedicate 45 feet along the full frontage of Telegraph Road.

17. This permit shall run for three (3) years with the Zoning Administrator being empowered to extend the permit for two (2) one-year periods upon request prior to the expiration date.

Mr. Swetnam seconded the motion.

Mr. Smith inquired if he could add a condition saying that there would be no fund raising activities such as bingo.

Mr. Runyon stated that "the information that the Board has received was that this would be a cultural organization and that they would not endeavor to engage in anything other than those uses that pertain to their cultural and civic activities. The motion says that any other uses or additional uses would require them to come back before this Board. This is one of those uses that was not requested and, therefore, is not permitted, nor was there a request for baseball and soccer. The pool and the use of the building as a cultural center is the information that the Board received and that would be the extent of what they could do."

Mr. Smith questioned the number of members. He stated that he felt this should be kept down since there is only four acres of property here.

The motion passed 4 to 1. Mr. Barnes stated that he was voting for the motion very reluctantly. Mr. Kelley voted No. Messrs. Runyon, Swetnam and Smith voted for the motion.

Mr. Runyon stated that if there should be problems, the neighbors should call the Police Department and get a record of the complaint and that would be cause for a revocation, if the complaint was a valid complaint.

Mr. Smith stated that if the noise overflows into the surrounding property, this also would be cause for revocation before the end of the three year permit period. He stated that there is now a new Noise Ordinance in the County that the applicant will have to consider. Any complaints should also be called in to the Zoning Administrator. The Zoning Administrator will send an inspector to inspect the premises and determine whether the complaint is a valid one.

11:25 - H. DWAYNE MASEMER, ET AL appl. under Section 30-6.6 of Ord. to permit a.m. subdivision of a lot with less frontage on two lots than allowed by the Ord., (10' of frontage for both lots, 70' required), 4008 Annandale Road, 60-3((6))4, (55,274 sq. ft.), Mason District, (R-10), V-2-76.

real estate broker and agent for the owner,
 Mr. Finley, 2700 South Pitts Street, Arlington, Virginia, represented the applicant before the Board. He submitted notices to property owners which were in order.

Mr. Finley stated that the property is long and narrow. All previous owners of this property have been deprived of the reasonable use of the property due to the extremely narrow shape. The owner feels that three-fourths of the property is totally unusable for dwelling units because of the frontage requirements and that the loss of property rights is a clearly demonstrable hardship approaching confiscation.

Mr. Finley stated that part of the property in question was originally sold by Moore and Keith on March 9, 1935, to Melvin P. Smith. The parcel was then 75' wide by 582' in maximum length. On April 18, 1946 the owners of that part of lot four purchased an additional and final part of lot four which was 25' wide by 612' in maximum length. The owners at that time were then in possession of a total frontage of one hundred feet on Annandale Road, which gave room for the existing driveway beside their home. They now possessed a lot which was 612' at the deepest point, a lot zoned for 10,000 sq. ft. lots which contained 55,274 sq. ft. The present owner proposes to divide the depth of this property into 3 additional lots, 2 of which will have a common

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driveway which will be a continuation of the drive put in by the previous owner.

In answer to Mr. Kelley's question, Mr. Finley stated that the present owners purchased the property just recently.

Mr. Kelley stated that the applicants were aware of the conditions at the time they purchased the property.

Mr. Smith inquired if they had a contract on the property now to resell it.

Mr. Finley stated that his real estate firm is trying to sell the property for the applicants.

Mr. Runyon stated that one panhandle lot from either side would give the applicants reasonable relief.

Mr. Smith asked Mr. Finley if the applicant would consider reducing the variance request to one pipestem.

Mr. Finley stated that he could not answer that. He stated that the applicant intended to hold this property for rezoning to townhouse zoning which is in the County plan. However, the County will not grant the rezoning.

Mr. Smith stated that that is not a hardship as defined by the Ordinance. He stated that the applicant is asking for two variances, 2 lots with less frontage.

Mr. Runyon stated that it is really three variances, one is the request for the existing house to remain closer than the required amount. He inquired of Mr. Finley if they would be able to use Medford Drive for the entrance.

Mr. Finley stated that the problem with Medford Drive is the County has an open storm drainage in the 25' easement on Medford Drive. If the County would allow them to build across that area it would be terribly expensive to bring the driveways in that way. It seems less desirable than bringing them in the front where an existing drive already is. They do have an opinion from the County that they would allow them to build or use that property to create a driveway entrance, but three driveway entrances at that point would be prohibitive. The property is graded away from the driveway. The intent was to bring the driveway in from the back of the properties so that the houses could be facing toward Medford Drive and Annandale Road. The properties that back up to this property in the adjacent subdivision have very deep lots and the houses are not even near the existing R-10. There still will be one drive back to Lot D. There is no other way to do it. One driveway from Medford Drive would be reasonable to propose to a builder, whereas, three would not.

Mr. Swetnam stated that he would like to give the plat that he had sketched on back to the applicant's representative and ask him to come back to the Board with a new plat that might conform somewhat to the sketch. He stated that he was proposing to cut the property into three lots, instead of four, which minimizes the situation considerably. If it is possible, Mr. Swetnam stated, that he would like to see the applicant bring the pipestem from the middle lot in from Medford, but if that is impossible, he would accept the Annandale Road drive.

Mr. Smith stated that he agreed because this would cut down two variance requests, if he could come in from Medford Drive for the two lots. This would certainly alleviate the hardship, if there is one here. This is a difficult one to establish a hardship on for him, Mr. Smith stated, particularly since the applicant just purchased the property. "He was aware of it and the Ordinance was very strict on this, that if the applicant purchases a piece of property on which these conditions exist, that there is some question as to whether or not he is entitled to any relief under the hardship section of the Ordinance."

Mr. Swetnam stated that accordingly he would move that the applicant return with new plats at a time when the Clerk can schedule the case.

Mr. Kelley seconded the motion.

The case was scheduled as a deferred item on the March 16, 1976 agenda.

The motion passed unanimously. Mr. Smith instructed the applicant's agent to return with new plats for the staff to review at least five days prior to March 16, 1976.

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Page 92, February 17, 1976

11:40 - ROBERT R. & NATALIE D. HUMPHREYS, applications V-7-76 and V-8-76
a.m. to permit enclosure of carport closer to side property line than
allowed and to permit accessory structure to remain in front yard and
closer to front property line than allowed, 2312 Glasgow Road,
93-3((5))8.

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Mr. Humphreys submitted notices to property owners which were in order.

Mr. Humphreys stated that the shed was a part of the screened porch, carport complex prior to the time that his mother-in-law found it necessary to move in with them. At that point, not knowing that a variance would be required, they moved the shed to its existing location. The structure had been constructed prior to their moving to this property. They just took it down and moved it. His property is screened with trees totally covering the front of the property. In front of the shed is evergreens which totally screen the shed. The property slopes down from the upper portion of the house on the west and on the rear sides and this precluded them from moving the shed elsewhere on the lot. When he turned in the plats to request the variance to enclose the carport, the plats showed the shed. He was notified by the Zoning Office that he would also have to apply for a variance to allow that shed to remain in the front yard and closer to the front property line than allowed. The shed is roughly 8' from the house. This shed is on the other side of the walkway from the house.

Mr. Kelley stated that he felt this case is different from the case the Board had earlier in that there is no other location on the lot to place this shed.

Mr. Covington stated that this is a substandard subdivision.

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

The Board was in receipt of several letters indicating that they had no objection to this variance being granted. Those letters were from Mr. and Mrs. Hakne, 2311 Glasgow Road; Mr. and Mrs. Robert Wagner, 2313 Glasgow Road; Hollin Hills Architectural Control Committee and Eason Cross, Jr., who lives across the street from the subject property. There was also a letter from Sean M. Carey, General Contractor, stating that he had viewed the property and found no other area where it would be feasible to re-erect the storage shed because of the topographical outlay of the property. He stated in his letter that the lot in the back of the house is sloped steeply and that condition also exists on the Devonshire side of the house.

RESOLUTION

In application V-7-76 by Robert and Natalie Humphreys under Section 30-6.6 of the Zoning Ordinance to permit enclosure of carport 10' from the side property line (15' required), 2312 Glasgow Road, 93-3((5))8, Mt. Vernon District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local news paper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 17, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 15,019 sq. ft.
4. That the subject lot is a corner lot.
5. That this is an old substandard lot existing prior to the adoption of today's Zoning Ordinance with many erratic setbacks.

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

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:
 - (a) exceptionally irregular shape of the lot,
 - (b) exceptional topographic problems of the land.

(continued page 93)

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion. The motion passed 5 to 0.

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In application V-8-76 by Robert and Natalie Humphreys under Section 30-6.6.5.4 and 30-6.6 of the Ord. to permit accessory structure to remain in front yard and closer to front property line than allowed by the Ord. (29.5' from front, 45' required), 2312 Glasgow Road, 93-3((5))8, Mt. Vernon District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 17, 1976, and

- WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
 2. That the present zoning is R-17.
 3. That the area of the lot is 15,019 sq. ft.
 4. This is an old substandard subdivision existing prior to the adoption of today's Zoning Ordinance with many erratic setbacks.
 5. That the subject lot is a corner lot.

- AND, WHEREAS, the Board has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptionally irregular shape of the lot,
 - (b) exceptional topographic problems of the land.

NOW, THEREFORE, be it resolved, that the subject application be and the same is hereby granted with the following limitations:

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

FURTHERMORE, the applicant should be aware that granting of this action does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain buildings permits, a non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion. The motion passed 5 to 0.

Page 94, February 17, 1976

DEFERRED CASES:

JAMES & MAURINA HUTCHISON, V-245-75, appl. to permit addition to remain closer to front property line than allowed by Ord. (Deferred from January 8, 1976 and February 3, 1976 to allow applicant additional time to clear all violations of the Zoning Ordinance.)

Mr. Lenn Koneczny stated that all violations have now been cleared.

RESOLUTION

In application V-245-75 by James and Maurina Hutchison under Section 30-6.6.5.4 of the Zoning Ordinance to permit addition to remain closer to front property line than allowed by the Zoning Ordinance (34.6' from front, 35' required), 3011 Strathmeade Street, 50-3((17))77, Tremont Gardens Subd., Providence Dist., Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 8, 1976 and deferred to subsequent dates until February 17, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 11,967 sq. ft.
4. That the request is for a minimum variance of 4.8 inches.

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

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a non-residential use permit and the like through the established procedures.

Mr. Swetnam seconded the motion. He stated that he felt this applicant has had his day in Court. He stated that he didn't know of any Board or Commission that would do what this Board has tried to get this applicant to do and that is to do what is right, in order that the Board can grant him this variance. He stated that if the Zoning Inspector finds that he is again in violation, then he should not hesitate to take him straight to Court.

The motion passed 4 to 0. Mr. Kelley had left the meeting earlier.

DEFERRED CASE: February 17, 1976

FORDSON ROAD PRIVATE STORAGE UNITS LIMITED PARTNERSHIP, a Virginia limited partnership, S-278-75 (Deferred for decision only to allow Mr. Barnes, who was absent at the time of the public hearing, an opportunity to study the case and listen to the tapes of the public hearing and vote on the motion.)

Mr. Runyon moved that this hearing be reopened. Hearing no objection, the Chairman reopened the hearing.

Mr. Smith stated that as the Board will remember, there was a motion on this case and the vote was 2 to 2.

Mr. Runyon stated that Mr. Kelley made the original motion to deny this case. "He has allowed me to pick it up and I am inclined to approve the application."

094

In answer to Mr. Smith's question, the Clerk stated that the partnership papers are in the file along with the lease agreement.

The application was amended to reflect the name of the partnership.

RESOLUTION

In application S-278-75 by Fordson Road Private Storage Units Limited Partnership, a Virginia limited partnership, under Section 30-2.2.2, Column 2, Special Use Permit uses in C-G zones, to permit private storage lockers to be constructed on property located at 7511 Fordson Road, 92-4((1))64, Lee Dist., County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 3, 1976 and deferred to February 17, 1976.

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

1. That the owner of the property is Alan E. Campbell, et al.
2. That the present zoning is C-G.
3. That the area of the lot is 2.0039 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated in the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This Permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. That no storage be permitted that could be viewed from the street.
7. That the 4' section of fence across the front of the site indicated as "4' stockade fence" shall be constructed of brick to provide the architectural qualities.

Mr. Swetnam seconded the motion.

The motion passed 3 to 2 with Messrs Smith and Kelley voting No.

DEFERRED CASE: FRANK J. TALBOT, M.D., S-277-75, to permit medical office in existing structure for 2 doctors and 4 employees, 1517 Collingwood Road, (Deferred from 2-3-76 for decision only to allow Mr. Barnes, who was absent at the time of the public hearing, an opportunity to study the case and listen to the tapes of the hearing and vote on the motion.)

Mr. Swetnam moved to reopen the Talbot application. Hearing no objection, the Chairman reopened the case.

Mr. Smith stated that Mr. Swetnam had motion the original motion and the vote was 2 to 2.

Mr. Swetnam stated that he would again offer a Resolution.

RESOLUTION

In application S-277-75 by Frank J. and Suzanne C. Talbot under Section 30-7.2.6.1.10 of the Zoning Ordinance to permit a medical office, 1517 Collingwood Road, 102-4((1))28-A, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 3, 1976, and deferred to February 17, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 24,200 sq. ft.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without Board of Zoning Appeals approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The architectural character shall be preserved.
7. The hours of operation shall be from 8:00 a.m. to 8:00 p.m.
8. The application is approved for the existing dwelling only and no structural addition is permitted.
9. This permit will run for three (3) years only with the Zoning Administrator being empowered to extend the application for two (2) one year periods upon request of the applicant prior to the date of expiration.

Mr. Runyon seconded the motion.

* (See next page for discussion prior to voting.)

The motion passed 4 to 1 with Mr. Kelley voting No.

096

(without condition 8 & 9)

097

Mr. Runyon asked if this motion/included the proposed addition which more than doubles the existing dwelling.

Mr. Swetnam stated that it did.

Mr. Runyon stated that he would second the motion for purposes of discussion. He said that Mr. Swetnam had earlier stated that he thought the residential character of the neighborhood could be preserved and that there was a considerable amount of other than residential uses around the site. He stated that he felt the Board is allowed to grant these uses and this Board is stuck with the "dirty job". It is up to the Board of Supervisors to tell this Board if it doesn't want this Board to grant these uses. He stated that he intended to offer a Resolution a little later regarding this. "In order to retain and follow the Ordinance, if the application could not allow any structural alterations to the existing building, this would let the man have a chance to get established in a location and not be put in the economic bind Mr. Swetnam referred to earlier in their discussion about maybe putting the squeeze on some people, the way some of these medical facilities get set up. This will give the applicant a chance to get into the area and later locate in the abundant office space that was referred to and of which we are all aware that exists in that area, but, with a nice price tag on it. Price, of course, is not one of our major considerations. This application does meet all of the requirements and I would like to offer an amendment to go along with the resolution. Item No. 8, which would read, 'No structural alterations will be completed with this application; and Item No. 9. 'The use permit will run for a period of three (3) years with the Zoning Administrator being empowered to extend the application for two (2) one year periods upon request of the applicant prior to the date of expiration.' "

Mr. Smith stated that he would support the resolution if the residential character is maintained which means that there be no additional construction and also limit the use permit for three years with two additional one year extensions.

Mr. Runyon stated that five years from now the property might be rezoned. He stated that he felt the Board would be pushing it when it doubles the size of the existing facility. That certainly would not meet the residential character of the neighborhood portion of the Ordinance. He stated that Mr. Kelley has held steadfastly against these uses ever since he came on the Board because he doesn't feel these uses are proper uses in any residential area. He stated that the longer he stays on this Board, the more he feels the same way.

Mr. Swetnam inquired if it was Mr. Runyon's intent to deprive the applicant of the use of the second floor.

Mr. Runyon stated that it was not, that he was referring to the addition that the applicant proposes to add to the existing structure.

Mr. Swetnam accepted Mr. Runyon's amendments to his resolution and added Item No. 8. "The application is approved for the existing dwelling only and no structural addition is permitted," and Item No. 9. "This permit will run for three (3) years only with the Zoning Administrator being empowered to extend the application for two (2) one year periods upon request of the applicant prior to the date of expiration."

Mr. Smith stated that he would reluctantly support the Resolution now.

Mr. Barnes stated that the only way he would support the motion would be with these last two conditions. He stated that he feels strongly that the Board of Supervisors should remove this use from the Ordinance. This section of the Ordinance is out of date. Years ago when there was no doctors and dentists' offices near residential areas, it was all right, but now there are plenty of office buildings.

All the Board members agreed.

The motion passed 4 to 1 with Mr. Kelley voting No.

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DEFERRED CASE: GOVERNMENT EMPLOYEES INSURANCE CO., V-209-74, appl. under Section 30-6.6 to permit construction of addition closer to front property line than allowed by Ord. (46' from front, 50' required), 5885 Leesburg Pike, C-OL zoning, Mason Dist., 61-2((17))(D)1 & 2, (40,070 sq.ft.), (Deferred from 1-22-75 for rezoning application to be heard by the Board of Supervisors to see if the appl. would be approved for C-OL zoning on the rear portion of this property. The Board of Supervisors did grant C-OL zoning for Lot No. 3, the rear portion of this property, on January 12, 1976, case no. 74-5-079.)

098

This was the only item holding up the decision of this Board on this application.

RESOLUTION

In application V-209-74 by Government Employees Insurance Company under Section 30-6.6 of the Zoning Ordinance to permit construction of addition to building closer to front lot line than allowed by the Ordinance (46' from front, 50' required), 5885 Leesburg Pike, 61-2((17))(D)1 & 2, Mason District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on January 22, 1975, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is C-OL.
3. That the area of the lot is 40,070 sq. ft.
4. That the request is for a minimum variance of 4' to the requirement.

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

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

- (a) unusual condition of the location of existing building.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, non-residential use permits, and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 3 to 0.

ROBERT C. SEITS, V-129-75 (Deferred from 7-22-75 for appl. to bring new plats showing a lesser variance request. Applicant has sold property according to a telephone conversation the Clerk had with Mrs. Seits on February 17, 1976.)

RUDOLPH INVESTMENT CORP., V-42-75, appeal of Zoning Adm.'s decision to reject SUP application to allow parking on residentially zoned land. (Def. since the appl. was pending at the time of the public hearing on this case.) The Board of Supervisors heard the SUP and granted the parking on residentially zoned land.

Mr. Swetnam moved that both these cases be withdrawn.

Mr. Barnes seconded the motion and the motion passed unanimously.

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The Board at previous meetings had discussed the notification process for applications.

099

Mr. Runyon stated that he had prepared a new policy for the notification of property owners.

"I move that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, Section 15.1-496 of the Code of Virginia provides that applications for special exceptions and variances require proper notice as per Section 15.1-431, and

WHEREAS, Section 15.1-431 of the Code of Virginia provides that notice be given to abutting property owners and property owners across the street for rezonings, and

WHEREAS, the Attorney General of the State of Virginia on August 7, 1976, issued an opinion that the notice requirements as applicable to Boards of Zoning Appeals requires only that the public notice be by newspaper publication as specified in Section 15.1-431, and

WHEREAS, the previous policy of the Fairfax County Board of Zoning Appeals required under Article VI, Processing of Applications, notice to five (5) area property owners, at least two (2) of which shall be contiguous.

NOW, THEREFORE, BE IT RESOLVED, that the Fairfax County Board of Zoning Appeals establish as policy that Article VI, Paragraph 4 of the by-laws concerning policy for written notification be amended to read:

4. The applicant shall be responsible for notification of all abutting property owners of the date, time, place and subject of the hearing; and shall provide such notice by certified mail, return receipt requested, at least ten (10) days prior to such hearing; except, that where there are more than five (5) abutting property owners, the applicant need only notify five (5), and where there are less than five (5) abutting property owners, the applicant shall notify all abutting owners plus such other owners in the immediate area as to total five (5) property owners.

Mr. Barnes seconded this motion.

The motion passed 5 to 0.

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Mr. Runyon stated that he also had prepared a motion concerning Home Professional Offices. He read his prepared motion and the Board discussed it at length.

Mr. Smith suggested that there be some minor modifications, which Mr. Runyon accepted.

The motion as approved read as follows:

Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the Board of Supervisors of Fairfax County on May 28, 1975, did ordain that Article VII (Special Permits), Section 30-7.2.6.1 (Group 6 Uses) be amended; and

WHEREAS, the amendment became a new subsection: 30-7.2.6.1.14, Home Professional Offices, and

WHEREAS, the subsection reads:

"In granting such home professional offices, the Board of Zoning Appeals shall assure that the character of the residential neighborhood is protected.", and

WHEREAS, the Board of Zoning Appeals is encountering difficulty in establishing consistency in application of the subsection, and

WHEREAS, the Board of Zoning Appeals is desirous of further clarification and/or definition of the "character of the residential neighborhood".

NOW, THEREFORE, BE IT RESOLVED, that:

1. The Board of Zoning Appeals requests the Board of Supervisors to clarify and define the particular character that is to be considered for protection.
2. That the Board of Zoning Appeals request the Board of Supervisors give more definitive information to the items they consider important to the character of the residential neighborhood.
3. That the Board of Zoning Appeals adopt a policy of granting such offices for a period not to exceed three (3) years.
4. That the Board of Zoning Appeals adopt a policy that no additional parking space be created that will accommodate more than two (2) additional vehicles on site at any one time.
5. That the Board of Zoning Appeals adopt the policy that no exterior alterations be permitted to the existing structure to accommodate the proposed home professional office.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Kelley had left the meeting earlier.

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Mr. Runyon stated that he had prepared a resolution pertaining to the inspection reports on Special Use Permit. He moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, from time to time certain cases require the direct input from the Zoning Administrator and/or his inspectors, and

WHEREAS, the information of the zoning inspectors is of a first hand nature, and

WHEREAS, the zoning inspectors' information is often most pertinent to a case, and

WHEREAS, this information may not always be properly interpreted by the Board, and

NOW, THEREFORE, BE IT RESOLVED, that:

All cases that involve the input of a zoning inspector shall require a written memo to the Board from the inspector. This memo shall be accompanied by any and all comments and recommendations of the inspector, as well as any pertinent records.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Kelley had left the meeting earlier.

Mr. Runyon stated that he did not mean that he wanted the zoning inspector to tell the Board what to do, but make any comments and recommendations on the case that would help him to do his job better.

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Mr. Smith stated that he wanted to say to Mr. Runyon that it has certainly been very rewarding to have worked with him this short period of time and he was very disappointed that he could not accept reappointment. He stated that Mr. Runyon has been a great asset to this Board and has helped the Board greatly in the field of engineering as well as all other aspects of Board matters. He stated that he was disappointed that the Board could not get another specialist in this field because the Board does need that expertise badly. He wished Mr. Runyon all the luck in the world and stated that he understood the problem he had with time since this job does require a lot of a person's time. This is a way of making a contribution to the County and its citizens.

Messrs. Swetnam and Barnes concurred in Mr. Smith's statement. Mr. Kelley was not present.

Mr. Runyon thanked the Board members for their comments and said that it was nice being wanted rather than being wanted to leave.

100

101

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OAKTON VILLAGE - Mr. Runyon checked the revised plans for the recreation area which consisted of a pool and bath house. These plans had been revised to shift the pool and bath house somewhat and change the configuration of the pool. There were no other changes. He suggested that the Board approve these revised plans with this change. Without objection, it was so ordered.

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PLUCHOK, Variance No. V-262-75, denied January 22, 1976.

Mr. Swetnam stated that the statement concerning the need for a building permit is inaccurate because no building permit is needed for this size shed.

The Board discussed this with Mr. Covington and Mr. Covington confirmed Mr. Swetnam's statement.

Without objection, it was so ordered that this be stricken from the minutes of January 22, 1976.

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APPROVAL OF MINUTES FOR JANUARY 8 and JANUARY 22, 1976.

Mr. Barnes moved that the minutes for January 22, 1976 be approved with minor corrections.

Mr. Swetnam seconded the motion and the motion passed unanimously.

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Mr. Kelley moved that the minutes for January 8, 1976 be approved with ^a minor correction on page 4. In Mr. Smith's statement regarding the requirement for footings, 8' should be 8 inches.

Mr. Barnes seconded the motion and the motion passed unanimously.

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AMERICAN FLETCHER MORTGAGE CO., INC. & CAVALCADE POOLS, INC., request for out of turn hearing. The original builder went bankrupt and this company took over. They would like to get the pool constructed before summer.

Mr. Kelley stated that he did not feel their agendas could handle another case. He moved that the request be denied.

Mr. Barnes seconded the motion and the motion passed unanimously.

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The meeting adjourned at

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Jane C. Kelsey
By Jane C. Kelsey, Clerk to
the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED March 16, 1976
DATE

Submitted to the Board of
Zoning Appeals on March 9, 1976

Submitted to Board of Supervisors,
Planning Commission and other
Depts. March 24, 1976.

Jane C. Kelsey
By Jane C. Kelsey
Clerk to the Board of Zoning Appeals
Submitted to the BZA on March 9, 1975.
Submitted to Board of Supervisors,
Planning Commission and other Depts. on
April 1, 1976

An Extra Meeting of the Board of Zoning Appeals was Held in the Board Room of the Massey Building on Tuesday, March 2, 1976. Board Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes, Tyler Swetnam and the new member, William Durrer.

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The meeting was opened with a prayer by Mr. Barnes at 10:10 a.m.

Mr. Smith welcomed the new Board member, William Durrer, to the Board. Mr. Smith stated that this is an extension of Col. Durrer's long service to Fairfax County and the Board of Zoning Appeals members are very glad to have him on the Board.

10:00 - F. M. ENNIS appl. under Section 30-6.6 of Ord. to permit subdivision a.m. of lot with one lot having less than required frontage on a road, (20' of frontage, 150' required), 11224 Chapel Road, 76-4(2)9, (6.517 acres), Springfield District, (RE-1), V-3-76.

Mr. and Mrs. Ennis presented their case to the Board. Notices to property owners were in order.

Mr. Smith stated that he understood that the posting of this property was a few feet from the property under application. He asked if everyone felt that the posting was adequate.

Hearing no objection, the Chairman asked the applicant to continue with the presentation.

Mr. Ennis stated that he and his wife are interested in building a new house on the back portion of their property and selling the existing house that is on the front portion of the property. In order to do that, they must divide the lot. The front portion will then be 9 A containing 2.000 acres and the back portion will be lot 9 B and will contain 4.517 acres. This property is zoned residential one acre, therefore, they have plenty of land to do this. The problem is the back lot will not have enough frontage on Chapel Road. They have owned the property for three years and definitely wish to continue to live on the property. The driveway leading back to lot 9 B is on the east side of lot 9 A. The land contained in that strip will be included in the acreage for lot 9 A. The lots on both sides of this property have been divided in this manner. Lot 10 has been divided into three parcels and Lot 8 has been divided into two parcels. Those divisions were made in the last year.

Mrs. Ennis, in answer to one of the Board members' questions, stated that there was a hearing held regarding the subdivision of the two lots. She stated that Mr. and Mrs. Bates own lot 10 C and that is a two acre tract. The contractor still owns lot 8 B. Lot 10 A has been sold.

Mrs. Robertson, 11210 Chapel Road, Fairfax Station; Mrs. Whitfield, 11314 Chapel Road and Mary Ann Raney, 11206 Chapel Road, spoke in support of this application.

Sandra Bates and Tommy Bates, 11216 Chapel Road, lot 10C, were in opposition. Mrs. Bates read their letter of opposition into the record.

Mr. Swetnam stated that Mr. and Mrs. Ennis have the same situation as Mr. and Mrs. Bates had.

Mrs. Bates stated that that is true, however, the lot they have has no access road touching their property. The Ennis's do not have an access road touching their property other than the road that they propose to build to give access to lot 9 B.

Mr. Swetnam asked the Bates if they would be willing to sell the Ennis's the right to use their access road that is in back of their property. That would be a solution.

Mr. and Mrs. Bates agreed that it would be worth looking into, but stated that that access road is owned by three owners of lots 10 A, B and C.

The Ennis's agreed that this would be a solution that they would be willing to look into.

The Board deferred this case until April 20, 1976 to give the applicant and the neighbors an opportunity to look into this situation. In addition, the Board asked the Staff for information concerning the variances that had been granted previously that allowed the subdivision of lots 8 and 10.

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Page 103, March 2, 1976

10:20 - LITTLE VILLAGE DAY CARE, INC. appl. under Sect. 30-7.2.6.1.3 of Ord. a.m. to permit nursery school for 15 students, 3017 Monticello Drive, S-4-76.

103

Karen Whitmoyer presented notices to property owners which were in order.

Mrs. Whitmoyer stated that they wish to have fifteen children from 7:00 a.m. to 6:00 p.m., Monday through Friday, during the regular school year. They will have two class sessions of three hours and fifteen minutes each. The nursery will be open exclusively for the residents of Jefferson Village. The nursery school will be operated by she and Mrs. Ciaffone. Both are currently enrolled at the Northern Virginia Community College earning their degree in early childhood development. This will be a walk-to school since the building is in a central location in this development. They have done surveys within the development and there is interest in this proposal. They submitted for the Board to see a sheet about 6 feet long containing signatures of residents in the development who were in support of this application. They also did a survey to see how many interested mothers had children in this age group. They received the statistics and found that there were 45 children in that age group within this development. The parents also answered the question that was on the form affirmatively that they would walk their child to the school.

Mrs. Whitmoyer stated that she and Mrs. Ciaffone incorporated in July. They then went to Jefferson Village Management and secured permission to use the property for the nursery school. They received the building permit and began to comply with the requirements. She stated that she also lives in this development.

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

In answer to Mr. Barnes' question, Mrs. Whitmoyer stated that they will not serve meals on the premises. They will only serve nutritious snacks such as carrots, cottage cheese and other high protein foods. She stated that she and Mrs. Ciaffone have just finished a nutrition course and will be able to serve the children nutritious snacks.

March 2, 1976

RESOLUTION

In application S-4-76 by Little Village Day Care, Inc. under Sect. 30-7.2.6.1.3 of the Zoning Ordinance to permit nursery school for 15 students, weekdays 7:00 a.m. to 6:00 p.m. 3017 Monticello Drive, 50-3(12)8, Providence Dist., County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 2, 1976.

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

1. That the owner of the subject property is Marshall B. Coyne and Jefferson Village Limited Partnership. The applicant is the lessee.
2. That the present zoning is RM-2.
3. That the area of the lot is 4.0123 acres.
4. That compliance with all applicable State and County Codes is required.
5. That the property is subject to pro rata share for off-site drainage.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of students shall be 15, ages 3 to 6, at any one time.

7. The hours of operation shall be from 7:00 a.m. to 6:00 p.m. weekdays, during the normal school year.

8. The operation shall be subject to compliance with the inspection report, the Fairfax County Health Department, the State Dept. of Welfare and Institutions, and obtaining a Certificate of Occupancy (now called Non-Residential Use Permit.).

9. This Special Use Permit is granted for a one (1) year period with the Zoning Administrator being empowered to extend for three additional one (1) year periods upon request prior to the date of expiration.

Mr. Kelley seconded the motion.

The motion passed 5 to 0.

March 2, 1976

10:40 - FAIRFAX COUNTY SCHOOL BOARD appl. under Section 30-6.6 of the Zoning Ordinance to permit construction of temporary classrooms closer to front property line than allowed by Ord., (12' from front, 50' req.) 5815 Ox Road, V-20-76, OTH.

Mr. Ed Moore represented the applicant. Notices to property owners were in order.

Mr. Moore stated that the problem is the fact that old Route 123 used to be at another location. When the road was relocated in connection with the new bridge over the railroad, it was not vacated and the School Board did not take title to that piece of property. It will really be 100' from the centerline of the existing road. They have reviewed the plans for the Highway Department to widen the road into four lanes, but that widening will take place on the other side of the road from the school. The proposed building will contain seven classrooms and toilet facilities for 210 students. This is a dismountable classroom. With the development to the north, south and east of this school, it will eventually be necessary to build a new school. They feel these classrooms will be more economical and can be shifted to a new location when there is no longer a need for them here. They are proceeding with the bidding for these classrooms and hope to get them early in May.

In answer to Mr. Smith's question, Mr. Moore stated that this is not in the bond issue. The money for this project will depend on the allocation of funds through the Board of Supervisors.

Mr. Kelley stated that he did not feel the word temporary should be inserted in this application, because the School Board will probably need the building for more than two years.

The Board members agreed.

There was no one to speak in favor or in opposition to this application.

In answer to Mr. Smith's question, Mr. Moore stated that this proposed building will line up with the existing building.

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RESOLUTION

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In application V-20-76 by Fairfax County School Board under Section 30-6.6 of the Zoning Ordinance to permit construction of classrooms closer to front property line than allowed by the Zoning Ordinance (12' from front, 50' required), 5815 Ox Road, 77-1((1))46, Springfield District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 2, 1976, and

- WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
 2. That the present zoning is RE-1.
 3. That the area of the lot is 10.2201 acres.
 4. That the proposed addition will be approximately 100' from the right-of-way of Route 123.

AND, WHEREAS, the Board has reached the following conclusions of law:
 That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 (a) The realignment of Route 123 with the bridge over Southern Railroad north of the property and the fact that Old Route 123 has not been vacated.

- NOW, THEREFORE, BE IT RESOLVED that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
 2. This variance shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

(Started at 11:10) March 2, 1976

11:00 - VIRGINIA ELECTRIC & POWER CO. appl. under Sect. 30-7.2.2.1.2 of the a.m. Zoning Ord. to permit replacement of existing transmission line and tower and construction, operation and maintenance of transmission line and poles, located in existing transmission line corridor from Occoquan Substation to Hayfield Substation, 90-4 through 106-2, starts in Springfield District and ends in Lee District, S-9-76.

Mr. Randolph Church, attorney for the applicant with offices at 4069 Chain Bridge Road, Fairfax, represented the applicant before the Board. He submitted notices to 70 property owners. He stated that he had attempted to notify all of the property owners over whose property this line will traverse. He stated that he did not feel that this is required by the Code.

Mr. Smith stated that he would appreciate it if VEPCO would continue to notify all of the property owners of properties over which the lines would traverse. He stated that he felt the State Code requires 20 notifications, but he would like them all notified. He stated that he knew it would be impossible to notify 100 percent of them, however.

Mr. Church stated that he had tried and would continue to do so.

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VEPCO (continued)

Mr. Church stated that VEPCO now has two sets of lines on steel towers between Occoquan and Hayfield substations. The two sets of towers are parallel running from Occoquan substation to Shirley Highway except for a minor divergence near Silverbrook Road. Between Shirley Highway and Hayfield substation the two sets of towers are separated. No change is planned in the southernmost tower line. VEPCO plans to remove the northerly set of towers and replace them with a set of steel poles, similar to those which may be seen at several locations on the Beltway. The poles will be slightly shorter than the towers which will remain -- or about twenty feet higher on the average than the towers which will be replaced. The poles will occupy less space on the ground than the replaced towers and are generally felt to be aesthetically preferable. No new right-of-way is needed. He placed on the board before the Board members, a map of the VEPCO system in Northern Virginia. He stated that the load on the loop of lines that services the western part of Fairfax, Arlington and Alexandria and Falls Church has continued to grow even though the demand throughout Northern Virginia has leveled out somewhat. The problem area is shown in orange on the map. That problem area makes it impossible to keep the voltage at a constant level. The solution to the problem is to rebuild the existing line between Ox and Hayfield to provide more capacity. Substations

Mr. H. W. Zimmerman, Planning Engineer for the northern division of VEPCO, 4208 Adrian Drive, Fairfax, gave the Board statistics regarding this loop. He stated that the length of the line will be 7.6 miles in Fairfax County. The height of the steel poles will be 105'. The estimated cost is \$1,961,000 compared to an estimated \$16,379,000 for an underground cable of equivalent capacity. An underground cable is not feasible with today's technology. The 47 existing towers have a base of 20'x20' and occupy 18,000 square feet of land. The new poles will occupy 800 square feet of land. These poles will create no adverse impact on the adjacent properties. They will preserve shrubs and other plantings that might be near the lines. There will be assigned VEPCO personnel to stay in touch with the nearby residents until the job is completed. They will meet or exceed all applicable safety codes. This new line will create no additional traffic.

There was no one to speak in favor or in opposition to this application.

March 2, 1976

RESOLUTION

In application S-9-76 by VIRGINIA ELECTRIC & POWER COMPANY under Section 30-7.2.2.1.2 of the Zoning Ordinance to permit replacement of existing transmission line and tower and construction, operation and maintenance of transmission line and poles located in existing transmission line corridor from Occoquan Substation to Hayfield Substation on property located on tax maps 90-4 through 106-2 which starts in Springfield District and ends in Lee District, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 2, 1976.

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

1. That there are various property owners over whose property this line will traverse. This line will be on existing VEPCO easements.
2. That the present zoning of the properties are various.
3. That the area of the lot is not applicable.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts and C or I Districts as contained in Section 30-7.1.1 of the Zoning Ordinance and Section 30-7.1.2 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable

without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of this Special Use Permit shall be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Adequate supervision shall be provided during the construction of these lines.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

March 2, 1976

11:20 - C & P TELEPHONE CO. OF VA. appl. under Section 30-7.2.2.1.4 of the a.m. Zoning Ord. to permit extension to rear of existing dial center and additional parking, 9327 Braddock Road, 69-3((6))Q, Annandale Dist., (76,203 sq. ft.), R-12.5, S-10-76.

(Hearing began at 11:30 a.m.)

Mr. Randolph W. Church, attorney for the applicant with offices at 4069 Chain Bridge Road, Fairfax, represented the applicant before the Board. Notices to property owners were in order.

Mr. Church stated that this application is for an addition the C & P Telephone Company wishes to add to the rear of their existing dial center in order to provide equipment to service the same area as the existing center serves. The Planning Commission approved this request under Section 5.1-456 of the State Code, but suggested that there was more parking there than was necessary and asked C & P to reduce the number shown on the plats to the number that are now existing there. They had proposed additional parking to make sure that the trucks from Western Electric would have adequate parking and would not have to park on the street.

Mr. Traylor with C & P's office of building design and construction gave the Board the details regarding the use of the new addition. He stated that at the present time, C & P has eight employees in the existing building. They plan to have a maximum of 15 by 1988. The office will be open from 6:00 a.m. until 10:00 p.m. He presented a schematic showing how they could reduce the parking to 17 spaces. He stated that they now have substantial screening but additional landscaping will be provided along the parking area.

Mr. Kelley stated that C & P has 17 parking spaces now and planned to have 29. He asked if C & P felt they would need 29 spaces in 1988 when they have 15 employees.

Mr. Traylor stated that there will be approximately five Western Electric trucks on the site during the equipment addition. They do not normally furnish Western Electric with parking spaces, but they felt in this case they should have the parking on the site and keep them off Braddock Road.

Mr. Kelley stated that he certainly agreed that all parking should be on the site. He stated that when this center was originally granted, C & P planned to have only five employees. He stated that he felt this use was infringing on the residential area. He stated that he had checked the site out and found that they have dead cedars there now. The landscaping should be maintained. Mr. Kelley read the Planning Commission's memo to the Board which

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is in the file.

Mr. Smith stated that he felt it is very important to have adequate parking off the street.

Mr. Covington stated that the Code demands that there be adequate off street parking.

Mr. Swetnam stated that he felt the applicant could work that out and put the number of spaces on the site that they need to have.

Mr. Smith stated that this Board has to be specific.

Mr. Swetnam stated that then the Board should give them the twenty-nine parking spaces because that is what they say they need.

Mr. Smith stated that he had rather see an excess than a shortage, particularly since this is on Braddock Road.

Mr. Traylor stated, in answer to Mr. Barnes question, that the new addition will be constructed of brick and concrete and will match the existing facility.

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

March 2, 1976

RESOLUTION

In application S-10-76 by C & P Telephone Company of Virginia under Section 30-7.2.2.1.4 of the Zoning Ordinance to permit extension to rear of existing dial center and additional parking, 9419 Braddock Road, 69-3((6))Q, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 2, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 76,203 square feet.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use

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Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and/or screening shall be provided and maintained. This shall be to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion.

Mr. Smith asked if that motion means that they should have a maximum of 29 parking spaces.

Mr. Kelley stated that it was granted according to the plats.

The motion passed 5 to 0.

For clarification and in answer to Mr. Church's question, Mr. Smith stated that they cannot put in more than 29 parking spaces.

Mr. Kelley stated that they could put in from 17 to 29, which is according to the plats.

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March 2, 1976
11:40 - JOSE LLANEZA & ROBERT E. STAFFORD appl. under Sect. 30-6.6 of Ord. to a.m. permit house to remain closer to center line of access road than allowed by Ord. (57.3' from center line, 65' required), 2410 Spring Street, 39-4((4))(B)6, (20,543 sq.ft.), Providence District, (R-12.5), V-5-76.

Charles E. Runyon, 152 Hillwood Avenue, Falls Church, represented the applicant before the Board. He submitted notices to property owners to the Board which were in order. He was the engineer on this case.

Mr. Runyon stated that they propose to put an ingress and egress easement in to the left of lot 6 to serve lot 7. There is an existing house on lot 6. The front property line of lot 6 was parallel to the rear line, but when Route 495 came through it chopped off that portion of the lot on the front of lot 6 creating the irregular shape across the front. The existing house is located 57.3' from the center line of that proposed ingress-egress easement of 12' in width. The requirement is 75'. Therefore, because of the irregular shape of the lot as well as the location of the existing house, they find it necessary to come before this Board and request a variance for this principal access to lot 7. The applicant intends to build a new home on lot 7. Mr. Stafford owns lot 7. He did own lot 6, but he has sold it to the co-applicant and the co-applicant is now occupying the house.

In answer to Mr. Smith's question, Mr. Runyon stated that no additional variances would be necessary on lot 7.

There was no one to speak in favor.

Mr. Gaston Weekly, 7917 Idlywood Road, which is the property directly behind this property from Spring Street, he stated that he owns lots 15, 16, 17, 18, 19, 20 and 21. He asked who is going to maintain this street.

Mr. Smith explained that this is a 12' driveway back to lot 7. This will be maintained by the owner of lot 7.

Mr. Weekly stated that this leaves Byrd's property landlocked.

In answer to Mr. Weekly's question, Mr. Runyon stated that this will cross over lot 5 as Mr. Weekly stated. No variances are required for lot 5. He stated that he had received a letter from Mr. Byrd stated that he has no objection to this variance being granted. He stated that he wished that letter to be made a part of the record on this case. For the record, he stated that this road would be merely a private driveway to be maintained at the owner's expense.

There was no one else to speak regarding this case.

RESOLUTION

In application V-5-76 by Jose Llaneza and Robert E. Stafford under Section 30-6.6 of the Zoning Ordinance to permit house to remain closer to center line of access road than allowed by Ordinance (57.3' from center line, 75' required), 2410 Spring Street, 39-4((4))(B) 6, Providence District, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 2, 1976, and

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

1. That the owner of the subject property is Robert E. Stafford (lot 7) and Jose Llaneza (lot 6).
2. That the present zoning is R-12.5.
3. That the area of the lot is 20,543 sq. ft.
4. That the property is subject to Pro Rata Share for off-site drainage.

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

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

- (a) exceptionally irregular shape of the lot,
- (b) unusual condition of the location of existing buildings.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Kelley seconded the motion.

The motion passed 5 to 0.

March 2, 1976

12:00 - R. H. CAPITOL, INC. appl. under Section 30-6.6 of Ord. to permit building to be constructed closer to residential zoning boundary line than allowed by Ord., (2' from line, 21' required), 108-1((1))5, 8805 Telegraph Road, Lee District, (I-P), V-6-76.

Mr. Charles E. Runyon, engineer for this project, with offices at 152 Hillwood Avenue, Falls Church, Virginia, submitted notices to property owners to the Board which were in order.

Mr. Runyon stated that the adjacent property is planned for industrial zoning. That property is being used for an industrial use at the present time. The request is for a 19' variance from the property line. The requirement is that the building must set back the height of the building. The proposed building is to be 21' high. The basic hardship is the topography of the lot. The major portion of this lot 5 is located within the limits of the Accotink Creek flood plain. If the flood plain did not exist, the building could be moved down to utilize the property with no problem with setbacks. He asked the Board to note on the plat before them that the 100 year flood plain comes through the middle of the existing structure that is on the property. He stated that he is working with the County to adjust the flood plain slightly. The lot is very flat. They are trying to keep the building as far away from the flood plain as possible. The building is well out of the 25 year storm requirement, which is the general requirement for County Development.

Mr. Runyon stated that the owners have owned this property for some time. This will be their commissary store where they prepare their food and keep their meat, etc. for use in their restaurant which is the Ranch House.

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They are now operating out of the City of Alexandria, but Metro is forcing them out. The adjoining property is owned by Mr. Price who operates an office and storage yard for Price's Roofing. He stated that he had discussed this with Mr. Price and he has no objection to the granting of this variance. / (Mr. Price)

In answer to Mr. Smith's question, Mr. Runyon stated that the building coverage will not exceed the requirement for this property.

There was no one to speak in favor or in opposition to this application.

March 2, 1976

RESOLUTION

In application V-6-76 by R. H. Capitol, Inc. under Section 30-6.6 of the Zoning Ordinance to permit building to be constructed closer to residential zoning boundary line than allowed by Ord., (2' from line, 21' required), 8805 Telegraph Road, 108-1((1))5, Lee District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 2, 1976, and

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is I-P.
- 3. That the area of the lot is 38,843 sq. ft.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
-- exceptional topographic problems of the land.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

Page 112, March 2, 1976

DEFERRED CASE:

12:15 - MR. & MRS. J. M. FITZPATRICK appl. under Section 30-6.6 of the Zoning Ord. to permit addition to be constructed closer to side property line than allowed by Ord., (10' from side, 15' required), 1811 Briar Ridge Court, 31-3((22))5, (20,264 sq. ft.), Dranesville District, (R-17), V-276-75, (Deferred from 2-3-76 for proper notices).

Mr. Wilson with the Hechinger Company represented the applicant before the Board. He submitted notices to property owners which were in order.

Mr. Wilson stated that Hechinger's has been contacted to put an addition onto the home of Mr. and Mrs. Fitzpatrick. They wish to extend and enclose the existing porch within 10' of the side property line. This is the only place that is feasible to enlarge their dining room which is on the left side of the house. The property is too narrow and there is no other place on the property to make an addition such as this.

Mr. Wilson submitted letters from four of the contiguous property owners indicating their support.

Mr. Smith stated that this is a general condition that exists throughout the subdivision.

Mr. Kelley agreed. He stated that if the Board grants this request, it would be setting a precedent. He stated that the reason for the small lots is because the builder put more units per acre and the people who purchased the houses will have to live with it.

Mr. Wilson disagreed with the Board and stated that the applicants have a structural hardship and he feels that since the neighbors do not object, that Mr. and Mrs. Fitzpatrick should be allowed to extend their house. All over the County, people can build within 8' of the side property line.

Mr. David Miller, production manager for Hechinger Builders, the contractor, stated that this home was constructed in 1969 or 1970. There are around 50 to 60 homes in the area. The applicant must be able to entertain from time to time and wishes to extend the dining room to the side because extending to the rear would require opening the existing bearing wall and installing a load bearing beam between the two sections of the dining room. This beam would break the continuity of the dining room.

Mr. Smith suggested that they construct a step down dining room by extending to the rear.

Mr. Miller stated that that type of dining room would make it difficult for seating the guests.

Mr. Smith stated that he did not believe the agents for the applicants had read the hardship section of the Ordinance under which they applied. The agents for the applicants have not given any hardship based on the Ordinance. He asked Mr. Wilson to give the Board the reasons under the Ordinance under which a variance may be granted.

Mr. Wilson stated that he felt the County government should try to work with their citizens to benefit those citizens. He stated that he spent \$100 to get plats drawn up-to-date for this particular hearing. He stated that he didn't know why Fairfax County couldn't work with its citizens instead of making rules and regulations that work against the citizens. He stated that he did not feel that anyone would be harmed by this variance.

Mr. Smith asked Mr. Wilson if he believed in zoning.

Mr. Wilson stated that he did.

Mr. Smith stated that he certainly had not indicated it.

There was no one to speak in favor or in opposition of this application.

Mr. Kelley stated that he could not make a motion to grant this application when there are smaller lots in the subdivision and most of the lots are the same size. There are no physical problems with the land that is not a general condition of the entire subdivision. No hardship has been shown under the Ordinance.

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March 2, 1976

RESOLUTION

In application V-276-75 by Mr. and Mrs. J. M. Fitzpatrick under Section 30-6.6 of the Zoning Ordinance to permit addition to be constructed closer to side property line than allowed by the Ordinance (10' from side, 15' required), 1811 Briar Ridge Court, 31-3((22))5, Dranesville District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 2, 1976, and

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is R-17.
- 3. That the area of the lot is 20,264 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

Mr. Swetnam stated that it is unfortunate that the law does not allow this Board a little more latitude, particularly in a case such as this where the applicant has structural problems. However, since the law does not allow this Board that latitude, the Board must make a decision based on the existing Ordinance.

The motion passed 5 to 0 to deny.

Mr. Smith suggested to Mr. Wilson that he get a copy of the Zoning Ordinance and read it if he was going to continue to handle variance requests for his company in Fairfax County so that he would be better versed on the Ordinance. A copy of the State Code as it relates to Board of Zoning Appeals powers also might help.

AFTER AGENDA ITEM -- March 2, 1976
REQUEST FOR EXTENSION -- VOLLSTEDT

Mr. Smith read a letter from Victor Ghent, engineer on Mr. Vollstedt's project stating that the plan was now in the bonding stage in the County, but he did not feel that the building permit could be issued and construction begun prior to the expiration date.

Mr. Smith asked Mr. Covington to check with the Site Plan and Bonding Depts. and report to the Board the status of Mr. Vollstedt's plans. He stated that this has been one of the more frustrating cases that has been before the Board.

Mr. Barnes moved that this request be deferred until Mr. Covington could check this out with the proper County departments.

Mr. Kelley seconded the motion. The motion passed 5 to 0.

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AFTER AGENDA ITEM: March 2, 1976
BURGUNDY FARMS COUNTRY DAY SCHOOL

Mr. Smith read a letter from Douglas Adams, attorney for the school, requesting that the Board approve a change from the plans that were originally granted by this Board for the relocation of the swimming pool on the property. They originally had planned to construct a new swimming pool, but because of financial problems were unable to do so. Therefore, they now have bids to

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enlarge the existing pool. The present plans would make the existing pool larger than it presently is, but smaller than the original proposal for the new pool.

It was the Board's decision that the applicant should submit revised plats showing this new proposal and come before the Board to answer any questions the Board might have.

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AFTER AGENDA ITEM: March 2, 1976
KINGDOM HALL SPRINGFIELD CONGREGATION

Mr. Smith read a letter from the applicant requesting an out of turn hearing. This is a proposed church that was granted a Special Use Permit some time ago. However, the permit expired and the plans are in the site plan stage awaiting this new application to be acted upon by this Board.

The Board agreed to grant this out of turn hearing for April 6, 1976.

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AFTER AGENDA ITEM: March 2, 1976
EVANS FARM INN.

Mr. Knowlton, Zoning Administrator, had requested the Board's opinion on Mr. Evans request to allow a Post Office on the property.

The Board discussed the history of this case at length. One of the conditions of the last amendment to this Special Use Permit was that there would be no more additions to this Special Use Permit property. Therefore, the Board agreed that the Zoning Administrator should inform Mr. Evans that he would not accept an application for this addition.

Mr. Swetnam so moved.

Mr. Kelley seconded the motion.

The motion passed 5 to 0.

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MINUTES FOR FEBRUARY 3, 1976 approved. MINUTES FOR JANUARY 28, 1976 approved.

Mr. Swetnam moved that the minutes for February 3, 1976, be approved with the correction on page 67 where the word "C-G" should be "C-N" on the B. P. Oil case.

Mr. Kelley seconded the motion. The motion passed unanimously.

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Mr. Kelley moved that the minutes for January 28, 1976, be approved with minor corrections.

Mr. Barnes seconded the motion. The motion passed unanimously.

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The Board meeting adjourned at 1:15 p.m.

Jane C. Kelsey
By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

DANIEL SMITH, CHAIRMAN

APPROVED: *April 6, 1976*
DATE

Submitted on *March 16, 1976*
to the B.Z.A.

Submitted to Board of Supervisors, Planning Commission and other Departments on *April 9, 1976*.

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The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on Tuesday, March 9, 1976. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Tyler Swetnam and William Durrer.

The meeting was opened at 10:05 a.m. with a prayer by Mr. Barnes.

10:00 - DR. NICHOLAS B. CERRILLO, M.D. & DR. CAROL E. KENNEDY, M.D. appl. under a.m. Section 30-7.2.6.1.10 of the Zoning Ordinance to permit office for the general practice of medicine in existing structure, 4616 Ravensworth Road, 71-1(1)63, (41,282 sq.ft.), Annandale District, (R-10), S-13-76.

Mr. Pat Harrington, attorney for the applicant with offices at 10560 Main Street, Fairfax, submitted notices to property owners which were in order.

Mr. Harrington stated that the proposed use will be for two doctors' offices for the practice of internal medicine. The proposed hours of operation are from 9:00 a.m. until 4:30 p.m. The maximum number of patients will be 20 to 25 per day. Both doctors are presently engaged in the private practice of medicine on this same road closer to Annandale in a small office building. The traffic impact of this use will be less than that of the day care center that is presently in this building. He stated that he had spoken with the neighbors and the neighbors feel that this would be a quieter use than that of a day care center. There are no additions planned for this building.

Mr. Kelley stated that the copy of the contract to purchase that had been submitted to the Board is not legible.

Mr. Harrington stated that the contract has a contingency that calls for the obtaining of the Special Use Permit and a provision that the building could be modified to conform with the County Code requirements. There will be two doctors in this building and there will be four other employees,-- two nurses, a part-time lab assistant and a bookkeeper. There will be a maximum of five patients on the property at any one time. They are providing twenty parking spaces.

Mr. Smith stated that only 10 spaces are shown on the plats.

Mr. Barnes suggested that the applicants get a team inspection to determine whether or not the building could be used for this purpose.

Mr. Covington stated that the applicants would not want to make any corrections to the deficiencies until they found out whether or not this Board was going to grant the Special Use Permit.

Mr. Smith stated that the applicants need a new plat. This plat has been revised several times and he did not know from looking at it what was actually on the property. He inquired about the addition that had been constructed to the original structure. He stated that, as he recalled, the Board had granted a larger addition.

The owner of the property, Mr. Roach, stated that the Board had approved a larger addition, but they found that they could not afford to construct it. Therefore, they had to make it smaller.

Mr. Kelley moved that this case be deferred until March 23, 1976, for new plats showing the actual number of parking spaces that can be accommodated on the property and all the structures on the property, and a copy of the contract to purchase which is legible.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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Page 116, March 9, 1976

10:10 - STRATFORD RECREATION ASSOC., INC. appl. under Section 30-7.2.6.1.1 a.m. of the Zoning Ord. to permit construction of two additional tennis courts at existing facility, Camden Court, 111-1((1))10, (5.7576 acres), Mt. Vernon District, (R-12.5), S-12-76.

(Hearing began at 10:40 a.m.)

Mr. Peter Brintzer, 2321 Wittington Blvd., chief of operation for the Stratford Recreation Association, submitted 21 notices to property owners to the Board which were in order.

Mr. Brintzer stated that membership in this association is exclusive to the Stratford area of the Mount Vernon District. This is an extremely active association with competitive swim, tennis & diving teams. They have found it necessary to construct two additional tennis courts based on a competitive tennis program for youth and adults. They have given 600 tennis lessons to their membership and the two tennis courts are insufficient for the use for which they envision. The association received approval from the membership last October 1976 at a duly announced membership meeting. These courts do not include lights. They do have lights on the existing courts.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-12-76 by Stratford Recreation Association under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit two additional tennis courts on property located at Camden Court, 111-1((1))10, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 9, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 5.7576 acres.
4. That the applicant operates a community recreation facility pursuant to special use permit originally granted in 1965 and last amended (S-6-70) on February 17, 1970.
5. Compliance with Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential

Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

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6. All provisions of the existing Special Use Permits shall remain in effect. The hours of operation for the general swimming pool and recreation facility shall be from 9:00 a.m. to 9:00 p.m. The hours of operation for the lighted tennis courts shall be from 9:00 a.m. to 10:00 p.m. The hours for the unlighted courts shall be from 9:00 a.m. to 9:00 p.m.

7. There shall be no lighting for these two additional courts.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

10:30 - WILLIAM H. & MARY K. PAGE appl. under Sect. 30-6.6 of Ord. to permit a structure to be constructed closer to rear property line than allowed by Ord., (on rear line, 25' required), 2923 Annandale Road, 50-4((12)) 1A, 2 & 3 and ((1))27A, (98,104 sq.ft.), Providence District, (C-G), V-11-76.

Mr. Walter Phillips, engineer for the project, submitted notices to property owners which were in order. He stated that the subject property is presently used as a Toyota automobile dealership. There is residential zoning on the north side of the property. The proposed addition to the property will be on the southeast of the property. The proposed structure will be on the property line contiguous with the C-DM zoning which is presently the site of the Governor Motel. The use to the right of the property is another automobile dealership, International Motors, which is C-G zoning. Mr. Page's operation has expanded to the point where he needs additional space. He has looked around the County for a suitable location and has decided that the best thing to do is utilize the property as effectively as possible by constructing this additional structure on the property. The building has not been placed on the C-G property line because there is a 14' strip of land that is zoned C-DM. Mr. Page has submitted a rezoning application to have that strip zoned C-G. If that is granted, they will move the building over to that property line. This piece of property is a little undersized for an automobile dealership.

Mr. Smith stated that that is the understatement of the weak. He asked Mr. Phillips the physical justification for this variance request.

Mr. Phillips stated that on the left of the property is residential zoning which requires a 50' setback, which made it impossible to construct a building on the left. If the proposed building is moved forward, they have three problems: (1) the building comes too close to the existing building, (2) there is an existing storm sewer on the property which they hope to leave in place and construct the proposed building over. This storm sewer comes fairly close to the foundation of the proposed building, and (3) to move the building farther from the rear line would push the building into the car wash.

Mr. Smith stated that the plats were prepared in 1971. He asked if there had been any additions since that time.

Mr. Phillips stated that there had not. In answer to Mr. Smith's question, he stated that the gasoline pumps that had been on the property have been removed. The car wash is used only for the new car preparation service. The entire operation that they propose will be inside the building. They propose to air condition the building which will eliminate any pollution of noise and odor. The use of this building will be for a body and paint shop for the new car dealership. There will be bays along the long wall and an entrance in the short wall closest to Annandale Road. The lowest level of the building will be partially below grade and will be used for parts storage. The middle floor will be for the body shop and the upper level will be the paint shop. The cars will be moved to the upper level by an elevator system within the building. The building will be constructed of brick. It will be 100' from the motel building. The hours of operation will be from 7:30 a.m. to 5:00 p.m. They intend to abide by the Fairfax County Noise Ordinance.

Mr. Kelley stated that he felt the applicant is trying to overbuild the lot. He stated that he could see no justification for granting this variance for this additional building on the site. He inquired if there would be enough

parking on the site with the additional large building on the site.

Mr. Phillips stated that they can meet the parking requirements of the County. He stated that Mr. Page has assured him that there would be no work done on the site that isn't being done now. They just do not have adequate space.

Mr. William Page, 1112 Briar Ridge Court, McLean, Virginia, spoke before the Board. He stated that at the present time he has a body shop on the property of his Pontiac dealership. He would move the body shop to this proposed location. He would move part of the operation that is presently at the Toyota dealership over to the Pontiac dealership.

Mr. Swetnam stated that if the three story aspect of this proposal is giving the Board some trouble, he would suggest that the applicant give the Board some sort of drawings, architectural drawings, to give the Board an idea of what this building will look like after construction.

Mr. Smith stated that the problem that he is having is the hardship. If the applicant cuts 20' off the building, it will still be a large building. That is fairly level land.

Mr. Phillips stated that there is a lot of slope from left to right.

Mr. Swetnam stated that he could see the hardship. If they move the building forward, that will put the foundation for the back wall in the sewer easement and they would have a footing problem. He stated that if Mr. Phillips would address those problems, it might be helpful.

Mr. Kelley stated that while they are considering the architectural design, they might consider cutting the size of the building.

Mr. Smith stated that a new car dealership requires a considerable land area for the storage of new cars.

Mr. Kelley moved that the application be deferred until March 23, 1976 for further study. He stated that if that amount of time is not sufficient for the architect to complete the architectural drawings, that he should contact Mrs. Kelsey and she would reschedule the case for a later date. The Board should have any additional information at least five days prior to the hearing.

Mr. Barnes seconded the motion. The motion passed unanimously. The public // hearing was closed.

10:50 - LILLIAN D. AUGUST appl. under Section 30-7.2.6.1.14 of the Zoning Ord.
a.m. to permit artist's studio as home professional office, 6500 Tucker Avenue, 41-1((3))1, (25,185 square feet), Dranesville District, (R-12.5), S-14-76.

(Hearing began at 11:20 a.m.)

Mrs. Lillian August presented notices to the Board which were in order. She stated that she would like to have an artist's studio in her garage. The garage is attached to the house. She stated that most of the paintings that she does is sold at art galleries throughout Northern Virginia. One of the galleries is Arts and Treasures in McLean, another is Poor Dandelion at Fairfax Mall. However, when she gets a commission to do a painting, she would like for the person to come and pick it up at her house. She stated that she would be lucky if she did one painting a month on a commission basis. She stated that she does not have anyone associated with her. She was an art teacher in Fairfax County for a number of years. She and her husband have owned the property at 6500 Tucker Avenue for 22 years. She does not paint portraits. When she went to get a business license, she was told that she needed a Special Use Permit. That is why she applied. She stated that she plans to paint during the weekdays.

There was no one to speak in favor or in opposition to this application.

Mr. Kelley stated that there is little or no impact from this proposal, but he was concerned about others who might think that because this one was granted that theirs would be granted too.

Mr. Smith stated that this applicant wouldn't even be here if she didn't want to pay some taxes.

RESOLUTION

In application S-14-76 by Lillian D. August under Section 30-7.2.6.1.14 of the Zoning Ordinance to permit artist's studio as home professional office 6500 Tucker Avenue, 41-1((3))1, Dranesville District, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 9, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 25,185 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.
6. That the property is subject to pro rata share for off-site drainage.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 8:00 p.m. to 5:00 p.m., Monday through Friday.
7. No signs are permitted for this use.

Mr. Barnes seconded the motion.

The motion passed unanimously.

11:10 - TRUSTEES OF ST. DUNSTANS CHURCH, appl. under Sect. 30-7.2.6.1.11 of a.m. the Ordinance to permit parking lot addition to existing church, 1830 Kirby Road, 31-3 & 41-1((1))59, (5.1571 acres), Dranesville Dist. (R-12.5), S-16-76.

(The hearing began at 11:30 p.m.)

Mr. Charles Runyon represented the applicant. He submitted notices to property owners which were in order.

Mr. Runyon stated that this is an existing church. The membership is 490. This additional parking is to serve the memorial garden to the rear of the

church. The parking lot will be landscaped in accordance with the parking lot ordinance. The lot will contain 26 spaces. These spaces will conform to the setback requirement for the Group VI uses. There are some non-conforming parking spaces in the front of the church that have been there since the church was constructed. They plan to have additional screening along the property line. He stated that he had met with the adjoining property owners along Noble Drive who have some differences with the church. He stated that they are trying to solve some of the problems that have existed for some time and are not related to this particular parking problem.

In answer to Mr. Smith's question, Mr. Runyon stated that this is not a cemetery. It is a memorial garden. There are only three or four groups of ashes. It is mainly for memorials to be made in the form of trees and sculptures. The church started in 1958 in the Chesterbrook Elementary School. The parish hall was completed in 1961.

Mrs. Marie Sebenius, 6420 Noble Drive, spokesman for the property owners along Noble Drive, which is contiguous to the church property, stated that they have an understanding based upon their discussions with Mr. Runyon, engineering consultant for this project. She read that statement of understanding into the record.

"We, the undersigned, understand that the parking lot addition to the existing St. Dunstan's Episcopal Church under consideration here will drain to the paved ditch on the north edge of the property. It is further understood that adequate flow retention measures will be employed in the parking lot addition circumference. Additionally, it is understood that there will be monitoring by Church and County officials, if indicated, of the drainage system servicing the new parking lot addition to assure that soil erosion and other related problems do not result.

The foregoing concerns are expressed because of existing drainage problems aggravated by previous parking lot construction at St. Dunstan's.

Our understandings as stated above are based upon our discussion with Mr. Charles E. Runyon, Engineering Consultant to St. Dunstan's Episcopal Church in this matter this date.

We have no objections to planned construction of the parking lot addition provided that the measures expressed in our statement of understanding are fulfilled." Dated March 8, 1976.

Signed by John F. Halpin, 6430 Nobel Drive; Marion Griffin, 6428 Noble Drive; Richard C. Emich, 6416 Noble Drive; Mrs. E. Brite, 6424 Noble Drive; Joseph A. Griffin, 6428 Noble Drive; (signature illegible, 6420 Noble Drive; George Brite, 6424 Noble Drive; M. W. Emrich, 6416 Noble Drive; and Marie C. Sebenius, 6420 Noble Drive; and Mary M. Jordan, 6426 Noble Drive.

Mrs. Sebenius stated that the church property is high above their property and the church has a very steep, sloping roof. The large paved parking lot in the front slopes toward Noble Drive.

Mr. Smith stated for the record that at the time this church and the existing parking lot was constructed, churches did not have to come before this Board for a Special Use Permit.

Mr. Runyon stated that the drainage problem that Mrs. Sebenius spoke of has been checked out by the County and the County has O.K.ed everything. However, there is a problem to these people. The church property is fairly impervious. There are drainage structures that are supposed to prevent these problems, but all of the water ends up in Mrs. Sebenius's yard. Therefore, the church needs to put in an additional drainage structure.

There was no one else to speak on this case.

Mr. Runyon, in answer to Mr. Barnes' question, stated that he had read the comments of Preliminary Branch and they do intend to follow that department's suggestion of putting in a 22' paved travel lane from the existing parking lot to the proposed lot.

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RESOLUTION

In application S-16-76 by St. Dunstons Church under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit additional parking lot for 26 cars, 1830 Kirby Road, 31-3 & 41-1((1))59, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous property owners, letters to nearby property owners, and a public hearing by the Board held on March 9, 1976.

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

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 5.1571 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural establishments of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. Any additional landscaping should be provided as per the Director of Environmental Management.
6. This resolution and the Non-Residential Use Permit shall be posted in a* Mr. Barnes seconded the motion.

The motion passed 5 to 0.

*conspicuous place and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

AFTER AGENDA ITEMS: March 9, 1976

BURGUNDY FARMS. Mr. Douglas Adams, attorney for the applicant, told the Board that because of financial difficulties, the applicant would not be able to construct the pool that they asked the Board to be allowed to construct last year. Instead, they have bids on enlarging the existing pool. They have submitted new plats to the Board showing this enlarged pool. The enlarged pool would still be smaller than the one the Board granted last year. They also will move the bath house along side the enlarged pool. They have already constructed the barn that the Board permitted them to build last year.

Mr. Smith and the Board members checked over the plats. Mr. Smith stated that the plat shows the pool reverting back to its original location, prior to last year's proposal. The dimensions of the bath house are 16'x40'.

Mr. Covington stated that this is a large tract of land and he did not feel the change would have any impact on the residential area.

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Mr. Smith stated that he agreed and it might be a better arrangement.

Mr. Kelley moved that the new plats be substituted and that all other terms and conditions as set forth in the original resolution and the resolution last year remain in effect.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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The meeting adjourned at 12:00 Noon. for a luncheon for Mr. Charles Runyon whose last day with the Board of Zoning Appeals was February 17, 1976.

By Jane C. Kelsey
Clerk to the Board of Zoning Appeals

Submitted to the Board of Zoning Appeals on March 23, 1976.

Submitted to Board of Supervisors, Planning Commission and other Depts., on April 9, 1976.

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED April 6, 1976
DATE

CERTIFICATE OF APPRECIATION

After the meeting, Mr. Daniel Smith, Chairman, presented Mr. Charles Runyon with a framed certificate of appreciation for the three and one-half years he had served on the Board of Zoning Appeals.

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The Regular Meeting of the Board of Zoning Appeals Met on Tuesday, March 16, 1976, in the Board Room of the Massey Building. Members present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Tyler Swetnam and William Durrer.

The meeting was called to order by Mr. Smith. Mr. Barnes said a prayer. The meeting began at 10:10 a.m.

10:00 - CANTERBURY WOODS SWIM CLUB, INC. appl. under Sec. 30-7.2.6.1.1 of a.m. Ord. to permit change in hours of operation, 5101 Southampton Dr., S-17-76.

Mr. Smith read a letter from the agent for the applicant requesting that this case be withdrawn because it was determined that such a hearing on this issue would be detrimental to the best interests of the Canterbury Woods community.

Mr. Barnes moved that this application be withdrawn without prejudice.

Mr. Kelley seconded the motion. The motion passed unanimously.

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10:20 - CHILD CARE PROPERTIES, INC. & KINDER CARE LEARNING CENTER, INC. appl. a.m. under Sec. 30-7.2.6.1.3 of Ord. to permit construction and operation of child day care center, 3400 Woodburn Road, 59-1(1)22, (.9997 acres), Providence District, (RE-1), S-18-76.

Mr. Don Morrow represented the applicant. He submitted notices to property owners which were in order.

Mr. Morrow stated that this site is at the corner of Tobin Road and Woodburn Road. They propose to have 120 children maximum at this location and 10 employees, maximum, at the site at any one time. There are no licensed day care centers in the immediate area. He submitted an aerial photograph of the area to the Board. He stated that the site is heavily wooded at the present time. He also submitted photographs of the site. He stated that the area to the north of Tobin Road is high density apartments and the Fairfax Hospital. To the west is single family homes in the \$70,000 price range. The area down the road is ball fields. To the east is a 22 acre proposed high school site with no current plans for development. To the south is a church. The area between the site and the church is 500 feet of open grassy area which goes into a little ravine which acts as a drainage swale for the area. The property to the west, as previously stated, is developed as homes. The closest home is 25' from the property line. They have discussed plans for this day care center with the owner of the apartments who has no objections and, for obvious reasons, is in favor of the application. There is apparently a traffic problem when people are arriving at the Little League fields, but that time period is not the same as the prime traffic period for this center.

Mr. Morrow stated that this site is very low and the applicant will have a lot of drainage work to do on it. The County is requiring that they widen both Tobin and Woodburn Roads, install curb and gutter and put in sidewalks. Woodburn Road has a high traffic count. He stated that he also had been told that a lot of cars run off the road at this location. There is a drop along Tobin Road from the berm of the road about four or five feet straight down. Because of these traffic problems, they have left the immediate corner open. It will be wooded and maintained, but it will not be used for anything. On the side of the property adjacent to the single family homes, they are leaving a 50' buffer strip. The play area which will be fenced will be entirely on the Woodburn Road side of the building. There will be no play area next to the single family homes. In answer to Mr. Smith's question, he stated that they have submitted a copy of the contract to purchase, but they did not submit a lease because Kinder Care Corporation does not wish to make their lease public.

Mr. Smith stated that the Board needs a copy of that lease. They can delete the financial arrangement if they so desire.

Mr. Morrow stated that the ages of the children would be from 2 through 9. The hours of operation are planned to be from 7:45 a.m. until 5:30 p.m. The children will be transported to and from their homes by their parents or in carpools. They will not be bussed. The school will use one bus to transport

children to and from the area schools. The bus will make a trip to the schools in the morning, one at Noon and another in the afternoon. This will be a mini bus. This operation will be a year around operation.

Mr. Morrow presented a rendering of the proposed building. He stated that it will be charcoal with charcoal buffed colored bricks which will blend in with the trees.

Mr. Morrow presented a letter from Long and Foster Realtors pointing out that in that realtor's opinion, this school would not adversely affect property values in the area. He also presented a letter from the Fairfax Hospital indicating their support for the application and stressing the need for this type facility in this area.

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

Mr. Sidney Masri, 8407 Tobin Road, corner of Beverly Drive and Tobin Road, stated that he was representing the citizens in the Strathmeade Springs Subdivision in opposition to this application. He stated that he would give an overview of the objections particularly relating to traffic and other speakers would speak regarding the residential character of the neighborhood, etc. He stated that the Zoning Ordinance says that a use for which a Special Use Permit is granted must be in harmony with the residential character of the neighborhood. The applicant must show that this use will be in harmony, and it has to be more than just not detrimental to the neighborhood. The entire thrust of this applicant must be to show that this use will not affect the normal traffic of the area and that the traffic will keep its status quo. He must show whether or not this use will inconvenience pedestrians or impair the residential character of the area and whether the additional blacktop will further aggravate the runoff and whether there is a need for these facilities. The traffic counts show that Tobin Road has 3,080 vehicles per day, Woodburn Road has 3,320 vehicles per day.

The Virginia Highway Dept. has told them that a road carrying 5,000 vehicles per day should be a four lane road. Woodburn is barely a two lane road. The Area I Plan for this area lists Woodburn Road as a transportation problem area. The Area I Plan also states that Woodburn Road is the receiver of non-local traffic at peak hour periods and, as a result, left turn movements are considerably hampered. 70 percent of the automobiles coming in and out of this facility would be during rush hour periods of 7:00 to 9:00 a.m. and 4:00 to 5:00 p.m. That traffic would have to make a left turn twice to get into the facility. Under the Zoning Ordinance, the size of the facility should be geared to the street type as listed in Section 30-7.2.3.1.6 which says that a school facility for 76 to 660 children should be on a collector street. This facility is not on a collector street.

Mr. Kelley stated that he had viewed the site. He stated that there is also a single lane bridge along this road.

Mr. Smith stated that that road certainly would not qualify as a collector street with a single lane bridge on it.

Mr. Swetnam stated that it could be a collector street from that bridge on. It would not have to be a collector street the entire distance of the road.

In answer to Mr. Swetnam's question, Mr. Masri stated that there are about 100 homeowners in his subdivision. He asked the people present who were in opposition to stand and be counted. There were about 25 to 27 people who stood. One lady stated that she represented Mr. and Mrs. Tobin who were both in the hospital and could not be present. She asked that they be counted as two people that live in the immediate area who are opposed to this application.

In answer to Mr. Swetnam's question, Mr. Masri stated that this facility would increase the traffic on this road by 17 percent.

Mr. Emmet Storey, who stated that he resided on Beverly Drive, spoke in opposition to this application. He stated that he felt this type facility at this location would adversely affect the residential character of the area. He asked the Board to help preserve the character of this neighborhood. He stated that this is adjacent to the Camelot Subdivision, which is one of the finest in the County.

Peggy Swanson, 8312 Guinevere Drive, two blocks away from the subject site, Chairman of the Northern Virginia Community Day Care Centers Association, spoke in opposition to this facility at this location. She stated that she is also on the Governor's Commission. She stated that she had worked as a volunteer for five years with the Northern Virginia Child Care Center, which

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CHILD CARE PROPERTIES (continued)

is a non-profit organization. She stated that the wages paid in their organization are very low and they still can't make ends meet. She stated that a franchise center is designed to show a profit. In order to make a profit, it must be filled with children all day and prorated per child per hour. The staff should be people who feel strongly about their vocation. The County needs to take a careful look at any organization that uses people for profit. She stated that the County is providing good extended day care in the Camelot School for day care.

Mrs. Zelma Thornton, representative from the Providence District Commission on Women and officer of the Fairfax County Child Care Committee formulated to assure the citizens of Fairfax County of having good quality child care. She stated that she has lived in this area for over 50 years. That piece of property has and always will be a swamp. She stated that this certainly is not a good site on which to put children. Not only is it a swamp, but there is a definite traffic hazard at that location. She stated that she lives on Bannerwood Drive and she is opposed to this use at this location.

Mr. Julian Wadleigh, 3530 Woodburn Road, down by the one lane bridge, spoke in opposition. His opposition was based on the traffic impact and the adverse effect this would have on the residential neighborhood.

Mr. William Bevin, 3213 Viscount Court, president of the Strathmeade Square Subdivision of 309 households, spoke in opposition to the application because of the traffic hazards and congestion problems that already exist on these streets. He stated that his association voted to support the Woodburn Civic Association in their objections. He stated that he felt this use is inconsistent with the zoning code provisions because the applicant requests egress on Tobin Road rather than Woodburn Road and Tobin Road is a local thoroughfare. They feel this use will aesthetically damage the residential character of the neighborhood and adversely affect the resale values of the homes in the area. The applicant has indicated no testimony that shows that the facility will serve the neighborhood around it, but that it will serve the hospital. The studies that the applicant submitted were done in other parts of the country and bear no relationship to this County and should not be considered. He questioned the height of the structure.

Mr. Morrow stated that the building itself will be 12' high. The bell tower is 30' high.

In answer to Mr. Swetnam's question, Mr. Bevin stated that he is not a professional engineer, but a planner.

Mr. Swetnam stated that the report from the Department of Preliminary Engineering in the County states that Tobin Road is planned to be an 80' right of way, whether this facility goes in or not. If this facility does go in, this applicant would have to provide for road widening and curb and gutter along both Tobin and Woodburn Roads.

Mr. Bevin stated that he was not aware of this. He had looked at the plat the applicant submitted with the application which did not show these items.

Mr. Ivan Hall, the contiguous property owner, spoke in opposition. He explained in detail the negotiations that had transpired concerning the probable sale of his property to the applicant and the appraisals that he had had from Shannon and Luchs and Town and Country. He stated that other than the objections that had previously been raised, he would add that of visual pollution. This will be a very large structure with 12 parking spaces and a double driveway. He stated that the proposed buffer that the applicant stated that he would leave between his property and that of the center does not have a single tree. The topography is such that he would be looking directly into the site from his patio. The square footage of his house is only about a third of the proposed structure on the adjacent lot. The building that is proposed is 66 percent larger than that of the church and the church site is on 6 acres. He questioned the use that might go into this large building, should this venture fail. He stated that no one would want a residence of this size and design.

Mr. Philip Udock, attorney for the church that is contiguous to this property, whose address is 7900 West Park Drive, Arlington, spoke before the Board. He stated that the church is not in opposition to day care facilities as long as they maintain quality, but they are concerned about the placing of the center on this property because it is too small. This building is at least

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twice the size of the church, but the church has five times as much land. The applicant has only provided 12 parking spaces for 10 employees, plus 1 cook. That only leave 1 parking space for the mother who will bring her 2 year old to the facility. That mother would not put her 2 year old out of the car to walk to the building alone. Therefore, she would need a parking space. There is not enough parking spaces on the site to take care of this need.

Mr. Don Morrow spoke in rebuttal to the opposition stating that the trees around the perimeter of the site will be preserved. The building will be of a design and color, as previously submitted, that will blend with the trees. This is not a franchise operation. The school will be operated by Kinder Care Learning Center, Inc. directly. They have 130 schools of this type. 40 are in the development stage. He stated that he had met with the day care people in Richmond and those people would disagree with Mrs. Swanson that this type operation is not a good operation.

Mr. Swetnam stated that from a personal point of view, he would rather have a commercial enterprise than no enterprise at all.

Mr. Morrow stated that the number of trips in and out of this facility is less than 4 percent of the existing traffic on Tobin and Woodburn Roads. The development of the site will trigger the widening of Woodburn and Tobin which will alleviate the problems that exist. Woodburn will also be widened an additional 600' to the south because of previous development commitments. The church agreed with the County that they would automatically go ahead and widen the street along the south for the entire frontage when the subject property was developed. They would be glad to move the entrance to Woodburn Road. They felt they would get better traffic flow off Tobin Road. He stated that if the Board has been down to this location, they saw that 3,000 cars per day isn't much of a traffic count. If you compare that with the rest of the County, there is no traffic problem there.

Mr. Barnes inquired about the qualifications of the staff that would run this school.

Mr. Morrow stated that the staff will be hired by Kinder Care. Kinder Care has its home offices in a large professional building in Montgomery, Alabama. Their regional offices for this area will probably be based in Fairfax County. This staff office hires directly for each one of the schools. Each director will have educational training in preschool education. The school has a coordinated curriculum that is provided by Kinder Care.

Mr. Kelley stated that in the event this venture is not a success, then another use will be proposed and will come back to this Board and request permission for a Special Use Permit for that use. It will continue to remain a commercial establishment, even though the zoning will remain residential. If this was a residential structure that was going to be used for a school, it would not present that problem because it could be converted back for a residential use. He stated that he did not think this is the place for this school. He stated that there is a high school proposed for across the street and there is the Woodburn Elementary School on Woodburn Road back towards Route 236. He stated that he had to stop and wait on the curve for a school bus to make the turn before he could proceed around the bend. He stated that he was there at 8:40 a.m. and 5:30 p.m. and the only way the traffic problem could be explained would be to be there during rush hours. He stated that he was forced to stop on the road down the hill from this subject site within 2 inches of the ^{align} road was too narrow for his car and the school bus. He stated that he disagreed with Mr. Wadleigh that the one lane bridge should remain. With the traffic that is presently on that road, he stated that he could not see why the Highway Department does not widen that road. It is too dangerous. As far as the Highway Department widening Tobin Road, he stated that he knew from experience that this is sometimes never done. Therefore, he felt that the Board must consider the conditions that presently exist. He stated that he could not find a single reason why this should be granted. This Board must preserve the residential character of the neighborhood. To grant this use would not be within the Ordinance.

Mr. Smith stated that this is certainly a small piece of land to place a school for 120 children on, particularly considering that the size of the land will be greatly reduced because of the required dedication on both Tobin and Woodburn Roads. He stated that it would be helpful if, in the future, dedication is shown on the plats and also the remaining land area after dedication. This would be helpful to the Board.

Mr. Kelley stated that this is the third application that this applicant has had before this Board and all with what seems to be identical conditions as far as size of the property, traffic problems and congestion.

RESOLUTION

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In application S-18-76 by Child Care Properties, Inc. and Kinder Care Learning Center, Inc. under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit construction and operation of day care center, 3400 Woodburn Road, 59-1((1)) 22, Providence District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 16, 1976.

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is Sayre, Frye, Reedy and Luchs.
2. That the present zoning is RE-1.
3. That the area of the lot is .9997 acres.

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

That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

The motion passed 4 to 1 with Mr. Swetnam voting No.

10:40 - WILLA DEAN CORNELIUS appl. under Section 30-6.6 of the Ordinance to a.m. permit construction of garage closer to side property line than allowed by the Ordinance (5' from side, 15' required), 8445 Highland Lane, 101-3((4))16A, (24,101 sq.ft.), Lee District, (R-17), V-19-76. (The hearing began at 12:06 p.m.)
The applicant submitted notices to property owners which were in order.

Mr. Cornelius explained his justification for the need for this variance. His main reason for needing it was because uplating an addition elsewhere on the lot would interfere with the flood plain.

There was a copy of a memo from C. S. Coleman, County Soil Scientist, stating that this proposed location is the only possible*Mr. Cornelius could put a garage on this property because of the 100-year flood plain of Dogue Creek.
*location on which

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-19-76 by Willa Dean Cornelius under Section 30-6.6 of the Zoning Ordinance to permit construction of a garage closer to side property line than allowed by the Ordinance (5' from side, 15' required), 8445 Highland Lane, 101-3((4))16A, Lee District, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 16, 1976, and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 24,101 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law:
That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) exceptionally irregular shape of the lot,
(b) existing alternate locations on the property are in the flood plain.

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
 3. Architectural detail shall conform to the existing structure.
- FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Kelley seconded the motion.

The motion passed 5 to 0.

10:50 - LOGAN FORD CO. appl. under Section 30-7.2.10.5.4 of the Zoning Ord. to permit storage and display of new trucks, customer parking, and employee parking, across from 6801 Commerce St., 80-4((6))part of 4D2, (1.0767 acres), Springfield District, (C-G), S-21-76.

(Hearing began at 12:20 p.m.)

Donald Stevens, attorney with the firm of Hazel, Beckhorn and Hanes, represented the applicant before the Board. He submitted notices to property owners which were in order.

Mr. Stevens stated that this site is where John Scott had a superslide a few years ago. This Special Use Permit is sought for the purpose of adding some employee parking and for additional storage and display for new trucks and some customer parking. The trailer for the sales office is 40' long and 10' wide. It is a typical temporary trailer that is blocked up, not on wheels. This is an interim use. The owners of this property are the same as that of the stockholders of Logan Ford.

Mr. Worthington H. Talcot, executive vice-president of Washington Real Estate Investors Trust and owner of the Backlick Plaza which is the adjoining property, spoke to request that there be a condition placed on this granting to stop the people using the Logan Ford lot from driving over across their property.

Mr. Stevens stated that they would be glad to have added as a condition that they would place 8 inch wheel bumpers at the location in question.

There was no one else to speak regarding this case.

RESOLUTION

In application S-21-76 by Logan Ford Co. under Section 30-7.2.10.5.4 of the Zoning Ordinance to permit storage and display of new trucks, customer parking and employee parking, on property located across the street from 6801 Commerce Street, 80-4((6))pt. of parcel 4D2, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property

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owners, and a public hearing by the Board held on March 16, 1976.

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

- 1. That the owner of the property is Mary Frances Nonnemacker and Frances Conlon.
- 2. That the present zoning is C-G.
- 3. That the area of the lot is 1.0767 acres.
- 4. That compliance with the Site Plan Ordinance is required.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of the Board of Zoning Appeals. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The applicant will put 8" standard wheel bumpers along a certain area of the property described on plat dated 12/13/73, by Herman L. Courson of the building location survey on the land of Hilltop Incorporated. That plat can be found in the file on this case.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

11:10 - WAKEFIELD CHAPEL RECREATION ASSOC., INC. appl. under Section 30-7.2 a.m. .6.1.1 of the Zoning Ordinance to permit construction of two tennis courts, 4600 block Holborn Avenue, 70-1((1))16, (5.8854 acres), Annandale District, (R-17), S-22-76.

(Hearing began at 12:40 p.m.)

David Reynolds, 8314 Sara Lane, Annandale, represented the applicant before the Board. Notices to property owners were in order.

Mr. Reynolds stated that the two requested tennis courts would reduce the number of parking spaces to 85. The club now has a membership of 500. They have done a survey for 31 days including Saturdays and Sundays and found that only on three occasions did they have more than 30 cars in the lot. On one occasion they had 39 cars in the lot. There has only been one time when they had more cars than their lot could handle. That was during an All-Star Swim Meet, which only occurs once every two or three years.

Mr. Smith stated that the club has violated the existing Special Use Permit. They are only supposed to have 375 family memberships which required 125 parking spaces. That approval was for an additional two tennis courts which apparently were never constructed. He asked for an explanation of this.

Mr. Derrock, engineer on this proposal, stated that even though he was not involved in the original application, he would suspect that the reason the club expanded in the front was because they could not build in the back due to flood plain problems. The changes were requested probably by the County's site plan department. The original site plan was revised.

Mr. Covington stated that the Board was not as stringent then as it is now. There were probably problems due to the flood plain and the site plan department requested that the parking layout be changed and it was changed.

The Board discussed with the applicant whether or not the club will have adequate parking when they reduce the spaces to 85.

Mr. Reynolds stated that the majority of their membership is from a three block area. There is also a pathway along Turkey Run flood plain that is behind the pool, so a large number of people use that pathway which would shorten the walking distance to two blocks.

Mr. Covington stated that the Zoning Department has had no problems with this club.

Mr. Durrer inquired of Mr. Derrock if the plat that is before the Board today reflects the development that is there now.

Mr. Derrock stated that it does.

In answer to Mr. Barnes' question, Mr. Reynolds stated that if there is need for additional parking, there is room on the property for it.

Mr. Derrock stated that even though there is room, it would be very expensive to put in because it would require a lot of fill.

Mrs. Foss, 4606 Holborn Avenue, spoke in support of the application. She stated that she lives across the street and up two houses. She does not play tennis, but she felt this is a good use and the additional recreation facility is needed in the community. She stated that she had had a coffee and invited all the nearby property owners. The proposed courts were discussed along with the proposal for the lighting of the courts and there were no objections cited.

In answer to Mr. Smith's question, Mr. Reynolds stated that the club plans to light the tennis courts with Devoe Club System. They are about 15' off the court surface. They have been advised that this type lighting system will prevent any glare from going away from the site and affecting the area property owners. In addition, the elevation of the courts is much lower than that of the homes.

Mr. Reynolds stated that the club had two other people who were present and prepared to speak in favor, but because of the lateness of this case, they had to leave. He stated that the courts will be locked at all times and only members will have a key available to them. There will be strong penalties for people who violate the noise controls. He requested that the hours of operation be from 7:30 a.m. to 10:30 p.m.

Mr. Kelley stated that the usual hours of operation are from 9:00 a.m. to 9:00 p.m. and if the Board allows extended hours for these courts, the Board will also reserve the right to change them back to 9:00 a.m. to 9:00 p.m. He asked the applicant if that was agreeable.

Mr. Reynolds stated that it was.

Mr. Kelley asked if the club would be willing to stipulate that it would also be willing to construct additional parking, should 85 spaces not be enough.

Mr. Reynolds stated that they would at their own expense.

Mr. Kelley stated that the Board would go along with the 500 members, but if this does not work out, the Board will be forced to go back to the original granting of 375 family members.

There was no one else to speak on this case.

RESOLUTION

In application S-22-76 by Wakefield Chapel Recreation Association, Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit construction of two tennis courts with lights, 4600 Holborn Avenue, 70-1((1))16, Annandale Dist., Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 16, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 5.9954 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.
6. That the applicant is presently operating under SUP S-16-69 granted January 28, 1969 for a maximum of 385 family memberships.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with a copy of the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family memberships shall be 500.
7. The hours of operation for the tennis courts are to be from 8:00 a.m. to 10:00 p.m./as long as there are no complaints.
The hours of operation for the pool are from 9:00 a.m. to 9:00 p.m.
8. The minimum number of parking spaces is to be 85.
9. All lights and noise, including loudspeakers, shall be confined to subject site.
10. All necessary landscaping and/or screening shall be provided and maintained to the satisfaction of the Director of Environmental Management.
11. No off-site parking will be allowed.
12. Any after hours parties shall be limited to six (6) per year. Approval of each party shall be required by the Zoning Administrator prior to each separate party.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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The Board recessed for lunch at 1:30 p.m. and returned at 2:35 p.m. to take up the 11:30 a.m. item.

11:30 - THURMAN TUNNIE COX appl. under Section 30-6.6 of Ord. to permit a.m. construction of garage 29.2' from front property line (50' required), (21,796 sq. ft.), Annandale District, (RE-1), V-23-76.

Mrs. Cox presented notices to the Board which were in order. She stated that this variance is needed because they cannot construct in the back or side. The shape of the lot is very irregular shaped. They also have drainage problems in the back. Putting the garage at this location would make use of the existing driveway.

Mr. Smith stated that this is a large variance, particularly for a front variance. He suggested that the garage be cut down in width.

Mrs. Cox submitted two letters from adjoining property owners stating that they had no objection to this variance.

Mr. King, brother of Mrs. Cox, testified to the irregular shape of the lot and the drainage problems that caused the need for this variance.

There was no one to speak in favor or in opposition.

RESOLUTION

In application V-23-76 by Thurman T. and Betty E. Cox under Section 30-6.6 of the Ord. to permit construction of garage within 31.2' of front property line, 7130 Wilburdale Court, 71-3((9))25, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 16, 1976, and

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

1. That the owners of the property are the applicants.
2. That the present zoning is RE-1.
3. That the area of the lot is 21,796 sq. ft.

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

That the applicant has satisfied the Board that the following physical conditions under which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

- (a) exceptionally irregular shape of the lot,
- (b) unusual condition of the location of existing building,
- (c) small lot.

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

1. This approval is granted for the location and the specific structure indicated in the plat⁷ included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. The architectural character shall be maintained.
4. The garage shall be 31.2' from the front property line.

Mr. Kelley seconded the motion.

The motion passed 5 to 0.

11:40 - THE TARA SCHOOL, INC. appl. under Section 30-7.2.6.1.3.2 of the Ord. a.m. to permit renewal of SUP for school of general education, 1130 Towlston Road, 19-2((1))66, (2.353 acres), Dranesville District, (RE-2), S-15-76.

Mr. Rogers, a partner in the corporation, presented notices to property owners which were in order. He stated that he and his wife wish to continue to operate this school with no changes just as they have done for the past year and one-half. He stated that he would like to have a Special Use Permit for an indefinite period because it is extremely difficult to keep and hire a staff for the coming year when you do not know whether or not you will have the proper permit. If he waits until he has the permit, he would not be able to get the staff.

Rev. Johnson, pastor of the church in which this school operates, stated that he was sure that the church would give Mr. and Mrs. Rogers an open ended lease, if the Board needs that in order to grant a longer permit for them.

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

Mr. Covington stated that his office had received no complaints about this school to his knowledge.

RESOLUTION

In application S-15-76 by The Tara School, Inc. under Section 30-7.2.6.1.3.2 of the Zoning Ordinance to permit renewal of Special Use Permit for school of general education, 1130 Towlston Road, 19-2((1))66, Dranesville District, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 16, 1976.

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

1. That the owner of the property is Trustees of Bethel Regular Baptist Church.
2. That the present zoning is RE-2.
3. That the area of the lot is 2.353 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.
6. That applicant operates a school of general education for 40 students at this address, pursuant to SUP S-63-75, granted July 17, 1974. This is a renewal of that permit with no changes.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit shall be posted in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of students shall be 40, ages 4 to 8 years.

7. The hours of operation shall be from 9:00 a.m. to 2:30 p.m., five (5) days per week, Monday through Friday, during the normal year.

8. This Special Use Permit is granted for three (3) years from July 17, 1976 with the Zoning Administrator being empowered to grant two (2) additional years.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

 DEFERRED CASE; March 16, 1976

12:00 - LEARY EDUCATIONAL FOUNDATION, INC. appl. under Section 30-7.2.6.1.3.2
 Noon of the Ordinance to permit private school of general education with change of ownership, 60 students maximum, 9:00 a.m. to 2:30 p.m., five days a week, 4015 Annandale Road, 60-3((14))2B, (2 acres), Mason District, (R-10), S-264-75. (Deferred from 1-22-76 for notices)

Mr. William Hansbarger, 10523 Main Street, Fairfax, attorney for the applicant, presented notices to the Board which were in order.

Mr. Hansbarger stated that this property has been used for a school since 1951. The most recent operator was Merrydowns. That school is for 225 students from Kindergarten through second grades. The proposed school will be for children with physical and emotional disabilities. These will be students that cannot be in the public schools because the public schools do not have facilities for them.

Mr. Kelley stated that this is an application that could be granted for an indefinite period of time as long as there is no change.

Mr. Smith agreed.

In answer to Mr. Smith's question, Mr. Hansbarger stated that the school does use busses to transport the children. These busses are painted yellow with black lettering and do comply with the standards for school busses in Virginia. There was no one to speak in favor or in opposition to this application.

 RESOLUTION

In application S-264-75 by Leary Educational Foundation, Inc. under Section 30-7.2.6.1.3.2 of the Zoning Ordinance to permit private school of general education with change of ownership, 4015 Annandale Road, 60-3((14))2B, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 16, 1976, after being deferred on January 22, 1976 for proper notices.

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

1. That the owners of the property are Philip P. and Dorothy Buckler and Robert M. and Muriel Buckler.
2. That the present zoning is R-10.
3. That the area of the lot is 2 acres.
4. That compliance with all applicable State and County Codes is required.

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- 5. That compliance with the Site Plan Ordinance is required.
- 6. That ~~subject~~ property has been operating under Special Use Permit for a school since 1951.

AND, WHEREAS, the Board has reached the following conclusions of law:
That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The maximum number of students shall be 60, ages 12 to 18 years.
- 7. The hours of operation shall be 9:00 a.m. to 2:30 p.m., five (5) days per week, Monday through Friday, during the normal school year.
- 8. Any necessary landscaping and/or screening shall be provided and maintained to the satisfaction of the Director of Environmental Management.
- 9. All busses and/or vehicles used for transporting students SHALL comply with County and State standards in color and light requirements.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

12:20 - DON SIDERA COLIN DEVELOPMENT CORP. appl. under Section 30-6.6.5.4 p.m. of the Zoning Ordinance to permit deck wider than 10' to remain with 15.3' from rear property line (25' required), 6700 Pine Creek Court, 40-2((35))11, (8,680 sq. ft.), Dranesville District, (R-12.5C), V-241-75, Deferred from 12-17-75 and again from 2-10-75 for notices.

Mr. Edward Dove, 11438 Vale Spring Drive, secretary-treasurer of Colin Development Corporation, submitted notices to property owners which were in order. He stated that about two years ago Colin Development purchased 32 home sites in the McLean area. Both he and his partner, Mr. William H. Plank, were involved in other businesses at that time on a full time basis. He and Mr. Plank entered into an agreement with another builder, Kerge and Moore, to construct the 32 homes on these sites. At some point during construction, they were requested by their salesperson, Diane Winn, to place decks slightly larger than 10'x10' on lots 11, 10 and 26. The decks were constructed, the homes were purchased, the new owners moved in and then they found out that the decks were, in fact, larger than 10' wide.
(Colin Development Corp.)

He stated that he went back to the builder and found that the builder had interpreted the width of the deck to mean the area of the deck that extends into the rear yard. The Ordinance reads that a deck can extend into the rear yard as long as that deck is no wider than 10'. The builder interpreted the depth of the deck as the width, instead of interpreting the length along the house as the width. Therefore, the houses were in violation because of

the width of the decks.

Mr. Dove stated that when he found out about this violation, he came into the Zoning Office and discussed this with Mr. Covington and Mr. Knowlton. Mr. Covington ruled that the decks were, in fact, in violation. He submitted a copy of the building permit to the Board.

In answer to Mr. Smith's question, Mr. Dove stated that he did not discuss this with Mr. Covington prior to construction of these decks. He stated that he was not aware that they were constructed like this until after they were finished. He stated that Colin Development Corp. takes full responsibility for this mistake, since they were the owners and the developer of the property. Kerge and Moore were working for Colin Development. They did what they were told to do by another member of their staff, the salesperson.

In answer to Mr. Swetnam's question, Mr. Dove stated that there was an additional charge for the larger decks. He stated that Diane Winn was employed by Colin Development to sell these 32 houses. Eventually, she went with Locklin Realty and listed the houses with Locklin since she was unable to sell them. He stated that he and Mr. Plank learned that they could not build houses this way. The next project, Mr. Dove stated, that he was planning to sell personally and he would assure the Board that this mistake would not occur again. He stated that he is an engineer for Trico Associates and he has never made a mistake such as this before.

There was no one present to speak in favor or in opposition to this case.

RESOLUTION

In application V-241-75 by Colin Development Corporation and Don Sider under Section 30-6.6.5.4 of the Zoning Ordinance to permit deck wider than 10' feet to remain closer to the rear property line than allowed by Ord. (15.3' from rear, 25' required), 6700 Pine Creek Court, 40-2((35))11, Dranesville District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 16, 1976, after being deferred from February 10, 1976 and on subsequent dates for proper notices.

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

1. That the owner of the property is Don Sider. Colin Development Corp. was the builder of this house.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 8,680 square feet.
4. That the property is subject to pro rata share for off-site drainage.

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

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

12:25 - EDMUND VAN GILDER & COLIN DEVELOPMENT CORP. appl. under Section 30-6.6.5.4 of Ord. to permit deck wider than 10' to remain within 16.7' from rear property line, 25' required, 6702 Pine Creek Court, 40-2((35))10, (8,418 sq. ft.), Dranesville District, (R-12.5Cluster), Deferred from 12-17-75 and again from 2-10-76 for notices, V-242-75.

Mr. Edward Dove, 11438 Vale Spring Drive, secretary-treasurer of Colin Development Corporation, submitted notices to property owners which were in order. He stated that about two years ago Colin Development purchased 32 home sites in the McLean area. He and his partner, William Plank, were involved in other businesses at that time on a full time basis. They entered into an agreement with another builder, Kerge and Moore, to construct the 32 homes on these sites. At some point during construction, they were requested by their salesperson, Diane Winn, to place decks slightly larger than 10'x10' on lots 11, 10 and 26. Kerge and Moore constructed these decks, the homes were purchased, the new owners moved in and then Colin Development found out that the decks were, in fact, larger than 10' wide. He went back to the builder and found that the builder had interpreted the width of the deck to mean the area of the deck that extends into the rear yard. The Ordinance reads that a deck can extend into the rear yard as long as that deck is no wider than 10'. The builder interpreted the depth of the deck as the width, instead of interpreting the length along the house as the width. Therefore, the houses were in violation because of the width of the decks. He stated that he came into the Zoning Office when he found out about this and discussed this with Mr. Covington and Mr. Knowlton. They ruled that the decks were, in fact, in violation. He submitted a copy of the building permit to the Board. He stated that he did not discuss this with Mr. Covington prior to construction of these decks. Colin Development Corp. takes full responsibility for this mistake, since they are the owners and the developer of the property. Kerge and Moore were builders working for them.

Mr. Dove assured the Board that on his next project, there would be no mistakes such as this. He stated that he was going to run the project, personally. He stated that he is an engineer for Trico, Inc. and he has never made a mistake such as this before.

There was no one present to speak in favor or in opposition to this application.

RESOLUTION

In application V-242-75 by Edmund VanGilder and Colin Development Corp. under Section 30-6.6.5.4 of the Ord. to permit deck wider than 10' to remain 16.7' from the rear property line, 25' required, 6702 Pinecreek Court, 40-2((35))10, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement, posting, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 16, 1976, and

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

- 1. That the owner of the property is Edmund Van Gilder.
2. That the present zoning is R-12.5Cluster.
3. That the area of the lot is 8,418 sq. ft.

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

- 1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Barnes seconded the motion. The motion passed 5 to 0.

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12:30 - SAUL A. JACOBS & COLIN DEVELOPMENT CORP. appl. under Section 30-6.6
p.m. .5.4 of the Ord. to permit deck wider than 10' to remain closer to
rear property line than allowed by Ord., (15' from rear, 25' required)
6729 Pine Creek Court, 40-2((35))26, (8,404 sq. ft.), Dranesville
District, (R-12.5 C), Deferred from 12-17-75 and again 2-10-76 for
notices, V-243-75.

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Mr. Edward Dove, 11438 Vale Spring Drive, secretary-treasurer of Colin Development Corp., submitted notices to property owners which were in order. He stated that about two years ago Colin Development purchased 32 home sites in the McLean area. He and his partner, William Plank, were involved in other businesses at that time on a full time basis. They entered into an agreement with another builder, Kerge and Moore, to construct the 32 homes on these sites. At some point during construction, Kerge and Moore were requested by the salesperson, Diane Winn, to place decks slightly larger than 10'x10' on lots 11, 10 and 26. Kerge and Moore constructed these decks, the homes were purchased, the new owners moved in and then Colin Development found out that the decks were, in fact, larger than 10' wide. Mr. Dove stated that he went back to the builder and found that the builder had interpreted the width of the deck to mean the area of the deck that extends into the rear yard. The Ordinance reads that a deck can extend into the rear yard as long as that deck is no wider than 10'. The builder interpreted the depth of the deck as the width, instead of interpreting the length along the house as the width. Therefore, the houses were in violation because of the width of the decks.

Mr. Dove submitted a copy of the building permits to the Board. He stated that Colin Development Corp. takes full responsibility for this mistake, since they are the owners and the developer of the property. Kerge and Moore were builders working for them.

Mr. Dove assured the Board that on the next project, there would be no mistakes such as this. He stated that he was going to run the project, personally. He stated that he is an engineer for Trico Associates and he has never made a mistake such as this before.

There was no one present to speak in favor or in opposition to this application.

RESOLUTION

In application V-243-75 by Saul A. Jacobs and Colin Development Corp. under Section 30-6.6.5.4 of the Zoning Ordinance to permit deck wider than 10' 15' from rear property line, 25' required, 6729 Pine Creek Court, 40-2((35)) 26, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement, posting, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 16, 1976, and

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

1. That the owner of the property is Saul A. Jacobs.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 8,404 sq. ft.

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

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the application be and the same is hereby granted.

Mr. Barnes seconded the motion. The motion passed 5 to 0.

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2:00 - THOMAS F. & BARBARA B. WARNER appl. under Sect. 30-6.6 of Ord. to
 p.m. permit building to be constructed 53.95' from side property line,
 100' required by Ord., and to permit waiver of the dustless surface
 requirement for the parking lot, 11014 Sunset Hills Road, 18-3((1))13
 & 11A, (2.2879 acres), Centreville District, (IL & RE-2), V-287-75,
 Deferred from 2-17-76 for proper notices.

Mr. Douglas Adams, 7250 Maple Place, Annandale, Virginia, attorney for the applicant, submitted notices to property owners to the Board which were in order.

Mr. Adams stated that this property was zoned I-L last year. Mr. Warner plans to build contractor offices on the property. However, sewer is not yet available at this time and will not be available for four or five years. Therefore, Mr. Warner wants to put the property to some interim use. He proposes to use the property for a plumber's office. The setback variance that is requested is for the existing building which is 53.95' from Clay Lane which is a dirt road. On the other side of Clay Lane is undeveloped residential property. The property to the north is planned residential, but at the present time is undeveloped. This is a pie shaped lot. Across Sunset Hills Road is an industrial area which is being developed.

In answer to Mr. Smith's question, Mr. Adams stated that they had submitted a development plan to the Board of Supervisors at the time of the rezoning hearing. That plan showed the proposed structure 15' from the VEPCO property. The County did not indicate that it had any objections at that time. He stated that Mr. Warner would have to face that problem when he gets to that point of developing the property with a permanent structure. At this time, all they want to do is use this existing building.

In answer to Mr. Smith's question, Mr. Adams stated that the strip of land located almost at the point where Clay Lane and Sunset Hill Road meet was not included in the rezoning and is still zoned residential. That strip of land was a road, but was vacated by the Board of Supervisors on April 16, 1973. They were unable to amend their application in time to get that strip in the rezoning.

In answer to Mr. Kelley's question, Mr. Adams stated that the existing house that is on the property is presently being used to store some things in. Mr. Warner has owned the property since May, 1973.

In answer to Mr. Durrer's question, Mr. Adams stated that the land was rezoned to industrial in September 1975.

In answer to Mr. Smith's question, Mr. Adams stated that he did not think the Board of Supervisors was aware that Mr. Warner planned to use the existing house for a plumber's office.

Mr. Kelley stated that that is the problem. Mr. Warner came in with a development plan for a proposed use and a proposed building and the Board of Supervisors rezoned that property for that use with that building. Now, he wants to have a different use and a different building.

Mr. Covington stated that a plumber's office is really a commercial use, not an industrial use.

Mr. Adams stated that he realized that this is a commercial use, but this is only an interim use until they can get the sewer. This is on a 20' dirt road and there are no houses in the area. There is also no contemplated construction of houses in the area in the near future.

Mr. Kelley stated that he had seen the property and he did not see the hardship.

Mr. Adams stated that the property is very narrow, particularly toward the front.

Mr. Kelley asked if the applicant wasn't aware of that at the time he purchased the property.

Mr. Adams stated that he had the property zoned and then found that he couldn't use it as he had planned because of the fact that he couldn't get sewer connections. He stated that he felt this piece of property meets the requirements of the Ordinance regarding physical hardship.

Mr. Durrer asked at what point the applicant found out that this piece of

property could not be connected to public sewer. He asked if it was after it was rezoned.

Mr. Adams stated that he did not know the answer, but he would be glad to try to find out the answer.

Mr. Smith stated that he would like to know the answer to that also. He stated that he also wanted to know when Mr. Warner would be able to get sewer connections.

Mr. Clark Hadley, representing the National Association of Letter Carriers, spoke in opposition. He read a letter from the Director of this association, John H. Swanson, which he submitted for the file. The letter stated that the old frame building, plus two large, old, unsightly truck trailers and a large shed are presently situated well off Sunset Hills Road, and are only partially visible and hardly noticeable from this road. The premises are used to conduct a plumbing, heating, and air conditioning business. These structures are obviously not used as an office, as alleged in Attorney Adams' letter, but as a storage space for heavy plumbing supplies and equipment. In addition, there is a fair sized lot used to park cars and trucks adjacent to these structures. The letter stated that on a week day afternoon there were about 15 vehicles, including eight heavy trucks parked on the lot. He stated that if the variance is granted, all this will be moved closer to Sunset Hills Road where it will be unavoidably seen by all passersby as an eyesore. Also if the request for the dustless surface requirement waiver is granted, the constant truck traffic kicking up large clouds of dust will settle over the 200 plus cars on their (National Association of Letter Carriers) parking lot and otherwise pollute the air and despoil an otherwise attractive area.

Mr. Covington stated that he had taken down all the information that Mr. Hadley had given and would have a zoning inspector check on these points tomorrow. The items listed and the circumstances as described by Mr. Hadley are not permitted uses, particularly without a Non-Residential Use Permit.

Mr. Adams requested that the Board defer this case until a meeting in April in order that he might check on the points raised and also in order that he might have Mr. Warner present to answer the questions himself.

Mr. Swetnam moved that this case be deferred until April 20, 1976 for additional information.

Mr. Barnes seconded the motion and the motion passed unanimously.

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2:00 - H. DWAYNE MASEMER, ET AL appl. under Section 30-6.6 of the Ordinance p.m. to permit subdivision of a lot with less frontage on two lots than allowed by the Ordinance (10' of frontage for both lots, 70' required), 4008 Annandale Road, 60-3((6))4, (55,274 sq. ft.) Mason District, (R-10), V-2-76. (Deferred from February 17, 1976 for new plats showing three lots rather than four and preferably with access to the center lot from Medford Drive, if possible.)

The new plats were in the file. There were two sets of plats, one showing access from Medford Drive for the center lot and the other with access from Annandale Road for the center lot.

Mr. Smith stated that the plan with access from Medford Drive would be preferable. This would cut the requested variances down to one.

The other Board members agreed.

Mr. Swetnam told Mr. Finley, agent for the applicant, that the Board could not approve two plans and unless there was a great problem with having access from Medford Drive, that would be preferable.

RESOLUTION

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In application V-2-76 by H. Dwayne Masemer, et al under Section 30-6.6 of the Zoning Ordinance to permit subdivision of a lot with less frontage on two lots than allowed by the Zoning Ordinance, 4008 Annandale Road, 60-3((6))4, Mason District, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on February 17, 1976 and deferred to March 16, 1976 for additional information, and

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is R-10.
- 3. That the area of the lot is 55,274 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land

(a) exceptionally narrow lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted for alternate layout No. 1 with access on the middle lot from Medford Drive, for a total of three lots. That plat was drawn by Trico Associates, engineers and surveyors, dated March 4, 1976, and was certified correct by Mr. Dove.

- 1. This approval is granted for the location of the lots as shown on the plans indicated above only, and is not transferable to other land.
- 2. This variance shall expire one year from this date, unless a sketch-plan has been submitted to the Department of Environmental Management for approval.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

March 16, 1976

AFTER AGENDA ITEM: PLEASANT VALLEY MEMORIAL PARK, INC., Request for out-of-turn hearing.

This Special Use Permit had been granted 1 1/2 years ago, an extension had been granted and the permit would expire on March 18, 1976. The corporation had been purchased by another group who was not familiar with all the problems involved. They are in the process of submitting their site-plan, but would never be able to begin construction prior to March 18. Therefore, they request the out-of-turn hearing for April 20, in order to continue with their plans.

Mr. Kelley moved that this request be granted.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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March 16, 1976
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VOLLSTEDT, Variance and Special Use Permit, Request for extension.
S-19-75 and V-20-75.

Mr. Covington stated that he had checked with Design Review and finds that Mr. Vollstedt's engineer has filed the site plan for the 3rd time. They are having drainage problems and engineering problems. It is not the applicant's fault.

Mr. Swetnam moved that this variance and special use permit be extended 180 days from April 9, 1976.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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March 16, 1976

APPROVAL OF MINUTES -- February 10 and 17, 1976

Mr. Kelley moved that the minutes for February 10 and 17, 1976 be approved with corrections on February 17. A line had been left out of the requirements for notification.

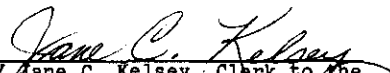
Mr. Swetnam seconded the motion.

The motion passed unanimously.

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The meeting adjourned at 5:00 p.m.

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BY Jane C. Kelsey, Clerk to the
Board of Zoning Appeals


DANIEL SMITH, CHAIRMAN

Submitted to the BZA on

April 1, 1976

APPROVED April 6, 1976
DATE

Submitted to the Board of Supervisors,
Planning Commission and other Depts.

April 9, 1976

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on March 23, 1976. Members present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Tyler Swetnam; and William Durrer.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - LINDA A. ABBOTT, D.D.S. appl. under Section 30-7.2.6.1.14 of Ord. to a.m. permit home professional dentist office, 3300 Magnolia Avenue, 61-2 ((1))15, (.539 acres), Mason District, (R-12.5), S-24-76.

(The hearing began at 10:05 a.m.)

Mr. Joseph Smith, attorney for the applicant, with offices at 6045 Wilson Boulevard, Arlington, Virginia, submitted notices to property owners which were in order.

Joseph Mr./Smith stated that Mrs. Abbott wishes to open a small dentist's office in her home. She and her husband have been living in this house for over a year. They purchased the house with the expectation of opening a dentist's office. They also had a team inspection done and had requested a non-residential use permit for the purpose of having a dentist's office in this home. The inspection was made and approved as being adaptable to a dental office. The formal application for the non-residential use permit was filed in February 1975. At that time, this use could be made of that home by right. A copy of that application is in the file before the Board.

Mr. Joseph Smith stated that on the plans before the Board, it shows five parking spaces. These plans were filed in the Zoning Office prior to the time the Board made the policy that there could only be two additional parking spaces. She has no objection to only having two parking spaces. Mrs. Abbott now has a dental office at Bailey's Crossroads. Her practice is and will be by appointment only. Her present hours of operation are from 8:00 a.m. to 5:00 p.m., Monday, Wednesday, and Friday, 12:00 Noon to 8:00 p.m. on Thursday and closed Tuesday, Saturday and Sunday, except for emergencies. The maximum number of cars in any one day would be 12. Mrs. Abbott has one assistant and that is all that is planned. She will have one patient at a time every 45 minutes. There will be no changes to the exterior of the house. This house is in a secluded area. The property is zoned R-12.5, but the property has well over one-half acre of land. She proposes to have screening to entirely screen the parking lot from the neighbors. Dr. Abbott is trying to combine her profession with her family and future children she hopes to have. He submitted letters in favor of this application from the St. Anthony Catholic Church, which is a contiguous property owner, Young and Laurence Polzak, 3304 Chicamuxen Court, and Mr. Loome, 3230 Magnolia Avenue, a contiguous property.

Mr. John W. Roach, spoke in support of the application. He stated that he had resided in the 3300 block of Magnolia Avenue, about 600' away from the Abbott property, for twenty-seven years. He stated that he was looking forward to having a dental office in the area. In answer to Mr. Smith's question, he stated that traffic does not pass his house on the way to the Abbott property.

Mr. Dan Rice, 3223 Magnolia Avenue, spoke in opposition. He submitted a petition with 13 signatures indicating their opposition to this application. He stated that 12 of the 14 families living on Magnolia Avenue are opposed to this use of this property. Two families are in favor. His main reasons for opposition were that this use will cause an increase in the traffic on this dead-end residential street. He stated that a dentist is already in the area.

stated Mr. Hudson Nagele, 3304 Glen Carlyn Road, that the other dentist office is located on Glen Carlyn Road which, at one time, was the second busiest road in Fairfax County and is the only road one can use to get from Leesburg Pike over to Arlington Boulevard. It is about four lanes wide and there is ample parking off the highway on both sides of the street. Therefore, the dentist, who is located on Glen Carlyn Road, will not affect and does not affect the neighborhood as Mrs. Abbott's dentist's office will. He stated that as a general rule he was opposed to the use of residential property for professional or commercial purposes. He stated that he would not object to an accountant having his office in his home as it would not create as much traffic. He asked the people in the audience who were in opposition to stand. There were 10 people who stood to indicate their opposition.

Mr. Smith told Mr. Nagele that if he was generally opposed to this type use of a residential home, this problem should go back to the Board of Supervisors for an ordinance change.

Mr. Smith stated that the Board of Supervisors has set certain criteria for this Board to follow and if the applicant meets the general criteria, this Board must, under the Zoning Ordinance, grant the permit. This Board has to determine if the applicant meets the general criteria which is, being in harmony with the residential character of the area. This Board can set certain conditions, such as limiting the number of parking spaces and the number of clients that can be seen at any one time, to bring it in harmony with the residential character of the area. The Board has set certain policies relating to these uses, as to number of additional parking spaces and limitation on the time the applicant can operate from this residence, etc. He told Mr. Nagele that there are members of this Board that agree that these uses should not be in residential areas at all. This would require a change in the Zoning Ordinance. There is a study going on at the present time that may bring about some change.

Ms. Klore, 5847 Glen Carlyn Road, Civic Affairs Chairman of the Glen Forest Citizens Association, consisting of 300 homes, spoke in opposition to this application.

Ms. Berthy, 5928 Merritt Place, spoke in opposition. Her main point of opposition was the narrowness of the street that might cause an increased traffic hazard for the children who must use this street to walk to the school bus.

Charles Gorrey, 3227 Magnolia Avenue, directly across the street and down one house, spoke in opposition.

The Board was in receipt of numerous letters of opposition. Mr. Joseph Smith, in rebuttal, stated that none of the testimony in opposition actually attacked this particular application as to whether or not this use permit would change the character of the neighborhood. This applicant will be bound by the conditions set for her by this Board. There will be and can be no more than two parking spaces. He stated that he could not see that this use would cause that much of an increase in traffic. If she has one patient every 45 minutes, that is 3 patients or 3 cars in two hours. The parking will not be on the street. She proposes to completely screen the parking. Mrs. Abbott's lease is up in April at the Bailey's Crossroads office. She is paying \$9.00 per square foot because of the special features of this type office. Mr. Nagele who spoke in opposition is further away from the Abbott property than the church is, who has indicated their support. Mr. Nagele lives more than one-half mile away. He is crusading here. He stated that he feels this use will impact the area none at all.

Mr. Kelley stated that he was sure that the motion that he proposes will come as a complete surprise to the other Board members. He stated that he agreed with Mr. Nagele in his point about putting businesses in residential areas. He stated that he also is opposed to it. However, until such time as the Board of Supervisors changes this Ordinance and, he stated that he felt it should be changed, this Board must act on that Ordinance. Until such time as it is changed, this Board must grant or deny each case, based on the merits of that case. He stated that he probably had voted against 98 percent of all these type cases. This one, over all the ones that have come before this Board, better suits the Ordinance.

RESOLUTION

In application S-24-76 by Linda A. Abbott, D.D.S. under Section 30-7.2.6.1.14 of the Zoning Ordinance to permit home professional dentist office, 3300 Magnolia Avenue, 61-2((1))15, Mason District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 23, 1976.

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

1. That the owner of the property is Thomas and Linda Abbott.
2. That the present zoning is R-12.5.
3. That the area of the lot is 0.5390 acre.
4. That compliance with the Site Plan Ordinance is required.

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- 5. That compliance with all applicable State and County Codes is required.
- 6. That the property is subject to Pro-Rata Share for off-site drainage.

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

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of the Board of Zoning Appeals. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. All necessary landscaping and/or screening shall be provided and maintained to the satisfaction of the Director of Environmental Management.
*As per the policy of the Board of Zoning Appeals adopted on February 17, 1976 -- nos. 8, 9 and 10 are added.
- 7. The hours of operation are to be from 8:00 a.m. to 5:00 p.m., Monday Wednesday and Friday, Thursday 12:00 Noon to 8:00 p.m., closed Tuesdays, Saturdays and Sunday.
- *8. This permit is granted for a period of three (3) years with the Zoning Administrator being empowered to extend the permit for two (2) one (1) year periods.
- *9. The additional parking spaces shall be limited to two.
- *10. There shall be no exterior changes to the existing structure.

Mr. Barnes seconded the motion.

Mr. Smith asked Mr. Kelley to add the conditions as per the policy of the Board of Zoning Appeals adopted February 17, 1976. Mr. Kelley agreed to do that. *

Mr. Smith stated that the applicant has agreed to these conditions and has further limited herself to only one assistant and one patient at a time every 45 minutes, by appointment only.

Mr. Swetnam stated that even though this was granted for a limited time, she could reapply and come back to this Board for an extension at the end of this time period. Messrs. Kelley and Smith and Barnes agreed. Mr. Smith stated that the intent was that these uses would be interim uses, however. The motion passed 4 to 1. Mr. Durrer voted No.

The hearing on this case was completed at 11:15 a.m.

Page 146, March 23, 1976

10:20 - DENNIS R. FOWLE appl. under Section 30-6.6 of the Ord. to permit enclosing screened porch closer to side property line than allowed by Ord., (9.54' from line, 10' required), 2828 Cleave Dr., 51-3((2))88, 10,065 sq. ft., Providence Dist., (R-10), V-25-76.

Mr. Fowle submitted notices to property owners which were in order.

Mr. Fowle stated that this is the only possible way to enlarge the house due to the architecture of the house and the lay of the land. The proximity of the existing garage also prohibits expansion to the rear.

Mr. Swetnam asked Mr. Fowle if his lot had been 80' wide instead of 70' wide, if he would have not been able to construct this addition without the need for a variance.

Mr. Fowle answered that that was correct.

Mr. Fowle stated that he had talked with all the neighbors and they all were in favor of the variance being granted.

There was no one to speak in favor or in opposition.

RESOLUTION

In application V-25-76 by Dennis R. Fowler under Section 30-6.6 of the Zoning Ordinance to permit enclosing screened porch closer to side line than allowed by Ordinance, 2828 Cleave Drive, 51-3((2))88, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by this Board held on March 23, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 10,065 square feet.

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

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

- exceptionally narrow lot,
- location of garage in rear of the house.

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

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

FURTHERMORE, the applicant should be aware that granting of this action does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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10:30 - ST. STEPHEN'S UNITED METHODIST CHURCH appl. under Section 30-7.2.6.1.11 a.m. of the Ordinance to permit addition to existing church and to permit enlargement of existing parking, 9203 Braddock Road, 69-4((1))19A, 19D and 19E, (7.2558 acres), Annandale District, (RE-0.5 & RE-1), S-26-76.

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Mr. Richard Garrriott, 9501 Wellington Drive, engineer for this project, represented the church and presented notices to property owners which were in order.

Mr. Garrriott stated that this church has been situated at this location with its existing building since 1969. The existing plant consists of a 250 seat sanctuary with connected educational building and a gravel parking lot for 120 cars. The church presently owns 7.25 acres of land. The church holds worship services and Sunday school classes on Sundays and a private pre-school is operated in the church during the weekdays. Due to the growth of the congregation, the church is presently embarking on a phased expansion program. The initial phase will consist of a new educational building of approximately 6550 square feet located just to the south of the existing building. In addition, it is proposed that the parking lot be enlarged to accommodate the total projected congregation size and that the lot and all entrance roads be paved. The second phase will include the expansion of the existing sanctuary to provide approximately 400 seats. Both the Sunday school building and enlarged sanctuary will be constructed with a brick facade to match the existing building. The present architectural appearance will be preserved throughout. There are no plans to enlarge the enrollment of the pre-school.

There was no one to speak in favor or in opposition.

RESOLUTION

In application S-26-76 by Trustees of St. Stephens Methodist Church under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit addition to existing church and enlargement of parking lot, 9203 Braddock Road, 69-4((1))19A, 19D, and 19E, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 23, 1976.

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is RE-0.5 and RE-1.
- 3. That the area of the lot is 7.2558 acres.
- 4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

10:50 - DEERFIELD HORSE CENTER, INC. appl. under Section 30-7.2.8.1.2 of the a.m. Ord. to permit continued operation of riding school and stable, Arnon Chapel Road & Walker Road, Tax Map 7 & 8 ((1))88 & 86, (66.2397 acres), Dranesville District, (RE-2), S-27-76.

(Hearing began at 11:37 a.m.)

Mr. William H. Hansbarger, 10523 Main Street, Fairfax, attorney for the applicant, presented notices to property owners to the Board which were in order.

Mr. Hansbarger stated that this riding school and stable has been operating on this property since 1970. That original Special Use Permit was granted to Betty L. Erkiletian and Sharon Harrell. However, Sharon Harrell is no longer involved in the corporation. This application is to continue the operation and change the name of the applicant to the corporation name.

Mr. Hansbarger had submitted a copy of the lease agreement and the certificate of good standing on the corporation earlier. They were in the file. He stated that the corporation presently has 62 horses. However, they would like to continue to have 80 on the permit. The hours of operation are from 8:00 a.m. to 9:00 p.m. during the week and until 6:00 p.m. on Saturday and Sunday.

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

RESOLUTION

In application S-27-76 by Deerfield Horse Center, Inc. under Sect. 30-7.2.8.1.2 of the Zoning Ordinance to permit continued operation of riding school and stable and change of ownership on property located at Arnon Chapel Road and Walker Road, tax map 7 & 8((1))88 & 86, Dranesville District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 23, 1976.

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

1. That the owner of the property is Cajoll Co., c/o John W. Hanes, Jr.
2. That the present zoning is RE-2.
3. That the area of the lot is 66.2397 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.
6. That a riding school and stable has been operating on subject property pursuant to Special Use Permit S-249-69 granted January 13, 1970, to Betty L. Erkiletian and Sharon Harrell. Sharon Harrell is no longer in the corporation.

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

1. That the applicant has presented testimony indicating compliance with

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Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of horses shall be 80.
7. The hours of operation shall be from 8:00 a.m. to 9:00 p.m., 7 days a week.
8. This permit is granted for a period of three (3) years with the Zoning Administrator being empowered to extend this permit for three (3) one (1) year periods.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

11:10 - ROGER A. LINVILLE, II AND ERNEST C. HOLLAND appl. under Section a.m. 30-7.2.10.3.5 of the Zoning Ordinance to permit a miniature golf course, U.S. Route 1 and Fordson Road, 101-2((1))12A, (37,500 sq. ft.), Lee District, (C-D), S-28-76.

(Hearing started at 11:45 a.m.)

Mr. Bernard Fagelson, 124-126 South Royal Street, Alexandria, Virginia, attorney for the applicant, submitted notices to property owners which were in order.

Mr. Fagelson stated that this application is for a Putt-Putt Miniature Golf recreation facility. Mr. Linville and Mr. Holland are leasing the property from Mount Vernon Associates. This property is part of the Mt. Vernon Plaza Shopping Center, which is zoned C-D. He submitted a copy of the lease for the record. He stated that this property is part of the existing parking lot. The plat will show that there is sufficient parking spaces in existence to more than cover the required amount for the shopping center and the spaces that this golf course will need.

Mr. Covington stated that this question will be checked thoroughly by the Site Plan Department.

Mr. Fagelson stated that Mr. Linville and Mr. Holland are currently operating a Putt-Putt Miniature Golf Course in Rockville, Maryland and Atlanta, Georgia. He put into the record letters from officials of the City of Rockville indicating the fine type of operation that is there. He also submitted letters from the National Capital Council, Inc. of the Boy Scouts of America; the Department of Recreation, Montgomery County, Maryland; and the Jewish Community Center of Greater Washington indicating their approval of the operation in Rockville and the manner in which Mr. Linville operates it.

Mr. Durrer stated that at one time there were three or four Putt-Putt courses around Fairfax County that closed up several years ago. He asked if these were the same people.

Mr. Linville stated that he was sure these are different people.

Mr. Fagelson stated that this is a franchised operation especially designed for family entertainment. He stated that both the operators and the facility have a reputation of being clean and wholesome and are extremely well thought of in the community. He stated that the proposed hours of operation are from 9:00 a.m. until approximately midnight daily. This is a seasonal operation that is open approximately from March 1st through November 15th. There will be four or five employees and, hopefully, up to 20,000 patrons during the 9 1/2 months of operation during the year. This would be an average of 70 persons per day with the peak load on busy days being as much as 100 or more and lesser days as few as 25. Considering the amount of traffic currently using Route 1 in the immediate vicinity, excluding the Mt. Vernon Plaza Shopping Center itself, it is obvious that even if these estimates of daily traffic were doubled or tripled, the impact of the number of cars actually using the area for this specific purpose would be negligible as to be almost non-existent.

Mr. Fagelson stated that there will be a small building for maintenance and storage on the site. This building will be painted white with orange trim and will have a baked, white enamel, aluminum roof.

There was no one to speak in favor or in opposition.

 RESOLUTION

In application S-28-76 by Roger A. Linville, II and Ernest C. Holland under Section 30-7.2.10.3.5 of the Zoning Ordinance to permit miniature golf course on property located at Route 1 and Fordson Road, 101-2((1))12A, Lee District, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 23, 1976, and

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

1. That the owner of the property is Mt. Vernon Plaza Associates.
2. That the present zoning is C-D.
3. That the area of the lot is 37,500 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all County and State Codes is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

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

Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The hours of operation shall be from 9:00 a.m. to 12:00 p.m.

Mr. Kelley seconded the motion.

The motion passed 5 to 0.

11:30 - BILL C. SALYER T/A SPRING MALL PUTT PUTT appl. under Section
a.m. 30-7.2.10.6.7 of the Zoning Ordinance to permit miniature golf
course on property located at Spring Mall Road approx. 1/4 mi.
from intersection with Loisdale Road, 90-2((1))51, (20,250 sq. ft.),
Lee District, (C-G), S-29-76.

11:30 - BILL C. SALTER T/A SPRING MALL PUTT PUTT appl. under Section 30-6.6
a.m. of the Zoning Ordinance to permit waiver of requirement for dustless
surface for parking lot for miniature golf course, Spring Mall
Drive approx. 1/4 mi. of intersection with Loisdale Road, 90-2((1))
part of 51, (20,250 sq. ft.), Lee District, (C-G), V-43-76.

Mr. Wayne Lynch, Trustee for Lynch Properties, Inc., the owner of the land, represented the applicant before the Board. He submitted notices to property owners which were in order.

Mr. Lynch stated that this property is directly across the street from Springfield Mall to the north. To the south is I-G zoning. If Metro gets to Springfield, the location of the future Metro station will be nearby. This possibility made it impossible for the County planners to pinpoint alternate development for this property. Metro is programmed to be in Springfield by 1980. The property entered into negotiations with the County in return for an agreement not to ask to build anything permanent on this 135 acres until the Metro station is assured. The Board of Supervisors granted the owner 10 acres of C-G zoning tied up in this agreement. He submitted the conditions on the rezoning to the Board. He stated that because of these conditions, they sought to lease the land for an interim use such as this Putt Putt golf course. This is one of the first of the interim uses for this 10 acre parcel. Because of the agreements tied to the rezoning, they cannot put buildings or permanent improvements such as curb and gutter. They will, however, provide sewer services to this property. The County has not requested that they put in permanent storm sewer or curb and gutter. If they do have to pave this property, they have no way of disposing of the water that would collect from this impervious surface. They would like for the water to run straight in the ground and no run-off into the golf course. This operation has a maximum life of ten years. If Metro comes in in 1980, they will then be allowed to build permanent structures. This would mean that this use would only have a 5 year life. The decision this Board makes on this case will set a precedent for the other uses that they plan to make of this 10 acres of ground. They will provide a single entrance into this ten acres and put in a drive for circulation of traffic through this site.

Messrs. Smith and Kelley stated that they could not support the variance portion of this request.

Mr. Swetnam stated that the property owner could connect storm water pipes into the enclosed storm sewer pipe that runs along there and services the shopping center's parking lot.

Mr. Lynch stated that the owners do not know where the permanent storm sewers are going to be located. They cannot put this in with the possibility of having to tear them out and rebuild them in five years. He stated that the denial of this request will mean that they will not be able to build on this property for 5 to 10 years because of the conditions the Board of Supervisors put on this rezoning.

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SALYER (continued)

Mr. Durrer stated that he thought this is a good use of the property if they can come up with a solution to the parking problem.

Mr. Swetnam suggest the applicant talk with the people in Public Works to see if they would accept an alternate to the usual two shot treatment of asphalt.

Mr. Swetnam suggested the applicant ask for a deferral of this case until he could check out an alternate method of paving.

Mr. Lynch asked the Board not to hold up the application for the Special Use Permit because of the variance request.

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

RESOLUTION

In application S-29-76 by Bill C. Salyer T/A Springfield Mall Putt-Putt Miniature Golf Course under Section 30-7.2.10.6.7 of the Zoning Ordinance to permit miniature golf course on property located at Frontier Drive east of Loisdale Road near Springfield Mall, 90-2((1))pt. of 51, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 23, 1976.

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

1. That the owner of the subject property is Lynch Properties, Inc.
2. That the present zoning is C-G.
3. That the area of the lot is 20,250 square feet.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 9:00 a.m. to 11:00 p.m.

Mr. Swetnam seconded the motion. The motion passed 5 to 0.

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VARIANCE RESOLUTION

In application V-43-76 by Bill C. Salyer and Lynch Properties, Inc. under Section 30-6.6 of the Zoning Ordinance to permit waiver of requirement to permit dustless surface on parking lot on property located at Frontier Drive, east of Loudsdale Road, near Springfield Mall, 90-2((1))part of 51, County of Fairfax, Virginia, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 23, 1976, and

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

1. That the owner of the property is Lynch Properties, Inc.
2. That the present zoning is C-G.
3. That the area of the lot is 20,250 square feet.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

DEFERRED CASE: MARCH 23, 1976

11:50 - JOHN B. POZZA appl. under Section 30-6.6 of the Zoning Ordinance to a.m. permit enclosure of carport closer to side property line than allowed by Ord., (8' total of 18.2' from side, 8' total of 20' required), 7914 Lake Pleasant Drive, 98-2((6))389, (9,944 sq.ft.), Springfield District, (R-12.5 Cluster), V-285-75, Deferred from February 10, 1976 for proper notices.

Mrs. Pozza presented notices to property owners to the Board. These notices were in order.

Mrs. Pozza stated that their lot is very narrow and there is no place else on the lot to place this addition except by enclosing the existing carport. This would not bring the addition any closer to the side property line than the carport already is. They plan to make a storage area to the rear of the garage. This will not be any closer to the property line than the existing carport.

Mr. Smith stated that this is a new subdivision with small lots. Therefore, this is a general condition in the area.

Mr. Swetnam stated that the applicant could reduce the size of the proposed garage if the chimney did not exist. However, the roof is already there and this is a very small variance which would cause no problems.

Mr. Smith stated that he disagreed and felt that this Board has no authority to grant variances if it is a general condition such as in the subdivision.

Mr. Swetnam stated that he felt the purpose of this body is to give relief from the Ordinance under the conditions that could not have been present when the Ordinance was written. He stated that he did not think it is necessary for this owner to have to carry the burden of the mistake of the writer of the Zoning Ordinance.

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POZZA (continued)

In answer to Mr. Durrer's question, Mrs. Pozza stated that most of the homes have garages in this subdivision. Only one of the immediate neighbors has a carport. She stated that a neighbor on Marysia Court enclosed his carport and made a garage. He obtained a variance from this Board to do it.

Mr. Durrer stated that he thought perhaps the applicant should request a deferral until the Board could determine how many houses in the subdivision have garages. Mrs. Pozza agreed to a deferral.

Mr. Durrer moved that the case be deferred for additional information.

Mr. Swetnam seconded the motion.

Mr. Smith asked Mr. Mitchell with the Zoning Staff to obtain this additional information as to the number of garages and carports in this subdivision. He also asked Mr. Mitchell to get information regarding the variance Mrs. Pozza stated had been granted to someone on Marysia Court. Mr. Mitchell stated he could have the information by April 6, 1976. There was no one to speak in favor or in opposition to this application.

The motion to defer passed 5 to 0. This case would be for decision only on April 6, 1976, after review of the additional information.

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DEFERRED CASE: MARCH 23, 1976

DR. NICHOLAS B. CIRELLO & DR. CAROL E. KENNEDY appl. under Section 30-7.2.6.1.10 of the Zoning Ordinance to permit offices for general practice of medicine, 4616 Ravensworth Road, 71-1((1))63, Annandale District, R-10 zoning, S-13-76. Deferred from March 9, 1976, for new plats delineating parking spaces and a legible copy of the contract of sale.

The new plats had been submitted showing eleven parking spaces. A copy of the contract of sale had also been submitted.

Mr. Pat Harrington appeared on behalf of the applicant.

RESOLUTION

In application S-13-76 by Dr. Nicholas B. Cirillo and Dr. Carol E. Kennedy under Section 30-7.2.6.1.10 of the Zoning Ordinance to permit office for general practice of medicine in existing structure, 4616 Ravensworth Road, 71-1((1))63, Annandale District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 9, 1976 and deferred to March 23, 1976 for final decision.

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

1. That the owner of the subject property is John E., Jr. and Eleanor Roach. The applicant is the contract purchaser.
2. That the present zoning is R-10.
3. That the area of the lot is 41,282 square feet.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.
6. That the property is subject to Pro-Rata Share for off-site drainage.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

the application and is not transferable to other land.

2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The hours of operation shall be from 9:00 a.m. to 4:30 p.m., 5 days per week.

7. Any necessary landscaping and/or screening shall be provided and maintained to the satisfaction of the Director of Environmental Management.

8. This permit is granted for a period of three (3) years with the Zoning Administrator being empowered to extend the permit for two (2) one (1) year periods.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

AFTER AGENDA ITEMS: MARCH 23, 1976 - REQUEST FOR EXTENSION

BOBBY JONES, S-203-74 and V-204-74, granted March 19, 1975 to permit addition to existing service station and to permit that addition closer to front property line than allowed by the Ordinance.

Mr. Smith read a letter from Gary V. Davis, attorney for the applicant, with offices at 1300 Old Chain Bridge Road, McLean, Virginia stating that they have negotiated with Fairfax County for over nine months trying to obtain site plan approval for the addition approved by the Board. As of Tuesday, March 16, after a meeting with Environmental Management Department and the Public Works Department, they finally concluded that it was not going to be possible for them to obtain a building plan based upon the plan that was approved by the Board. They are now requesting an extension and approval of a new plan which shows less area being covered by the building and subtracting one bay from the original plan. This new plan is more in conformity with what certain members of the Board had expressed a desire to have at the time of the public hearing. With this new plan, they will be able to obtain a building permit and Fairfax County will allow them to upgrade their present facilities.

Mr. Swetnam stated that he had looked at the plan. They were not permitted to construct completely over the storm sewer easement. They have reduced the proposed addition and that section that is still over the storm sewer is not where the water flow is. He moved that the Board approve the substituted plat dated March 13, 1976, plat drawn by Howard W. Greenstreet, Jr., Inc., certified surveyor. Mr. Swetnam also included in his motion that the request for an extension be granted for six months from March 19, 1976.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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AFTER AGENDA ITEM: C & P TELEPHONE COMPANY

Mr. Smith read a letter from Randolph W. Church, Jr., attorney for C & P Telephone Company, stating that the Company advises him that it desires to build initially a smaller addition than that shown on the plans submitted with the application that was granted March 2, 1976. No dimension of the addition as now proposed will exceed the comparable dimension of the addition as originally proposed. Mr. Church asked for concurrence in this change. He submitted a plat to the Board showing this change. His letter also stated that it is probable that at some point the original addition will be expanded to conform exactly with the plan submitted with the Company's application.

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Mr. Swetnam moved that the new plans be accepted.

Mr. Kelley seconded the motion.

The motion passed 5 to 0.

// The meeting adjourned at 1:30 p.m.

Jane C. Kelsey
By Jane C. Kelsey
Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED April 6, 1976
DATE

Submitted to the BZA on
April 1, 1976

Submitted to the Board of Supervisors,
Planning Commission and other Depts.
April 9, 1976

The Board of Zoning Appeals met at a Regular Meeting on April 6, 1976. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Tyler Swetnam; and William Durrer.

The meeting was opened with a prayer by Mr. Barnes. The meeting began at 10:05 a.m.

Scheduled case for

10:00 - CARL H. RICHMOND, JR., MAURICE L. BYRD & EDWARD C. BOU, T/A TELEGRAPH a.m. ROAD JOINT VENTURE appl. under Section 30-6.6 of the Zoning Ord. to permit motel to be constructed closer to Interstate right-of-way line (50.0' from line, 75' required) and closer to R District boundary line (0' from line, 40' required) than allowed by the Zoning Ord., intersection of Interstate 495, along East Dr. & Elmwood Dr., 82-2((1))31A & pt. 30A and 83-1((1))2 & 4, (161,426 sq. ft.), Lee Dist., (CDM), V-170-75.

10:00 - CARL H. RICHMOND, JR., MAURICE L. BYRD & EDWARD C. BOU T/A TELEGRAPH a.m. ROAD JOINT VENTURE appl. under Section 30-7.2.10.4.1 of the Zoning Ord. to permit motel (2 four story buildings), intersection of Interstate 495, along East Dr. & Elmwood Dr., 82-2((1))31A, and part of 30A, and 83-1((1))2 and 4, (161,426 sq. ft.), Lee District, (CDM), S-186-75.

Mr. Bernard Fagelson, attorney for the applicant with offices in Alexandria, Virginia, submitted the notices to property owners to the Board. The notices were ruled in order by the Chairman.

Mr. Fagelson stated that this property was rezoned to CDM zoning in 1968. In 1968, they also received a Special Use Permit to have a motel with 193 beds, the same as is proposed today, and the variance to Interstate 495 was also granted. The difference was that at that time the applicant did not own the property to the west of the subject site. Now they do own all that land to the west, which is zoned R-10. They just recently went before the Board of Supervisors and were granted permission to have commercial parking for this use on residential land. They also went before the Planning Commission and that commission recommended approval of both the parking and the special use permit and variance. They still need a variance because even though they do own the land to the west, they still have to set back from the zoning boundary line of the R-10 land.

In answer to Mr. Smith's question, both Mr. Fagelson and Mr. Mitchell, confirmed that the Board and the Planning Commission were aware of the need for this variance from the Board of Zoning Appeals at the time these cases came before them.

Mr. Fagelson stated that the architectural design of this motel will be pseudo colonial with brick construction. It will be four stories.

Mr. Barnes stated that the file reflects that on May 25, 1973, Mrs. Coleman, Fairfax County Soils Scientist, inspected the property and found that the soil would be poor for construction of a building and that it is also in the flood plain. He asked Mr. Fagelson what, if anything, had been done to take care of these problems.

Mr. Fagelson stated that he would give the background of this property. In 1968, the applicants applied to this Board for a Special Use Permit and variance. This is an extremely odd shaped lot which did warrant a variance being granted. It was granted. The motel was limited to 193 units with a small restaurant designed for the purpose of serving the people in the motel. The Board told the applicant to apply at once for the vacation of Elmwood Drive. This has been done and the Board of Supervisors granted this vacation. The Board of Zoning Appeals felt that there should be more parking and this is why the applicants moved in that direction, by purchasing more property and asking that they be allowed to use this property for parking for this use. Since that time they have been working with the problems of the flood plain and the drainage problems. They have had several engineering studies done and they feel they have solved these problems. They also ran into the sewer moratorium, which held them up for some time.

In answer to Mr. Barnes' question, Mr. Fagelson stated that his clients did not and do not plan to request rezoning of the R-10 zoning to CDM at any time in the near future because of an agreement with the citizens in that area.

In answer to Mr. Kelley's question, Mr. Fagelson stated that the traffic from this facility will come out on East Drive onto Burgundy Road. The citizens

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RICHMOND, et al (continued)

understand this and it is because of this that they have not asked that the R-10 land be rezoned. That property will not be developed until such time as as they solve the traffic problems.

Mr. Kelley stated that the construction of this motel complex for 193 units certainly will not help the traffic problems.

Mr. Smith stated that the problem really goes back to when the property was rezoned for motel use.

Mr. Cecil Jackson, surveyor with the firm of Alexandria Surveys, stated that for the past three months his organization along with the a professional engineer and soil scientist has been working with Mr. Payne Johnson in the Division of Design Review to work out a solution. They now have plans ready to submit to Mr. Johnson's office for his approval.

Mr. Fagelson stated in answer to Mr. Kelley's question, that the additional R-10 property goes all the way to Old Quaker Lane. If his clients ever develop that R-10 property, they would use Old Quaker Lane for ingress and egress.

There was no one to speak in favor or in opposition.

The Board recessed this hearing until the end of the Regular Agenda in order to formulate a motion.

At the end of the Regular Agenda cases, this case was recalled and the following motion was made.

RESOLUTION

In application V-170-75 by Carl H. Richmond, Jr., Maurice L. Byrd and Edward C. Bou, T/A Telegraph Road Joint Venture under Section 30-6.6 of the Zoning Ordinance to permit motel to be constructed closer to Interstate right-of-way line than allowed by Ordinance (50' from line, 75' required) and closer to R District boundary line than allowed by Ordinance, (0' from line, 40' required) on property location at Interstate 495, East Drive and Elmwood Drive, 82-2((1))31A & pt. of 30A and 83-1((1))2 & 4, Lee District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 6, 1976, and

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

1. That the owner of the property is Carl H. Richmond, Jr., et al.
2. That the present zoning is CDM and R-10.
3. That the area of the lot is 161,246 sq. ft.
4. That the Planning Commission held a hearing on the three applications involved in this project on September 3, 1975 and recommended to the Board of Zoning Appeals and the Board of Supervisors that these applications be granted as requested.
5. That the Board of Supervisors granted SP-101 for parking for this use on residentially zoned land on March 2, 1976.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

- (a) exceptionally irregular shape of the lot

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

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is

not transferable to other land or to other structures on the same land.

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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In application S-186-75 by Carl H. Richmond, Jr., Maurice L. Byrd and Edward C. Bou, T/A Telegraph Road Joint Venture under Section 30-7.2.10.4.1 of the Zoning Ordinance to permit motel (2 four story buildings) on property located at Interstate 495, along East Drive and Elmwood Drive, 82-2((1))31A and Part of 30A and 83-1((1))2 and 4, Lee District, County of Fairfax, Mr. Kelley moved. that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 6, 1976.

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

1. That the owner of the property is Carl H. Richmond, Jr., et al.
2. That the present zoning is C-DM and R-10.
3. That the area of the lot is 161,426 sq. ft.
4. That the Planning Commission held a public hearing on the three applications involved in this project on September 3, 1975, and recommended to the Board of Zoning Appeals and the Board of Supervisors that the applications be granted as requested.
5. That the Board of Supervisors granted SP-101 for parking for this use on residentially zoned land on March 2, 1976.
6. That compliance with the Site Plan Ordinance is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on

the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. All necessary landscaping and/or screening shall be provided and maintained to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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10:20 - AMERICAN FLETCHER MORTGAGE CO., INC. AND CAVALCADE HOMEOWNERS ASSOC. a.m. INC. appl. under Section 30-7.2.611.1 of the Zoning Ord. to permit construction of swimming pool and clubhouse facilities, Ravensworth Road and Fountain Head Drive, 71-1((28))parcel C, (.33 acres), Annandale District, (RTC-10), S-31-76.

AMERICAN FLETCHER MORTGAGE CO., INC. AND CAVALCADE HOMEOWNERS ASSOC., INC. appl. under Section 30-6.6 of Ord. to permit club house to be constructed closer to front property line than allowed by Ord., (10' from front line, 35' required), and to permit wading pool within 6' of side property line, 10' required, Ravensworth Road and Fountain Head Drive, 71-1((28))Parcel C, (.33 acres), Annandale District, (RTC-10), V-30-76.

The hearing started at 10:45 a.m.

Mr. James Sammis, representing the applicants, submitted notices to property owners which were in order. Mr. Sammis stated that he is a representative with the American Fletcher Mortgage Company, Inc. that is taking over this project and hopefully will construct this pool for the residents of Cavalcade as soon as the County will permit. This pool is on the same piece of property and is approximately the same size as the one previously granted to Cavalcade Development Company. That permit to Cavalcade expired because Cavalcade went bankrupt and could not finish the development.

Mr. Smith stated that after comparing the plat that is now before the Board and the plat on which the granting of the previous Special Use Permit, there is not much difference and the structures are no closer to the property lines than they were previously. There was no variance request previously. He asked Mr. Covington, the Assistant Zoning Administrator, for an explanation.

Mr. Covington stated that the reason the Zoning Office asked the applicants to file for a variance this time is this is a different interpretation as to setbacks for accessory structures in a townhouse zone rendered by the present Zoning Administrator as opposed to the previous Zoning Administrator.

Mr. Smith stated that he did not agree that the applicants need a variance. The other Board members agreed with him. Mr. Smith stated that he felt the applicants should only have to meet the setback requirements for the townhouse zone. He asked Mr. Covington if the applicants meet those requirements.

Mr. Covington stated that to the best of his knowledge, they did.

Mr. Smith stated that the Board would continue with the hearing and decide how to handle this variance request later.

Mr. Sammis stated that this is a townhouse community of 231 homes. These property owners will become automatic members of this pool when they purchase a home. Most of the homeowners can walk to the pool facility.

Mr. Smith stated that he is concerned about the screening of this pool.

Mr. Sammis stated that they will provide whatever type screening the Site Plan Department feels would be advisable. He stated that this is a very narrow lot and is also an odd shaped lot.

There was no one to speak in favor or in opposition.

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RESOLUTION

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In application S-31-76 by AMERICAN FLETCHER MORTGAGE CO., INC. & CAVALCADE HOMEOWNERS ASSOCIATION under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit construction of swimming pool and club house on property located at Ravensworth Road and Fountain Head Drive, 71-1((28))Parcel C, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 6, 1976.

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

- 1. That the owner of the property is Cavalcade Homeowners Association, Inc.
- 2. That the present zoning is RTC-10.
- 3. That the area of the lot is 0.33 acre.
- 4. A Special Use Permit for this Use for previously granted, but expired.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section. 30-7.1.1 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. Landscaping and screening is required. This shall be installed and maintained to the satisfaction of the Director of Environmental Management.
- 7. The hours of operation of the pool shall be from 9:00 a.m. to 9:00 p.m. Any after hours parties shall be limited to Six (6) per season and shall require the prior written permission of the Zoning Administrator for each separate party.
- 8. Family membership will be 231.
- 9. Bike racks shall be installed, not to exceed 50.

Mr. Barnes seconded the motion.

The Board discussed whether or not to put hours on the club house. The Board decided not to place specific hours on the use of the club house at this time, but would reserve the right to do so at some future date should it become necessary.

The motion passed 5 to 0.

RESOLUTION

In application V-30-76 by AMERICAN FLETCHER MORTGAGE CO. INC. & CAVALCADE HOMEOWNERS ASSOCIATION, under Section 30-6.6 of the Zoning Ordinance to permit club house and wading pool to be constructed closer to side and front property lines than allowed by the Zoning Ordinance on property located at Ravensworth Road and Fountain Head Drive, 71-1((28))Parcel C, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 6, 1976, and

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

1. That the owners of the property are the applicants.
2. That the present zoning is RTC-10.
3. That the area of the lot is 0.33 ac.

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

1. That the applicant has satisfied that Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land:

- (a) exceptionally irregular shape of the lot, and
- (b) a Special Use Permit was granted for the same basic facilities on the same site without a variance in 1972 under an interpretation from a different Zoning Administrator that the structures only had to meet the setback requirements for townhouse zoning, RTC-10.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain buildings permits, a non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

10:40 - SHEPPARD A. MCKENZIE, JR. & HAROLD C. BOGER appl. under Section 30-6.6 of the Zoning Ordinance to permit construction of dwelling closer to front property line than allowed by the Ordinance, (25.5' from front, 40' required); 2001 Old Stage Road, 102-3((16))14C, (28,465 sq. ft.), Mt. Vernon District, (R-12.5), V-32-76.

The hearing began at 11:10 a.m.

Mr. McKenzie submitted notices to property owners which were in order. He stated that the land would be completely worthless if this variance is not granted because of the storm sewer easement that runs through the property. He stated that the County will not let him build a house closer than 11' from the pipe. He stated that originally he had planned to build over the

sewer easement, but the County would not permit that. He stated that he was aware of the easement at the time he purchased the property, but not the extent of the problems he would have constructing on the property because of it. He stated that he is not a builder. He is a retired Air Force officer. He does plan to construct the house for resale.

(Mr. Henry B. Norton, Jr.)

The president of the Riverside Gardens Citizens Association spoke in opposition to this variance request on behalf of certain property owners and the Board of Directors for the association. He read his letter stating that they were opposed. He stated that the property owners feel that the granting of this variance would change the property values adversely in that area. He stated that they were not opposed to construction of a house on that lot, but the 25.5' setback from the street. He submitted a petition with nine property owners names.

Mr. Smith stated that this Board does not have the right to deny this man the use of his land. He would be denied the use of his land, if this variance is not granted. He asked the gentleman speaking in objection if he had any suggestions as to where a house could be placed on the lot.

He stated that anyplace as long as it did not need a variance.

Mr. Smith stated that every property owner has the right under the State Code to the reasonable use of his land. He would not be able to build any place else on the lot if this variance is denied.

Mr. Peter J. Cofoni, one of the contiguous property owners, spoke in opposition. He stated that he felt this construction would devalue the property that he has. He stated that the proposed dwelling is not in keeping with the surrounding dwellings.

Mr. Smith stated that this Board can require the applicant to build a comparable house of comparable architecture, but not necessarily the same size.

Mr. McKenzie in rebuttal stated that he feels that his proposed house will be architecturally compatible with the surrounding dwellings. He showed the Board his house plans and sketch of his proposed house. He also stated with regard to Mr. Norton's comment that this lot might be subdivided, that he had no plans to subdivide this lot. He stated also that this proposed house is in the Denver Springs Subdivision and the majority of the homes in that subdivision are frame and aluminum siding. He stated that he had owned the property since December, 1973, but had been unable to use it. He stated that there is a possibility that the house can be moved back a couple of feet closer to the sewer easement.

Mr. Swetnam stated that the question is, where that easement actually is on the ground. The plat before the Board is a scale. It does appear that he could move it back, but until someone goes out there and drives a stake, you can't be sure.

Mr. McKenzie agreed that if it is possible to move it back 2', he would.

 RESOLUTION

In application V-32-76 by Sheppard A. McKenzie, Jr. and Harold C. Boger under Section 30-6.6 of the Zoning Ordinance to permit construction of dwelling closer to front property line than allowed by the Ordinance, 2001 Old Stage Road, 102-3((16))14C, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 6, 1976, and

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

1. That the owners of the property are the applicants.
2. That the present zoning is R-12.5.
3. That the area of the lot is 28,465 sq. ft.

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

That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

- (a) exceptionally irregular shape of the lot in that it is long and shallow, and
- (b) there is an existing storm sewer and sanitary sewer easement that runs through the back half of this property.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. No other structure is permitted on this property and the lot cannot be subdivided. This stipulation shall be appended to the deed of this property.
4. If possible, the applicant will construct 30' from the front property line (10' variance), but maximum of 28' from front property line (12' variance).

* and this variance will become void should this lot ever be subdivided.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

10:50 - GREENBRIAR CIVIC ASSOC., INC. appl. under Sec. 30-7.2.6.1.1 of the Ord. a.m. to permit change of hours of operation to 9 A.M. to 11 P.M., Sunday through Thursday, and 9 A.M. to 1 A.M., Fridays and Saturdays, east side of Stringfellow Road just north of Melville Lane, 45-3(1)11, (1.5181 acres), Springfield District, (R-12.5), S-33-76.

(The hearing began at 11:47 A.M.)

Mr. Myron Olstein, residing on Pennypacker Lane and representative of the association, presented notices to property owners which were in order. He also submitted a petition from 38 homeowners in the area in support of this application for this change of hours. He submitted a letter from D. J. Driver, Principal of the Greenbriar East Elementary School stating that at times it is difficult to book many of the organizations for meetings in the school because of space and custodial problems. He submitted a letter from William Perdichizzi for the Boy Scouts of America troops indicating support and the wish to use this facility and stating that their troops do have meetings that last from 7:30 p.m. to beyond 9:00 p.m. A letter from Diane Berey, President of the Middlegate Republican Women's Club indicated that this change of hours would help their club better use the facility. A letter from Robert L. Barlett, President of the Chantilly Jaycees indicated the support of this application. A letter from May Jo Elenburg, President of the Greenbriar Extension Homemakers Club, indicated support of this change.

Mr. Olstein stated that this center was constructed entirely by the community, with community funds and community labor. Nearly 200 people came up on weekends and some weekdays to work with a total expenditure of funds amounting to \$36,000. They still have a \$10,000 mortgage. They now have a community center that has been assessed for \$81,000. They pay annual personal property taxes of \$1200. They provide services for the community at no cost to the County. The present users are the Recreation Department of the County, which has no other day time facility in the area. They hope to have a preschool there some time in the future. There are three schools in the area that are

being used almost every night. The Old Mill which had been a meeting place has now been condemned. The Center has now had problems because some of the organizations need the facilities beyond 9:00 p.m. Some of the people who live in this community work downtown and do not get home until around 7:00 p.m. Therefore, the meetings cannot conveniently start until around 8:00 p.m. A lot of groups have refused to use the facility because they feel their meetings might run beyond 9:00 p.m. and they would break the law.

Mrs. Blough, 13313 Melville Lane, spoke in opposition to these changes of hours. She stated that their property is the property that is most affected by this facility. They wish it did not exist, but since it does, they wish to keep the limitations on the hours of operation. There are seven houses on Melville Lane and there is a problem with people who are using the Center that park in front of their house. At the present time the parking that was supposed to be used on the Park Authority property is not being used. She stated that if the Board does grant an extension, they hope that it will not be beyond 10:45 p.m. since it takes at least 15 to 30 minutes to clear the parking lot.

Mrs. Lorraine Dolan, a resident on Melville Lane, also spoke in opposition to the change of hours.

Mr. Olstein, in rebuttal, stated that he only knows of three or four instances where there have been cars parked over on Melville Lane. He stated that he would do all he could to prevent this from happening.

Mr. Smith stated that on-street parking isn't permitted by the Zoning Ordinance. All parking must be according to the plans that were approved by this Board and it cannot be on any street. He suggested that perhaps the change of hours is premature since there still is not adequate parking. He said that perhaps the Board would allow the Center to extend the hours to 11:00 p.m. and this would take care of most of the meetings. He asked what type organization would have meetings until 1:00 a.m.

Several of the people in the audience stated that there were a lot of organizations that wished to use the facility until 1:00 a.m.

Mr. Smith asked for specifics.

Jan Green, 12839 Point Pleasant Drive, stated that her organization would not be able to use the facility unless the time be extended. She stated that most of their meetings last until 10:30 p.m. They have one annual dinner, such as a Christmas party that might last until 1:00 a.m. She stated that she is also involved with the Greenbriar Co-Op and they also have an annual party that lasts until 1:00 a.m.

Mr. Olstein stated that there is a total of 20 organizations within the Greenbriar community that make up this Center. The Jaycees, for instance, has six socials per year. They would have those socials in the community center, if the hours were extended such that the Center could accommodate them.

Mr. Smith stated that originally when this application for the center to be constructed first came to the Board, the request was for the hours to be until 9:00 p.m. and it was indicated that this would be generally for community uses, but very few groups would hold meetings until 1:00 a.m.

Mr. Kelley stated that the main question is, if they have these parties where are they going to park the cars. It is the association's responsibility to see that there is no parking on the street.

Mr. Olstein stated that the parking lot has been installed on the Park Authority land, but the path that leads from the parking lot to the Center is not lighted as yet. The Park Authority has told them that it would be lighted by June or July at the latest.

Mr. Smith stated that he is still concerned about opening this up on a permanent basis for parties and such.

Mr. Kelley stated that it might work out all right as long as it was for Greenbriar residents only, but first they have to provide the parking.

Mr. Swetnam moved that this decision be postponed for 2 weeks until the Board members can view the property, if they wish to. This would be for decision only. Mr. Barnes seconded the motion. The motion passed 5 to 0. The hearing would be a Deferred Case for Decision Only on April 20, 1976, after the regular agenda items have been heard.

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11:15 - RICHARD & PAULINE S. COX appl. under Section 30-6.6.5.4 of the Ord. a.m. to permit detached garage to remain closer to front property line than allowed by Ord., (43' from front line, 50' required), 3107 Fox Den Lane, 46-2((10))3, (50,868 sq. ft.), Centreville District, (RE-1), V-34-76.

(The hearing began at 12:30 p.m.)

Mr. Don Stevens, attorney for the applicant, P. O. Box 547, Fairfax, Virginia, submitted notices to property owners which were in order. He also submitted a petition signed by all the abutting property owners and several other nearby neighbors stating that they did not have any objections to this variance request being granted and they did not believe this variance would cause hazards to driving visibility or movement of fire trucks or otherwise represent a risk to the neighborhood well-being.

Mr. Stevens stated that Mr. Cox had been issued Building Permit No. 7509B0266 for a two-car garage. He retained a contractor, Alfred Abernathy, to construct the garage, in accordance with the approved building plans. Mr. Cox staked out the locations of the corners of the footings himself, using a tape measure to measure from the lot line back a distance of 50'6" from Full Cry Court, knowing that he was required to meet the front yard setback of 50' on each of the two street frontages of this lot. Mr. Cox was out of town during the time the contractor excavated the footings, poured the footings and constructed the foundation walls framing and siding of the garage. Mr. Cox has no reason whatsoever to believe that the contractor relocated the stakes, and, obviously, there was no incentive on Mr. Cox's part to mislocate the stakes since he has plenty of room on the lot. He can only surmise that somehow the stakes were relocated 7' closer to the lot line than he had originally placed them between the day he measured and placed the stakes and the day the contractor excavated for the footings for the garage. The building inspector who made the footing and other inspections on the garage as construction progressed did not raise any question about setback. Mr. Cox's first notice that anything was amiss was when, on January 19, 1976, Claude Kennedy, Zoning Inspector, notified him that the garage was within the setback area. Mr. Cox then had a certified surveyor survey and found that he had in fact had the garage constructed in error. Mr. Swetnam stated that he understands how this happened. He stated that this front property line is on a curve. Mr. Cox measured off the arch instead of the circumference of the curve. He stated that the only way the Zoning Office can prevent this type of error from happening again is to require certified plats for every building permit. He stated that he felt this would be illegal to require this. He stated that in the long run this would save most citizens money. However, the Code provides that any owner can draw their own plats for these additions.

Mrs. Gavin, who owns Lot 12 up the street from this site, spoke in opposition. She stated that she felt this variance, if granted, would infringe upon her open space and would adversely affect the quality of life in the neighborhood. She stated that she also felt that this would set a precedent.

Mr. Smith stated that this application is made under the mistake section of the ordinance and a mistake has been made.

Mr. Barnes stated that there would have been no reason for the man to want to build that much closer to the property line when he has all the necessary room he would need on the lot.

RESOLUTION

In application V-34-76 by Richard & Pauline S. Cox under Section 30-6.6.5.4 of the Zoning Ordinance to permit a detached garage to remain closer to front property line than allowed by the Ordinance, 3107 Fox Den Lane, 46-2((10))3, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals grant the following resolution:

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

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WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on April 6, 1976, and

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

1. That the owners of the property are the applicants.
2. That the present zoning is RE-1.
3. That the area of the lot is 50,868 sq. ft.

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

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Kelley seconded the motion.

The motion passed 5 to 0.

11:30 - CARL C. & ALBERTA C. POWELL appl. under Sect. 30-6.6 of the Ord. to permit division of one lot into two, with one of the lots having less frontage than allowed by the Ord., (15.1' of frontage, 90' required), 4324 Roberts Avenue, 71-2((5))75, (60,260 sq.ft.), Mason District, (R-17), V-35-76.

Mrs. Powell submitted notices to property owners to the Board which were in order. She stated that she and her husband have owned this property for 25 years. Lot 73, adjacent to this lot is already divided in June of this year. A variance was not necessary for that lot. They also own Lot 76.

In answer to Mr. Barnes question, Mrs. Powell stated that Mr. Kennelson owns Lot 75A. He has a private drive off of Alpine Drive.

Mr. Barnes asked if there has been any consideration given to making an entrance off Alpine Drive down the property line of 73A and B.

Mrs. Powell stated that the problem with that is Alpine Drive at that location is unimproved. It has a sidewalk, but there is no road.

Mr. Barnes stated that that would clear up the question raised by Preliminary Engineering.

There was no one to speak in favor or in opposition.

RESOLUTION

In application V-35-76 by CARL C. & ALBERTA C. POWELL under Section 30-6.6 of the Zoning Ordinance to permit division of one lot into two with one lot having less frontage than allowed by the Ordinance, 4324 Roberts Avenue, 71-2((5))75, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 6, 1976, and

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

1. That the owners of the property are the applicants.
2. That the present zoning is R-17.
3. That the area of the lots are 60,260 sq. ft.
4. That the property is subject to Pro-Rata Share for off-site drainage.

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

That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

- (a) exceptionally narrow lot,
- (b) the request is for access for a proposed road out of the 2nd back parcel.

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

1. This approval is granted for the location indicated on the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless a sketch plan has been submitted to the Director of Environmental Management and approved at and recorded within eighteen (18) months from this date, or unless renewed prior to that date of expiration by this Board.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to follow the procedures of the County in order to get subdivision approval.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

11:45 - KINGDOM HALL SPRINGFIELD CONGREGATION JEHOVAH'S WITNESSES appl. under a.m. Section 30-7.2.6.1.11 of the Ord. to permit renewal of expired SUP, S-4-73, to construct a church, 6320 Grovedale Drive, 81-3((5))10A, (43,554 sq. ft.), Lee District, (CN & RE-1), S-45-76, OTH

(The hearing began at 2:22 p.m.)

Mr. Bell, representing the church, submitted notices to property owners which were in order. He stated that this application is for the same construction as was granted by this Board previously under Special Use Permit, S-4-73. They were unable to get their plans through the County in order to get a building permit within the time set forth by the Board and the Special Use Permit expired.

There was no one to speak in favor or in opposition to this application.

This will be a one-story brick building. The first floor elevation will be 242.30. The seating capacity for the church will be 242.

RESOLUTION

In application S-45-76, OTH, by Kingdom Hall Springfield Congregation Jehovah's Witness under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit renewal of expired Special Use Permit S-4-73 to construct a church, 6320 Grovedale Drive, 81-3((5))10A, Lee District, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

Whereas, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on April 6, 1976.

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

1. That the owner of the property is Trustees of Springfield Congregation Jehovah's Witness Church.
2. That the present zoning is C-N and RE-1.
3. That the area of the lot is 43,554 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.
6. That the applicant was granted Special Use Permit No. S-4-73 on February 14, 1973 for a church on subject property. However, the applicant did not begin construction within the specified time and the permit expired.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. That this permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of seats in the church will be 242.
7. The applicant is providing 48 parking spaces.
8. The applicant is to dedicate 30' from the existing centerline of the right-of-way of Grovedale Drive for future road widening.
9. All necessary landscaping and/or screening is to be provided and maintained to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion.

The motion passed unanimously.

The applicant agreed to dedicate 30' from existing centerline of right-of-way of Grovedale Drive.

Page 170, April 6, 1976

DEFERRED CASE: JOHN B. POZZA appl. under Sect. 30-6.6 of Ord. to permit enclosure of carport closer to side prop. line than allowed by Ord., (8' total of 18.2' from side, 8' total of 20' required), 7914 Lake Pleasant Drive, 98-2((6))389, (9,944 sq. ft.), Springfield District, (R-12.5 C), V-285-75, (Deferred from March 23, 1976 for additional information from the Staff.)

Mr. Smith read a letter from Mr. Mitchell from Zoning Enforcement dated March 25, 1976, stating that he had personally visited Sarasota Subdivision on March 24, 1976, and viewed 88 homesites in the immediate vicinity of the subject application. Of the properties viewed, including the applicant's residence, 16, or 18% of the total, had carports, and 72, or 82% of the total, had garages. The properties with garages included that of Robert R. Reynolds, Jr., at 7904 Marysia Court, which was a carport that had been enclosed after a variance (V-272-75), virtually identical to that requested in the subject application, had been unanimously granted by the B.Z.A. on January 28, 1976.

Mr. Covington stated that Mr. Reynolds' property is just a few doors away from this property. He stated that the Board had already set a precedent, since these circumstances were similar.

RESOLUTION

In application V-285-75 by John B. Pozza under Section 30-6.6 of the Zoning Ordinance to permit enclosure of carport closer to side property line than allowed by the Ordinance (8' total of 18.2' from side requested, 8' total of 20' required), 7914 Lake Pleasant Drive, 98-2((6))389, Springfield Dist., County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 23, 1976 and deferred to April 6, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 cluster.
3. That the area of the lot is 9,944 sq. ft.

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

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

- (a) exceptionally narrow lot.

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

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

FURTHERMORE, the applicant should be aware that this action by this Board does not constitute exemption from the requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Durrer seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

Page 171, April 6, 1976

DEFERRED CASE: WILLIAM H. & MARY K. PAGE appl. under Sect. 30-6.6 of Ord. to permit structure to be constructed closer to rear property line than allowed by the Ord., (on rear line, 25' required), 2923 Annandale Road, 50-4((12))1A, 2 & 3 and ((1))27A, (98,104 sq. ft.), Providence District, (C-G), V-11-76. (Deferred from March 9, 1976 for architectural plans and additional information -- see minutes in file.)

The architectural plans had been submitted. At the original hearing, Mr. Kelley had asked them to cut the size of the building down. However, they had not cut the building down in size. The architectural plans showed three floors in the building. One floor is to be used for parts, one floor for the body shop, and the top floor for the paint shop. The building is to be air conditioned. Mr. Page assured the Board that there would be no noxious fumes or odors emitted from this building. The plans also showed an elevator that would take the cars from the second floor to the top floor.

Mr. Phillips showed the Board three exhibits. One showed the building on the line, one showed the building 20' from the line, and the other showed the building on the opposite side of the storm sewer. He showed how the second exhibit would cause a problem with maneuvering of the automobiles. He stated that any plan except the plan showing the building on the line would cause a problem either with the storm drainage easement or the maneuvering of the cars on the lot. He said that there is a pipe running through this easement. They will have to put in a heavier pipe.

Mr. Swetnam stated that the plans show that the pipeline is well below the slab and well below the footings.

Mr. Kelley stated that he felt the applicant is overbuilding the lot.

Mr. Smith agreed. He stated that if this building was only going to be used for storage of parts, he might feel differently about it. He stated that as far as he was concerned, there has been no justification given under the hardship section of the Ordinance relating to the physical hardship of the land.

Mr. Page stated that the motel could build right up to the property line.

Mr. Smith stated that the motel is not a paint and body shop. A paint and body shop has a far greater impact than a motel. He stated that he is still concerned about the fumes from the paint shop being exhausted into the air.

Mr. Page assured the Board that this building would be constructed in accordance with Occupational and Safety and Health Administration standards.

Mr. Kelley stated that he didn't like to deny anyone the right to do what they want to with their land, but in his opinion this hardship is not justified. He stated that it seems that the consensus of the Board is that it should be granted. He stated that he is worried about the overbuilding of the area of the building compared with the area of the lot and the close proximity of this use to the motel. He stated that he could not support a motion to grant this variance.

RESOLUTION

In application V-11-76 by William H. and Mary K. Page under Section 30-6.6 of the Zoning Ordinance to permit structure to be constructed closer to rear property line than allowed by the Ordinance (on rear line, 20' required); 2923 Annandale Road, 50-4((12)) 1A, 2 & 3 and ((1))27A, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on the 9th day of March and deferred to April 6, 1976 for additional information.

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

1. That the owner of the property is the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 98,104 sq. ft.

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

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

- (a) location of the storm sewer.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits a non-residential use permit and the like through the established procedures.

Mr. Durrer seconded the motion.

The motion passed 3 to 2 with Messrs. Smith and Kelley voting No.

AFTER AGENDA ITEM: April 6, 1976

SPRINGFIELD MART LTD., Request for out-of-turn hearing. Mr. Smith read a letter from the applicant's agent stating that they had filed the site plan some time ago and had been told that they would not need a variance. Now, that they are ready for bonding, they have been told they have to come before the Board of Zoning Appeals and request a variance. They have already made contractual obligations and need to start construction as soon as possible.

Mr. Smith stated that it seemed to him that this delay is not the fault of the applicant.

Mr. Kelley agreed and moved that the request for the out-of-turn hearing be granted.

Mr. Barnes seconded the motion. The motion passed unanimously.

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AFTER AGENDA ITEM: April 6, 1976 - Extra Hearing Date Set for June 1, 1976

The Clerk advised the Board that the scheduling of the incoming cases is again running over the 60 day State Code requirement. Therefore, the Board needs to set an extra hearing date for either May 25 or June 1.

The Board agreed that June 1 would be the best date and the Chairman so ruled that the Board of Zoning Appeals would hold an extra hearing in order to keep the pending applications within the 60 day limitation set for them by the State Code.

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AFTER AGENDA ITEM: April 6, 1976 - Request for out-of-turn hearing

STEWART D. & CORRA M. McKNIGHT. The applicant's attorney requested that an out-of-turn hearing be granted for this application sooner than the scheduled date for this case which is May 4, 1976.

The Clerk told the Board that this case has already been advertised for that day and the applicant has been so notified.

The Board stated that this request is not reasonable and there is no way it could be advertised for an earlier date at this time.

Mr. Kelley moved the request be denied. Mr. Barnes seconded the motion. The motion passed unanimously.

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Page 173, April 6, 1976

AFTER AGENDA ITEMS: HAYFIELD FARMS SWIM CLUB, INC., S-71-72

Mr. Smith read a letter requesting that this club be allowed to increase their family membership from 400 to 425. The letter stated that they have a parking lot to accommodate 135 cars and is consistently less than 50 percent utilized.

The Board members discussed this case, its location, and close proximity of this pool to its members and moved that this request be granted. The motion was made by Mr. Kelley, seconded by Mr. Barnes and passed unanimously.

Mr. Covington stated that he had had no complaints from this facility or from any of the surrounding neighbors about the facility. It was the Board's decision that if there should be a future need for more parking, the Board would re-evaluate this decision to allow the additional family membership.

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AFTER AGENDA ITEM: April 6, 1976 -- BRADDOCK ROAD YOUTH CLUB, INC. AND NORTH SPRINGFIELD LITTLE LEAGUE.

Mr. Smith read a letter from these two Permittees requesting that they be allowed to erect a small monument (a granite or similar material base with a bronze plaque) in remembrance of the six Ft. Belvoir soldiers who were killed at Howrey Field on June 1, 1967, while assisting North Springfield Little League. "A fund was established shortly after the tragedy for this purpose. The time is long overdue for the action to be carried out," the letter stated. The location of the proposed monument was indicated on a sketch attached to the letter.

The Board agreed that this would be permissible.

The second request the Permittees made was to place a fence along part of Glen Park Road to screen the view of the concession trailer, the portable toilet, the equipment container and the trash bin. This request was made after a meeting with Mr. Lockhart, representing the residents living near Howrey Field. They proposed to construct a wooden fence approximately 8' and of sufficient length to screen the mentioned items. The location of the fence was indicated on the attached sketch.

The Board requested Mr. Covington to check this out and determine whether or not a variance would be necessary to construct a fence of that height.

Mr. Covington stated that this field sits down in an area much lower than the townhouses that wish to have the fence constructed. He stated that he did not know if a 7' or 8' would actually screen the field.

He agreed to look into this and report back to the Board at the next meeting.

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INTERNATIONAL TOWN AND COUNTRY CLUB, S-99-75

Mr. Smith read a letter from Thomas H. Frazier, Tennis Chairman of the Club. The letter stated that the location of the trailer is different from what was approved by the Board. The size of the trailer was changed from a 10'x10' to a 12'x50'. Mr. Frazier's letter stated that the reasons for the changes were that the trailer had previously been located on the side of a hill which could have been dangerous when high winds occur. This new location would also give a better all around appearance at the tennis courts. The previous location was an eyesore. The previous size was not large enough to allow for merchandising and repair of equipment. He submitted a sketch of the new location and size of the trailer.

The Board agreed that the new location was much better than the old location. However, the Board noted that once again this Permittee had gone ahead and did what they wished to do without first coming to the Board for the proper authority. They also noted that the trailer was only approved for two years and one year is already expired.

It was the Board's decision to approve this larger trailer and the new location. That approval will be effective when the Permittee obtains his Non-Residential Use Permit for the new trailer and after a new certified plat is submitted showing the new location of the trailer.

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Page 174, April 6, 1976

MINUTES OF MEETINGS -- MARCH 9, MARCH 16 and MARCH 23, 1976

Mr. Swetnam moved that the minutes of March 9, 1976 be approved with a couple of minor corrections. The word 'exceed' on page 116 should be 'exceeded'.

Mr. Kelley seconded the motion. The motion passed unanimously.

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Mr. Swetnam moved that the minutes of March 16, 1976 be approved with a correction to the motion granting the variance request of Thurman T. and Betty E. Cox. The motion should indicate that it is granted 'in-part'. In addition the words "The garage shall be 31.2' from the front property line." should be added as a limitation. Mr. Barnes seconded the motion.

The Board members agreed. The motion passed unanimously for the approval of the March 16 minutes.

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Mr. Kelley moved that the minutes of March 23, 1976 be approved with a correction on the first case. The attorney's name should be spelled "Smyth", not "Smith", even though it is pronounced the same.

Mr. Barnes seconded the motion. The motion passed unanimously.

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Mr. Mitchell presented the Board with a new revised proposed application form that would be for both Special Use Permit and Variance applications.

The Board decided to consider the form for a week, before making comments or giving approval.

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Jane C. Kelsey
Jane C. Kelsey
Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on
April 20, 1976

APPROVED May 4, 1976
DATE

Submitted to Board of Supervisors,
Planning Commission and other Depts.
on June 1, 1976

The Regular Meeting of the Board of Zoning Appeals Was Held on April 13, 1976 in the Board Room of the Massey Building. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; and William Durrer. Mr. Tyler Swetnam was absent.

The meeting was opened with a prayer by Mr. Barnes. The meeting began at 10:10 a.m.

The Chairman called the first scheduled case.

10:00 - DOUGLAS F. WYNKOOP appl. under Sect. 30-6.6 of Ord. to permit construction of addition closer to front property line than allowed by Ord., (31.1' from front, 35' required), 1825 Gilson Street, 40-1((16))102, (14,990 sq.ft.), Dranesville District, (R-10), V-36-76.

Mr. Wynkoop presented notices to the Board which were in order. His main reasons of justification for this request were that the lot falls off sharply in the back and all the water runs off into a area between lots 102 and 103. To place this addition any place else on the property would interfere with this water flow and would turn his back yard into a swamp.

Mr. Kelley questioned the size of the addition as compared to the existing house. He also questioned the architectural design of the roof of this addition. He stated that a roof pitch of 512 is pretty flat. He told the applicant he should check into this further and make sure that this addition is going to be compatible with the existing structure.

There was no one to speak in favor or in opposition.

RESOLUTION

In application V-36-76 by Douglas F. Wynkoop under Sec. 30-6.6 of the Ord. to permit construction of addition closer to front property line than allowed by Ord. (31.1' from front, 35' required), 1825 Gilson Street, 40-1((16))102, Dranesville District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 13, 1976, and

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is R-10.
- 3. That the area of the lot is 14,990 sq. ft.
- 4. That the property is subject to Pro-Rata Share for off-site drainage.

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

- 1. That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
 - (a) exceptional topographic problems of the land.

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

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
 - 2. This variance shall expire 1 year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
 - 3. Architecture and materials are to be compatible with existing dwelling.
- FURTHERMORE, the applicant must be aware that this granting does not constitute exemption from the various requirements of this County. The applicant must obtain building permits and the like through the established procedures.

Mr. Barnes seconded the motion. The motion passed 4 to 0. Mr. Swetnam was absent.

Page 176, April 13, 1976

10:10 - JOSEPH MARVICH appl. under Sect. 30-6.5 of Ord. to appeal Zoning a.m. Administrator's interpretation of a semi-detached dwelling, 5836 Biscayne Drive, 83-1((9))107A & B, (8,758 sq.ft.), Mt. Vernon District, (RM-1), V-37-76.

Mr. Marvich was present to present his side of the case. However, the Zoning Administrator, Gilbert R. Knowlton, had been detained in a Court case and would not be able to be present at the meeting.

Mr. Smith accepted from Mr. Marvich pictures of the property. He stated that a variance had been granted in order to construct this house. That variance was granted for a single family home.

Mr. Durrer moved that this case be deferred until a time when the Zoning Administrator can be present to tell the Board what his interpretation is and how he arrived at that interpretation, in order for the Board to make a decision in the matter.

Mr. Kelley seconded the motion. The motion passed 4 to 0.

Mr. Smith stated that he was looking at the building permit, which was in the file. The building permit was issued in 1968. He asked the applicant why he was just now completing the house.

Mr. Marvich stated that it was a matter of financing.

This case was set as a deferred case for April 20, 1976, if the Zoning Administrator can be present. The applicant is to be notified. There was no one else in the room interested in the application.

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10:30 - MR. AND MRS. TERRELL C. LADY appl. under Section 30-6.6.5.4 of Ord. a.m. to permit 10' tennis court fence to remain closer to front property line than allowed by the Ord., (23.7' from line, 30' required), 2426 Rocky Branch Road, 37-4((8))10, (30,977 sq. ft.), Centreville District, (RE-0.5Cluster), V-38-76.

Mr. David Humphreys, 2762 North Randolph Street, Arlington, attorney for the applicant, submitted notices to property owners which were in order. He stated that this is a situation where an honest mistake was made. Before beginning construction on the tennis court, Mr. and Mrs. Lady began the investigations and went to considerable extreme to find out what the requirements of Fairfax County were. They made a number of visits to the Fairfax County offices and discussed this with County employees. They even had one of the inspectors come to the property and explain what the requirements were. The requirements were even put in writing by the Zoning Administrator, Mr. Knowlton. He read that letter which stated:

"Please be advised that a tennis court may be erected on Lot 10, Lakevale Court Subdivision, subject to the following setback limitations. No part of the court or fence may be nearer to the side street (Oak Valley Drive) than 30', no part of the court or fence may be located nearer the front lot line (along Rocky Branch Road), than a distance of 12' behind the rear most point of the house. No part of the fence may be located nearer the rear property line (opposite Rocky Branch Road) than 10', nor nearer the side line (next to Lot 9) than 2'."

The problem is that Mr. Lady measured to the street. There is no sidewalk and he did not realize that the property line did not run out to the street. There is plenty of room on the lot to construct the tennis court and fence without infringing on the setback. A building permit was not necessary. The letter from Mr. Knowlton does not say "property line", but "street".

Mr. Claude Kennedy, Zoning Inspector, confirmed that he visited the property at the request of Mr. and Mrs. Lady and discussed with them where the fence for these tennis courts could be.

Mr. Humphreys stated that Mr. Lady visited all the members of his homeowners association and obtained the signatures of 100 percent of those homeowners. Mr. Humphreys submitted for the record a statement from Thomas E. Cox III, President of the Ashlawn Citizens Association which stated that at its meeting held on April 12, 1976, the Board of Directors voted on behalf of all its members to recommend approval of this request. He also submitted a letter from Thomas L. Albee, Jr., President of the Broyhill's Addition to Lakevale Estates Community Association, stating that the Architectural Committee had reviewed and approved the plans for the tennis court Mr. Lady proposed.

Mr. Humphreys stated that there are several people in the audience who came to indicate their support of this application. He asked them to stand. There were ten people who stood.

Mrs. Richard Bowers, 2548 Oak Valley Drive, who lives diagonally across the street from Mr. and Mrs. Lady, spoke in opposition. Her statement of opposition is in the file. One of her main objections was that she feels that it violates the covenants of the subdivision. Mr. Smith told her that covenants are a private, civil, legal matter and not within the jurisdiction of this Board. She also stated that the applicant erected the fence three days after he was notified that if he attempted to erect it, it would be in violation. She submitted photographs of the tennis court and the nearby homes.

Mr. Humphreys in rebuttal stated that the posts for the tennis court fence were set in concrete before the notice was received. The asphalt was also down prior to that. The only thing that was erected was the mesh that was around the court. The only thing Mr. Lady could do at this point is bring down one side of the fence to 4 feet in height. That would cause serious traffic problems because the tennis balls would go out into the street. In addition, it would be far less attractive with three sides at 10 feet in height and one side at 4 feet in height.

RESOLUTION

In application V-38-76 by Mr. and Mrs. Terrell C. Lady under Section 30-6.6.5.4 of the Zoning Ordinance to permit 10' tennis court fence to remain closer to the front property line than allowed by the Ord. (23.7' from line, 30' required), 2426 Rocky Branch Road, 37-4((8))10, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 13, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5 Cluster.
3. That the area of the lot is 30,977 square feet.

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

1. That the Board has found that non-compliance was the result of an error in the location of the fence, and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

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

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

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

Page 178, April 13, 1976

10:50 - OUR LADY OF GOOD COUNSEL appl. under Sections 30-7.2.6.1.11 and a.m. 30-7.2.6.1.3 of Ord. to permit construction of church rectory and administration building and to bring the existing operation of church and school into conformance with the Zoning Ordinance, 8601 Wolf Trap Road, 39-1((1))3 and 5, (24.275 acres), Providence District, (RE-1), S-39-76.

(The hearing began at 11:00 a.m.)

Rev. Edward Corcoran, pastor of the church, submitted notices to property owners which were in order. He stated that the church hopes to build a new home for their four priests, which will replace the present residence. The church also wishes to attach the rectory to a new administration building which will replace the current administration building which is delapidated and too small.

In answer to Mr. Kelley's questions; Rev. Corcoran stated that the maximum number of children in the church school will be 528. The hours of the school are from 9:00 a.m. to 3:00 p.m. The ages of the children will be from 5 through 15. The numbers of members in the church are 6,500. The children are transported by bus or by carpool. They have about five busses now. Those busses are painted yellow and they do comply with the State and County requirements for school busses.

There was no one to speak in favor or in opposition to this application.

Rev. Corcoran presented to the Board a statement in support from the contiguous property owners.

RESOLUTION

In application S-39-76 by Our Lady of Good Counsel under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of church rectory and administration building & to bring the existing operation of church and school into conformance with the Zoning Ordinance, 8601 Wolf Trap Road, 39-1((1))3 and 5, Providence District, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on April 13, 1976.

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

1. That the owner of the property is Catholic Church of Arlington.
2. That the present zoning is RE-1.
3. That the area of the lot is 24.2746 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The church has a seating capacity of 1,000.

7. 200 parking spaces are required and 313 have been provided.

8. The maximum number of children shall be 528, ages 5 to 15 years.

9. The hours of operation for the school shall be from 9:00 a.m. to 3:00 p.m., five days per week during the normal school year.

10. All necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion.

The motion passed unanimously.

11:10 - MILTON M. & MILDRED J. THORNE appl. under Section 30-6.6 of the a.m. Zoning Ordinance to permit construction of a two car garage closer to side property line than allowed by Ord., (10.7' from side, 20' required), 9832 Vale Road, 38-3((20))57, (23,649 sq.ft.), Centreville District, (RE-0.5), V-40-76.

Mr. Thorne submitted notices to property owners which were in order.

Mr. Thorne began giving his reasons why he wished to have this garage, not reasons based on the hardship section of the Ordinance. Mr. Smith called his attention to this and advised him that the justification must be based on the Ordinance, otherwise, this Board would have no authority to grant the variance.

Mr. Durrer stated that there is a written justification in the file which might be helpful to Mr. Thorne.

Mr. Thorne read that justification which stated that the ground slopes downward toward the rear property line which prevented them from placing the garage in the back.

Mr. Smith stated that from looking at the plat it shows that the property line on the side of the house where the garage is proposed is not parallel with the other property line. If that property line had been straight, the request for the variance would not have been so great on the rear portion of the garage. He asked Mr. Thorne why he needed 22' for the garage.

Mr. Thorne stated that it is because the builder suggested that that amount of space was necessary in order to get two cars in the garage and still have room to get in and out of the cars. He stated that he has four cars in the family. This would still leave two cars in the driveway. He stated that they plan to build steps up to the outside entrance, or a sloping walk.

The Board members questioned the retaining wall that is shown on the plats. Mr. Thorne stated that that wall has collapsed. They plan to put it back up when the garage is constructed. The top of the retaining wall will be the same grade as the land where the garage is going to be constructed. He stated that there is 6' of difference from the proposed front of the garage to the back of the garage, from the property line. He stated that he would have to talk with his builder to see whether or not the garage could be cut down to 20' in width.

Mr. Barnes stated that he did not feel it is up to the builder. Mr. Kelley agreed.

The Board stressed to Mr. Thorne that this Board must consider the minimum variance that could be granted to grant some relief from the topographic hardship, not for convenience of the applicant. The Code says nothing about

convenience. He stated that it is an established fact that 20' is a usable garage. He is requesting a very large variance on the rear portion of the proposed garage. He does have a physical hardship with the lot and should be granted some relief. However, the Board must consider the minimum, not maximum.

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

Mr. Durrer moved to grant the variance request.

However, the other three Board members requested that he consider granting only in part and having a 20' garage rather than a 22' garage.

Mr. Durrer concurred and read the following resolution.

RESOLUTION

In application V-40-76 by Milton M. and Mildred J. Thorne under Section 30-6.6 of the Zoning Ordinance to permit construction of two car garage closer to side property line than allowed by the Ordinance (10.7' from side, * 20' required), 9832 Vale Road, 38-3((20))57, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 13, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 23,649 sq.ft.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

- (a) exceptionally irregular shape of the lot,
- (b) exceptionally narrow lot

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- * 3. This variance is granted for a ^{22' OK}~~20'~~ garage, or ^{10.5' OK}~~12.7'~~ from the side property line at the closest point.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County and State. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

No. 3 was amended on May 4, 1976 to read 22' garage, 10.5' from side prop. line

Jane C. Zebay
Clerk, B.Z.A.

Page 181, April 13, 1976

11:20 - STANLEY O. SMITH appl. under Section 30-6.6 of Ord. to permit enclosure of carport for garage closer to side line than allowed by Ord., (7.5' total 16.8', 8' total of 20' required), 6113 Lundy Place, 78-4((13))329, (9,314 sq. ft.), Springfield District, (R-12.5 Cluster) V-41-76.

(Hearing began at 11:32 a.m.)

Mrs. Smith submitted notices to property owners which were in order. Mrs. Smith stated that due to the irregular shape of their lot and a privacy driveway between their lot and the adjacent lot, they need 3.2' at the front of the carport having the 20' required for garage construction. The distance at the rear corner of the carport is slightly in excess of 20'. The gradient to the rear of the house and the associated drainage problem prohibits the construction of anything to the rear of the house.

In answer to Mr. Kelley's question, Mrs. Smith stated that this proposed garage would come no closer to the property line than the existing carport.

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

RESOLUTION

In application V-41-76 by Stanley O. Smith under Section 30-6.6 of the Zoning Ordinance to permit enclosure of carport for garage closer to side line than allowed by the Ordinance, 6113 Lundy Place, Springfield District, 78-4((13))329, Fairfax County, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 9,314 sq. ft. side requirement
4. That the request is for a variance of 0.5' to minimum, and 3.2' to total minimum requirements.

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

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

- (a) exceptionally irregular shape of the lot.

NOW, THEREFORE, BE IT RESOLVED, that the application be and the same is hereby granted with the following limitations:

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

The applicant had submitted a sketch of how the addition would look after enclosure.

Page 182, April 13, 1976

11:40 a.m.

RE-EVALUATION HEARING ON CONGRESSIONAL SCHOOL, INC., 3228 Sleepy Hollow Road, 61-1(1)5, (39.4 acres), Mason District, (RE-0.5).

Mr. Royce Spence, 311 Park Avenue, Falls Church, attorney for the applicant appeared before the Board.

Mr. Lenn Koneczny, Zoning Inspector, told the Board that there are still a couple of questions that are controversial. They are:

- (1) School busses are still not painted. They were given a year in which to paint these busses. The deadline is past.
- (2) The guard house was being constructed at the time the Board granted the Special Use Permit for it. The Zoning Office found that there was no building permit at that time for it.
- (3) A couple of basketball backstops have been constructed in the parking lot. Although it can still be used as both a parking lot and basketball court, there is nothing on the plat showing that.

In answer to Mr. Smith's question, Mr. Koneczny stated that there have been no actual complaints to his knowledge. There has been a letter of inquiry.

Mr. Smith read a letter from Richard Hoff, the Fairfax County Arborist, stating that there have been no complaints and no violations in the past year and the Permittee has been very cooperative in trying to save the trees that are existing on the property.

In answer to Mr. Smith's question regarding the horses that were on the property, Mr. Koneczny stated that the Zoning Office did not get involved in that. There are no horses there at the present time and no other animals there either.

Mr. Spence at the request of Mr. Smith tried to explain the items mentioned by Mr. Koneczny. He stated that the guard house which is 6'x7' was started a year ago when the trailer were put in. They asked if they needed a building permit at that time. They were told by the County that they did not because the structure was less than 80 square feet. Then they were told that if a human was going to be in the building, they did have to apply for a building permit. They have applied for a building permit and one was issued. All inspections have been made and it is now in correct status. It is used by the security guard as his base of operations.

Mr. Spence stated, that with regard to the basketball backstops, Mr. Devers talked with one of the Zoning Inspectors and was told that these needed no permit. Therefore, he went ahead and had them put up.

Mr. Smith suggested that in the future, there be a better method of communications than word of mouth. Everything should be in writing.

Mr. Barnes asked Mr. Spence to explain about the horses that had been on the property last year and part of them had died.

Mr. Spence stated that there are no horses on the property at the present time. There were only ten weeks last year when there were horses on the property. Those horses were rented from someone in Prince William County. When they arrived at the school they were in the care of two young ladies that were employed by the school. They became very sick and apparently did not receive the proper care. These horses were rented by Mr. Devers but he was not personally involved in the care of them. In answer to Mr. Barnes' question, Mr. Spence stated that Mr. Devers was tried and convicted by the County court and paid a fine of \$250.00.

In answer to Mr. Smith's question, Mr. Devers stated that he was convicted of cruelty to animals.

Mr. Spence explained that Mr. Devers' fine could have been much greater, but since Mr. Devers was not personally involved in the care of the animals and had been away for four weeks during the summer, the fine was a minimum. The actual persons involved with the care of these animals have been sent to jail. Mr. Devers found out about the conditions on a Sunday and told the people in charge of the animals to get them taken care of properly. On Monday the RPCA people came in and confiscated the horses. Two of the horses died.

Mr. Barnes stated that there was one horse that was absolutely helpless. Those horses suffered from the lack of food. He stated that he felt it was the fault

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(Mr. Devers)
of Mr. Devers 100 percent. He stated that he/saw the animals when they came in and saw what kind of shape they were in. He stated that it was his understanding that they were not in such bad shape when they arrived at this school, but it was while they were there that they became in such bad shape.

In answer to Mr. Smith's question, Mr. Devers stated that the horses were at the school five or six weeks.

Mr. Barnes stated that during that time, Mr. Devers should have had an opportunity to observe them.

Mr. Spence stated that he wished to point out the proposed changes for the care of the horses this summer. He stated that both he and Mr. Devers talked with the members of FPCA. They asked for the FPCA's help in helping the school choose the proper people to take care of the horses this summer. They have employed Dr. Houser, a veterinarian, to come to the school once a week and give a weekly report on the condition of the animals. These horses will not be rented. They will be owned by the school. He stated that he would give his personal assurance that the horses will be well taken care of.

Mr. Barnes asked why all this was not done before, before the horses were ridden to death and starved to death.

Mr. Spence stated that one of the girls that was employed to take care of these horses had previously been employed by the FPCA. Therefore, they had no thought that the horses would be properly cared for.

Mr. Spence in answer to Mr. Smith's question regarding the painting of the school busses stated that this had not been done because of the lack of finances. The large busses are painted, but the smaller vans are not.

The Board members stated that this not only was a condition of the granting of the amendment to the Special Use Permit last year, but Mr. Devers agreed that he would have them painted within one year.

Mr. Spence stated that it costs \$850 to paint one bus.

Mr. Smith disagreed and they discussed this question at length.

Mr. Spence stated that he had discussed this question with Mr. Donnelly, one of the Assistant County Attorneys, and it is Mr. Donnelly's opinion that this Board was beyond its authority to require that these van type busses be painted in accordance with the State Code requirement. He stated that the reason for his opinion on this is because the State Code does not require painting for these van type busses.

Mr. Smith stated that unfortunately the very fine State Patrolman who was working on this problem with the State Code was killed at the time the Board was preparing to go to Court on this question. Mr. Smith stated that the Board is not basing this condition on a State Code requirement. This Board is requiring this as a condition on the Special Use Permit for a school use of the land in Fairfax County, Virginia. The Board is doing this with the welfare and safety of the children who will use this land use approved by this Board.

Mr. Spence stated that Mr. Devers is going to paint the school busses regardless.

Mr. Nathan R. Fuller, Jr., contiguous property owner, spoke in opposition to this school. He brought out all the problems that have transpired at this school in the past and the areas where he felt there are still problems. He submitted his statement to the Board to be placed in the file for the record.

Leslie Byrne, 6442 Queen Anne Terrace, also spoke in opposition. She also brought out several problems that she had with this school. She stated that the school is using the area in back of her house as a dumping ground. They also have installed vapor lights which shine into her property.

Mr. Smith asked Mr. Lenn Koneczny to check on these lights and determine whether or not they are shining outside the boundary of the school property.

Mrs. Byrne also complained about the constant noise. She stated that she has had Jack Maize out to inspect and determine whether or not the noise level is a violation to the Noise Ordinance.

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CONGRESSIONAL SCHOOL (continued)

Mr. Smith read a letter from Mr. Wallace S. Covington, Assistant Zoning Administrator, regarding this. This letter was addressed to Mr. Devers. It concluded that the Zoning Office is satisfied that the arrangement regarding the bull horn and the public address system is satisfactory to accomplish the objective of student control with a minimum of disturbance to individuals beyond the immediate area. The letter was dated August 5, 1975.

Mrs. Byrne stated that Mr. Maize inspected the premises and found that the P.A. system did exceed the proper noise levels. She stated that Mr. Maize taped the volume control of the schools P.A. system bringing the noise level to 45 decibels. However, most of the noise comes from the school's playground which borders her property.

Mr. Durrer inquired of Mrs. Byrne how long she had lived at her present address.

Mrs. Byrne stated that she had lived there since 1971, after the school. However, it is not the same conditions now as was then. It has been deteriorating every year since she moved in.

Mr. Spence, in rebuttal, stated that Mr. Devers last year had told the neighbors if they had a problem in the future to contact him personally and he would try to work them out. He stated that none of the neighbors had contacted Mr. Devers in the past year. The P.A. system is a good example, he stated. When they found that the P.A. system was too loud, it was turned down and never raised again. If there is a problem with the lights, they will fix them. The gas pumps have been in the same location for the past 20 or 30 years. The play ground has been in the same location for a similar length of time. The lights have been up for the past two or three years.

The Board decided to defer action on this case until 10:00 a.m. September 14, 1976. Mr. Devers and Mr. Spence stated that the lights, lettering and proper painting would be completed on all busses that are used for the transporting of children by August 31, 1976.

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AFTER AGENDA ITEMS - APRIL 13, 1976

REQUEST FOR OUT-OF-TURN HEARING: EDC JOINT VENTURE AND EDUCCO, INC., T/A TOWN & COUNTRY DAY SCHOOL OF VIENNA. The Permittees wish to add a swimming pool and in order to have it ready for summer, they need to have their case heard as soon as possible.

The Board granted the out-of-turn hearing for May 18, 1976.

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AFTER AGENDA ITEM - APRIL 13, 1976

REQUEST FROM ZONING ENFORCEMENT FOR ACTION ON:

SHELL OIL COMPANY, 6136 Franconia Road, 81-3((4))4A

Mr. Smith read a letter from John Furnelsen, Zoning Inspector, stating the the Permittee still has not complied with the condition of the Special Use Permit for proper fencing and screening along the rear property line. This was a condition put on with the granting of an addition to this gasoline station in 1970.

The Board set the Show-Cause hearing for June 8, 1976. They extended the Special Use Permit S-168-74 and V-169-74 until June 8, 1976.

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AFTER AGENDA ITEM; APRIL 13, 1976

REQUEST FROM ZONING ENFORCEMENT FOR ACTION ON: PROCTOR HATSELL PRIVATE SCHOOL, 7150 TELEGRAPH ROAD, SUP No. S-27-74

Mr. Smith read a letter from John Furnelsen, Zoning Inspector, stating the the Permittee does not have a Non-Residential Use Permit as yet for this operation. The violation notice was issued on March 2, 1976.

It was the Board's decision to set a Show-Cause hearing for June 8, 1976.

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The Board discussed future meeting dates for the rest of the summer and the month of August. This was deferred for further discussion next week.

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The meeting adjourned at 1:00 p.m.

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Jane C. Kelsey
By Jane C. Kelsey, Clerk of the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on
April 29, 1976

APPROVED May 4, 1976
DATE

Submitted to the Board of Super-
visors, Planning Commission and
other Depts. June 1, 1976

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The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on April 20, 1976. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; Tyler Swetnam; George Barnes and William Durrer.

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The meeting was opened with a prayer by Mr. Barnes.

A.M.

10:00 - THE HOUSE OF BROKERS REAL ESTATE CORP. appl. under Section 30-7.2.9.1. of the Zoning Ord. to permit real estate office in existing structure, 6800 Little River Turnpike, 71-2((5))9-15, (41,793 sq. ft.), Mason District, (R-17), S-42-76.

Charles Langen, 7617 Little River Turnpike, attorney for the applicant, submitted notices to property owners which were in order.

Mr. Langen explained to the Board that this real estate office is now located one-fourth mile west of the subject site in an office building. The lease is due to expire soon and they would like to move into this existing house and use it for an office. This house has been previously used as a nursery school for a number of years by Mrs. Collins. The property fronts on Little River Turnpike and has 150' of frontage. It is a corner lot. It has been unoccupied now for some time. The real estate office will have 12 or 14 full time agents. These agents will have staggered shifts and the only time they will be there at once is for the office meetings.

Mr. Richard Bartlett, the surveyor, stated that his firm computed the floor space to determine the number of parking spaces needed. They found that seven spaces were needed for that amount of floor space.

Mr. Kelley stated that if the applicant is going to have fourteen agents that might be there at one time and clients, they certainly would need more than seven spaces.

Mr. Barnes stated that there is plenty of room for parking on the lot.

Mr. Kelley stated that the Board should have corrected plats showing 12 or 14 additional parking spaces.

Mr. Smith asked the applicant if they could have those plats to the Clerk by Friday, April 30, 1976.

Mr. Langen agreed.

Mr. Smith stated that he felt one of the conditions that should be placed on this use should be that it will be under Site Plan Control. He stated that there really would not be much difference since they would have to provide a dustless surface for the parking area anyway and they also would be under Pro-Rata Share for off-site drainage anyway.

Mr. Swetnam felt that, since this probably would be an interim use, they should not have to be under Site Plan at this time.

The Board discussed this question at length, but arrived at no conclusion on the point on whether or not it should place the use under Site Plan Control. Mr. Smith stated that he agreed with the other Board members that this is a good use for this piece of property. However, he stated that he would not vote for a motion to grant unless it was under Site Plan Control.

The Board deferred this case under May 4, 1976, to give the applicant time to provide additional plats showing 15 parking spaces which would provide enough parking spaces for any and all people who might use the property at any one time. The applicant was advised that he would not have to appear on May 4, but it would be good to have someone present to answer any questions that might arise regarding the new plats.

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10:20 - MR. & MRS. MILTON STEINBAUM appl. under Section 30-6.6 of the Zoning Ordinance to permit addition to be constructed closer to front property line than allowed by the Ordinance, (38' from front, 45' required), and under Section 30-6.6.5.4 of Ord. to permit house to remain closer to side property line than allowed by the Ord., (12.9' from side, 15' required), 7303 Stafford Road, 93-3((4))41, (21,763 sq. ft.), Mt. Vernon District, (R-17), V-44-76.

Mr. Tom Kerns, 1150 17th Street, N.W., Washington, D. C., architect for the project, presented notices to property owners which were in order.

The Board first went into the mistake problem. The house was constructed in 1950. It has had three owners since that time. At some point in time, one of those owners constructed an addition to northwest portion of the house. That portion was constructed closer to the property than the Ordinance permits, either at the present time or in the 1950's. The Board, after discussing this with the Zoning Administrator, decided that there was no way that they could find out how this error was made and therefore, the Board should let this portion of the request rest and consider it non-conforming.

Mr. Knowlton explained that the applicant had not requested this portion of the variance, but the Staff had added it when it found that that portion of the house was in violation.

The applicant's point of justification was that the original house was constructed in the 1950's and was constructed very close to the front property line and at an angle to the lot lines. There are large trees and heavy landscaping to the rear. The lot is very narrow, therefore, there is no room to construct on the sides. The purpose of the addition is for a family room and entrance foyer off the kitchen, which is in the front of the house.

Mr. Smith stated that he felt this is a convenience variance. He asked the applicant to cut down the size of the family room.

Mr. Swetnam stated that he felt the addition could come as close to the property line as the existing construction, which is 43.1 even though the setback is 45'.

Mr. Smith disagreed.

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

RESOLUTION

In application V-44-76 by Mr. and Mrs. Milton Steinbaum under Section 30-6.6 or the Zoning Ordinance to permit an addition to be constructed closer to the front property line than permitted by the Zoning Ordinance, 7303 Stafford Road, 93-3((4))41, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals grant the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 20, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 21,763 sq. ft.

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

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

- (a) exceptional topographic problems of the land, and
- (b) unusual condition of the location of the existing building.

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

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Page 189, April 20, 1976
STEINBAUM (continued)

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 3 to 1. Mr. Smith voted No. Mr. Kelley abstained.

AMENDED TO READ: GEORGE E. AND MILDRED P. WILKINS
10:30 - DONALD G. WILKINS appl. under Section 30-6.6 of the Ordinance to permit a.m. construction of addition closer to rear property line than allowed by the Ordinance, (17' from rear, 25' required), 6121 Dew Grass Drive, 82-3((13))11, (10,604 sq. ft.), Lee District, (R-12.5), V-46-76.

The application was amended to reflect the names of the owners of the property, George E. and Mildred P. Wilkins, who were the parents of Donald G. Wilkins.

Donald
Mr. Wilkins presented notices to property owners to the Board which were in order.

Mr. Wilkins' main point of justification for this request was that the property line to the west angles in such a way to make a triangle out of the rear n.w. portion of the lot. He stated that, in order to make the addition evenly square instead of making it shaped like a triangle to match the setbacks, was to get a variance to that portion that extends over the setback line, which is about 3' on the rear of the addition. He stated that his car is almost 18' long and the size of the garage addition is 18' long. The addition will also encompass a workshop. He stated that he knew he had to get a building permit to build the addition, but he didn't know that he also had to have the foundation approved. He stated that the foundation is in already. He stated that the reason he needs a garage this size is so that he can work around the cars. He stated that he fixes his own cars and sometimes some of his friends who do not know how to fix a muffle or brakes ask him to fix their car also.

The Board was concerned that this addition was for the purpose of starting a garage business.

Mr. Wilkins assured them that it was not for that purpose and that he has never gotten paid for any work that he has done.

Mr. Smith stated that the physical condition of the lot is certainly a good justification for a variance under the Ordinance. However, he stated that he felt the applicant could live with a smaller addition and therefore, a smaller variance request.

Mr. Kelley moved that this case be deferred until May 4 in order to give the applicant an opportunity to rework his plans and come back with a lesser variance request.

Mr. Barnes seconded the motion.

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

The motion to defer passed unanimously.

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10:40 - FINANCIAL PLAZA, A PARTNERSHIP appl. under Section 30-7.2.10.4.1 of a.m. the Zoning Ordinance to permit construction and operation of gas station, Backlick Road approximately 200' south of junction with Cumberland Avenue, 80-4((1))part of 9A (.62 acres), Springfield Dist., (CD), S-47-76.

Mr. Gilbert Knowlton, Zoning Administrator, made the following statement: "This is the application which, last night, the Board of Supervisors adopted this portion of Backlick Road, a highway corridor, which is now in effect -- an overlay district."

Mr. John Scott, agent for the applicant, appeared before the Board.

MR. SMITH: Did you make the application before the advertising of the corridor ordinance?

MR. JOHN SCOTT: Yes. I am John Scott appearing as the attorney and one of the owners.

MR. SMITH: This Board no longer has the authority to grant, so there is no point in hearing it.

MR. SCOTT: In order to preserve our rights, I request permission to deliver to you the notices to property owners, along with my request for you to hear the case. I disagree that the ordinance is now in effect. It is not in effect until the time for filing for notice of appeal has expired.

MR. SMITH: Mr. Knowlton, was this ordinance adopted in a permanent status or on an emergency basis?

MR. KNOWLTON: Permanent.

MR. JOHN SCOTT: I request that you hear the request.

MR. SMITH: I will accept notices, but I will deny the request to hear the application. We will defer it. I disagree with the applicant to some extent.

MR. SCOTT: The site plan was filed prior to any notice of public hearing. We determined that we have a vested right under the site plan. After reading decisions on several cases, Medical Structures case and (inaudible), has lead us to believe that we have vested rights in the site plan.

MR. SMITH: I will recess the Board for a period of 15 or 20 minutes. We have not had the benefit of researching cases because we just found this out this morning. We will do some research and come back and give you an answer.

(The Board recessed for 15 minutes and returned to continue discussing this.)

MR. SMITH: Your statement on the fact that you submitted the site plan, we have not been able to verify that. The only thing you submitted to Design Review was a plat, not a site plan. In view of this and in view of the unusual situation, the Chair would suggest that we reschedule this and give the Board an opportunity to get the proper legal advice and give us an opportunity to research the amendment and other facts involved in this case. It does appear that the legislative action does preclude us from taken action on this case today. Any readvertisement of this would be by the Zoning Administrator's office. Would you hold the notices until we find out what procedure we will follow, but you will not have to renotify property owners. We will reschedule this for June 15.

MR. SCOTT: Mr. Chairman, that is fine with me. There is a problem with following the administrative procedures. Could it possibly be heard earlier.

MR. SMITH: We will develop an opinion on it and advise you whether or not we will reschedule the hearing on it. If the Board feels that we cannot take an affirmative action, we will so notify you and you can proceed. We would like to set a date certain for a rescheduling, if it is to be held before this Board. We will try to get back to you within two weeks and let you know about this rescheduling.

MR. SCOTT: I can appreciate the unusual situation, but I have diligently pursued this application and I believe this morning that I am entitled to have the Board, by its official action, proceed. I believe it is essential before action gets into Circuit Court and Supreme Court.

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FINANCIAL PLAZA (continued)

MR. SMITH: This is a two week delay which is not unusual with this Board and we do intend to inform you within two weeks. June 15th is the earliest we can hear it. June 15th at 10:00 a.m. would be the earliest date. If we do not intend to have this rescheduling, you will be notified within two weeks -- fourteen (14) days from today and you may proceed.

MR. SCOTT: If there is anything remaining on our part to be done in order for us to move forward, I would appreciate hearing from the Clerk. I have written and I have been assured that everything is properly filed. It is important that there be nothing left.

MR. SMITH: I assume everything is in order.

MR. SCOTT: Thank you and good morning to you gentlemen.

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11:00 - HOLLIN MEADOWS SWIM & TENNIS CLUB, INC. appl. under Section 30-6.6 of a.m. the Ordinance to permit construction of tennis court fence closer to front property line than allowed by Ord., (20' from front property line, 45' required), 2500 Woodlawn Trail, 93-3((1))6A, (5 ac.), Mt. Vernon District, (R-17), V- -76.

11:00 - HOLLIN MEADOWS SWIM & TENNIS CLUB, INC. appl. under Section 30-7.2.6.1 a.m. .1 of the Ord. to permit construction of 3 additional tennis courts to recreation facility (same address as above), S-49-76

(Hearing began at 12:10 p.m.)

Mr. Smith stated that, in view of the number of people present to speak on this case (several people had raised their hands in answer to his question if they wished to speak on this case), he would limit the applicant to 15 minutes and the opposition to 15 minutes.

Mr. Lee Fifer, attorney, represented the applicant. He submitted notices to property owners which were in order.

Mr. Fifer explained to the Board that the club wishes to add these three tennis courts because of the increasing demand for the use of the existing courts. He stated that this is the only place on the property where they can place these courts. To move the courts back any would infringe upon the natural stream that flows through the property. Even though this variance is to the front property line, that property line is not fronting on a street that is a developed street. The actual variance is not for 25' as stated in the application. The Zoning Administrator has interpreted that they can be given 20% of the normal setback requirement. Therefore, rather than asking for 25', they are only asking for 16'. The tennis courts will be 20' from the property line. They would have no need for the variance if they had not dedicated in 1965 for Woodlawn Trail. They believe this is a minimum variance and without this variance they will be deprived of the reasonable use of the land. To come any closer to the stream, they would have to put the stream in box culverts and also remove the trees. The applicants feel that this would completely destroy the natural beauty of the area, and would destroy the natural screening.

Mr. Smith stated that the Board can consider the screening, but not the trees, unfortunately, under the Ordinance.

Mr. Fifer stated that these trees form a natural park area. They wish to preserve a natural park.

Mr. Smith stated that he felt it should be moved back 8 or 10 feet and he felt this could be done without destroying the stream.

Mr. Fifer stated that their engineer, Mr. Ghent, has advised them that this cannot be done.

In answer to Mr. Kelley's questions, Mr. Fifer stated that the membership has not been increased and is not planned to be increased. They do not plan to light the proposed or existing courts.

Mr. Fifer submitted letters from some of the contiguous property owners in support of the application.

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Mr. Joseph R. Garafola, one of the contiguous property owners, spoke in opposition. He stated that there was a statement made that several property owners that are contiguous support this application. He stated that he wished to submit a petition from seven of the property owners that are contiguous stating that they object to this application for the additional tennis courts. He stated that he felt that 15' is not enough to set tennis courts from the property line because of the tremendous impact that use has on nearby neighbors. He also commented on several aspects where he felt the Club is deficient in its operation of its present facilities. He stated that the Club is limited in its membership to the Hollin Hills subdivision and the nearby community. The Club has changed its by-laws whereby it can have members from any area.

Mr. Smith stated that 15' is the required setback for this zone.
Mr. Smith stated that he should get the names of the people who are outside the community and give those names to the Zoning Administrator.

Mr. Garafola stated that he could not do that because the Club will not allow them to have a copy of the membership roles.

Mr. Smith stated that the Board would ask for that.

Barbara Selzer, another contiguous property owner, spoke in objection. She stated that she did not feel there is a great need in the immediate community for these courts. There are two community pool associations in the Hollin Hills area. There are within the Hollin Hills area at least seven tennis courts. The letters that were received in support of this do not live at the present time in this subdivision. Some have been out of the country for five years. She stated that she moved to this subdivision 13 years ago.

Mr. Aikens spoke in opposition to this application. He also was one of the contiguous property owners

Mr. O'Hara, 7600 Elba Road, spoke in objection. She stated that the people who are present who have indicated that they support the application are not contiguous property owners. The majority do not even live in their subdivision. They do not need three tennis courts. He stated that he did not believe they have a hardship. He stated that he was present at the time the association voted to open up the membership to other than their subdivision. Their reason was that their membership had died. If they are going to spend \$60,000 to build these courts, they should consider their membership. If they are not planning on new members, they do not need the courts. Perhaps they should reduce their membership.

Mr. Smith asked Mr. Fifer to indicate which of the people present were not from this subdivision. One lady stood and stated that she is from the Villa May subdivision and has been a charter member of this club. Villa May is 2 1/2 miles away.

Mr. Smith asked for a copy of the membership roles and asked that they be submitted to the Clerk.

Mr. Victor Ghent, engineer, stated that the courts could not be moved closer to the stream because there is a certain amount of drainage that is needed immediately above the stream. If the courts are moved at all, the drainage cannot be accommodated and they will have to cement the stream.

Mr. Smith stated that he felt they are overbuilding. Mr. Kelley agreed. He also stated that the noise from these courts do cause a detrimental effect on nearby properties. He stated that he lives near tennis courts and that is why he knows.

The Board members agreed that three courts was ^{an} overbuilding of the land. The Board deferred this case until May 11 for plans showing a redesign of the courts and come in with a minimum request. There will be no additional testimony taken. This is deferred for decision only and new plats that should be submitted to the Staff by Friday, May 7, 1976.

Mr. Smith told the applicants that they would have to work within the organization and establish with the Zoning Administrator that the organization is not in violation, then this Board will take whatever action the Board deems necessary.

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The Board recessed for lunch at 1:10 to return at 2:15 p.m. to take up the 11:20 a.m. case of Mobil Oil Corp.

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11:20 - MOBIL OIL CORP. appl. under Section 30-7.2.10.3.1 of Ord. to permit change of operator on existing SUP, S-14-73, for gas station, Braddock Road approx. 100' east of intersection with Chain Bridge Road, 68-1(1)part of 9, (.7875 ac.), Annandale District, (CD), S-51-76.

Don Stevens, attorney for the applicant, with law offices at 4084 University Drive, Fairfax, submitted notices to property owners which were in order.

Mr. Stevens stated that the Staff Report indicates that the property is owned by Edith Malone Farr Elliott, et al. Mrs. Elliott is deceased. Her estate is one of the partners in the College Town Associates partnership which is the developer of the shopping center. Mobil Oil is leasing the gasoline service station. College Town Associates is the present holder of the Special Use Permit. The purpose of this hearing is to transfer that permit to Mobil Oil. On the plats submitted with this application, there are a couple of changes to the design of the station. This is now a 3 bay station and the ingress and egress has been revised. There are three dispensing units on each island. One for regular, high test and low lead. Regular and unleaded are twin hoses and the premium is a single hose, so there are actually five dispensers on each island.

Mr. Stevens stated that the present Special Use Permit expires in June. Obviously, Mobil needs more time than that to begin construction and operation.

In answer to Mr. Kelley's question, Mr. Stevens stated that he saw no problem with Mobil accepting the conditions that were placed on the original permit to College Town Associates, except for the exclusion of the free standing sign. This site was designed with 240' of width in order that they might have a free standing sign. The Board previously had made an express condition that there be no free standing sign. The sign for this station is an identification sign on the side of the pump island canopy.

Mr. Smith stated that this sign, or any sign, would have to meet the Sign Ordinance.

Mr. Stevens stated that Mobil will be happy to do that.

Mr. Smith stated that he did not feel that Mobil's proposed sign does meet the Sign Ordinance. This is not a sign normally associated with a pump island. However, this is a decision for the Zoning Administrator.

Mr. Stevens, in answer to Mr. Kelley's question, stated that the hours of operation are proposed to be from 6:00 a.m. to midnight, seven days a week.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-51-76 by Mobil Oil Corp. under Section 30-7.2.10.3.1 of the Zoning Ordinance to permit change of operator on existing Special Use Permit S-14-73 for gasoline service station on property located on Braddock Road approximately 100' east of intersection with Chain Bridge Road; 68-1(1)part of 9, (.7875 ac.), Annandale District, (CD), S-51-76.

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 20, 1976.

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

1. That the owner of the property is Edith Malone Farr Elliott, et al. The applicant is the lessee.
2. That the present zoning is C-D.
3. That the area of the lot is 0.7875 acre.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.
6. That Special Use Permit S-14-73 was granted to College Town Associates on March 14, 1973, with extensions of time until June 17, 1976.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

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

2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. All terms and conditions set forth in Special Use Permit S-14-73, except the new plats, shall remain in effect.

Mr. Barnes seconded the motion.

Mr. Smith stated that the condition regarding the free standing sign not being permitted would still apply. He stated that the proposed sign shown over the pump islands should be deleted from the plat if the Zoning Administrator does not think it is in conformity with the Sign Ordinance.

The motion passed unanimously.

11:40 - PLEASANT VALLEY MEMORIAL PARK, INC. appl. under Section 30-7.2.3.1.1 a.m. of the Zoning Ordinance to permit addition to existing mausoleum, (previously granted under SUP S-103-74 but permit expired), 8420 Little River Turnpike, 59-3(1)17, (10.64 ac.), Providence Dist. RE-1,

Mr. James Derrock, a professional engineer with the firm of Patton, Harris Rust and Guy, represented the applicant before the Board. He submitted notices to property owners which were in order.

Mr. Derrock stated that this was previously under a Special Use Permit which expired. The management of the corporation underwent a change of hands and it took about 16 months. The new management did not have time left on the original permit to get the paperwork and engineering work done in order to begin construction. They plan to stick with the original plan submitted at the original hearing. When construction of this addition is completed, there will be a total of 552 crypts. The height of the addition will 14' or 15'. This addition will complete the building which will make an indoor mausoleum. The outside will be polished granite and the sides will be similar to the present construction of a concrete material.

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

The president of the corporation, Mr. Bell, stated that he had already contracted to purchase granite type covers for the openings of the vacant crypts.

RESOLUTION

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In application S-58-76 by Pleasant Valley Memorial Park, Inc. under Section 30-7.2.3.1.1 of the Zoning Ordinance to permit addition to the mausoleum previously granted under Special Use Permit No. S-103-74, 8420 Little River Turnpike, 59-3((1))17, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on April 20, 1976.

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is RE-1.
- 3. That the area of the lot is 10.64 acres.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

DEFERRED CASE:

11:40 - F.K.M. ENNIS appl. under Sec. 30-6.6 of Ord. to permit subdivision of a.m. lot with one lot having less than required frontage on a road (20' of frontage, 150' required), 11224 Chapel Road, 76-4((2))9, (6.517 ac.), Springfield District, (RE-1), V-3-76, Deferred from March 2, 1976.

Mr. Kelley stated that this case was deferred for further study. He stated that he and Mr. Don Smith in the office of Zoning Enforcement viewed the site. He stated that Mr. Don Smith also had done a study of the variances that had been granted in this subdivision already. This is in the file for the Board members to check if they have not already. He stated that he had prepared a motion, if the Board was ready for it.

The Board members checked the file. The Chairman indicated that the Board was ready for a motion.

RESOLUTION

In application V-3-76 by F. M. Ennis under Section 30-6.6 of the Zoning Ord. to permit subdivision of lot with one lot having less frontage than required on road, (20' of frontage, 150' required), 11224 Chapel Road, 76-4((2))9, Springfield District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on the 2nd day of March, 1976 and deferred for additional study and decision only until April 20, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 6.517 acres.

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

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

- (a) exceptionally irregular shape of the lot and size of the lot,
- (b) unusual location of existing building.

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

1. This approval is granted for the location and the specific structure indicated on the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire 18 months from this date unless recordation of the plat has taken place or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

DEFERRED CASE:

THOMAS F. & BARBARA B. WARNER appl. under Section 30-6.6 of the Zoning Ord. to permit building to be constructed closer to side property line than allowed by Ord. (53.95' from side, 100' required), and to permit waiver of the dustless surface requirements for the parking lot, 11014 Sunset Hills Road, 18-3((1))13 & 11A, (2.287 acres), Centreville District, (IL & RE-2), V-287-75, Deferred from 3/16 for additional information -- Mr. Adams was to check to see:

- (1) At what point the applicant found out that this piece of property could not be connected to public sewer?
- (2) When Mr. Warner would be able to get sewer connections in order to construct the building as was proposed at the time of the rezoning?
- (3) How the property is now being used?

There was a letter in the file and a spokesman who spoke at the time of the original hearing in opposition to this request. The statement was made that the premises is not being used as a plumbing office, but as a storage space for heavy plumbing supplies and equipment.

- (4) There was also objections to the waiver of the dustless surface requirement at the time of the original hearing.

Mr. Adams, attorney for the applicant, stated that there is a letter in the file from Mr. Houser stating that the sewer will be available approximately

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1900' from this property. Mr. Warner says that the cost will be from \$35,000 to \$40,000 to construct the sewer line, not including the easements. That cost is prohibitive for a small warehouse building on this property. Therefore, Mr. Warner will probably not be able to develop his property until the owner of the property between him and the sewer line develops his property.

Mr. Adams stated that since the time of the initial hearing, Mr. Warner wrote a letter to Mr. John Swanson, Director, National Association of Letter Carriers, telling him exactly what he planned to do. Mr. Swanson has now written back to Mr. Warner stating that in accordance with Mr. Warner's letter of April 2 stating that the planned use of the premises is to be as an office, that he would withdraw the objections to this variance request.

Mr. Smith confirmed that the Board had received a copy of that letter.

In answer to Mr. Smith's question, Mr. Adams stated that the trailers had been removed from the property.

Mr. Swetnam stated that he had visited the site and confirmed that the trailers had been removed.

In answer to Mr. Smith's question, Mr. Warner stated that he is in business with his father. However, this investment for this piece of property is one he made himself. The plumbing business is strictly a family business. He stated that he would like to use the house as it is as a plumbing office. In the morning, the plumbers will come in and pick up their assignments and go out again.

Mr. Adams stated that the applicant is already paying taxes on this I-L land and he would like to utilize it at the same time. This will be a temporary use of the house.

Mr. Smith stated that he would object to any use being made of this property for commercial purposes without having a dustless surface.

After a length discussion regarding the dustless surface requirement, the following motion was made.

RESOLUTION

In application V-287-75 by Thomas F. and Barbara B. Warner under Section 30-6.6 of the Zoning Ordinance to permit building to be used that is 53.95' from the side property line, (100' required), and to permit waiver of the dustless surface requirement for the parking lot, 11014 Sunset Hills Road, 18-3(1)13 & 11A, (2.2879 acres), Centreville District, (IL & RE-2), V-287-75, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on March 16, 1976, after having been deferred from February 17, 1976 for proper notices. The case was again deferred on March 16, 1976 to this date, April 20, 1976; for further study and additional information, decision only, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is I-L and RE-2.
3. That the area of the lot is 2.2879 acres.

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

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

- (a) unusual condition of location of existing building,

NOW, THEREFORE, BE IT RESOLVED, that the subject application be granted in part with the following limitations:

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1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
 3. That the dustless surface shall be provided for the parking lot.
- FURTHERMORE, this approval is granted for two (2) years with two (2) one (1) year extensions from the Zoning Administrator, upon request from the applicant.

FURTHERMORE, this applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

APRIL 20, 1976

GREENBRIAR CIVIC ASSOC., INC. appl. under Section 30-7.2.6.1.1 of Ord. to permit change of hours of operation to 9 A.M. to 11 P.M., Sunday through Thursday, and 9 A.M. to 1 A.M., Fridays and Saturdays, east side of Stringfellow Road just north of Melville Lane, 45-3(1)11, (1.5181 acres), Springfield District, (R-12.5), S-33-76.

(Started at 3:50 p.m.)

Letters had been received by the Board members from the residents on Melville Lane who were opposed to these extended hours, particularly the 1:00 a.m. hours. A letter had also been received from the applicant explaining all the steps they were taking now and planned to take to insure that all parking would be either on-site or on the parking authority the Park Authority property.

Mr. Don Shoemaker, 13117 Madonna Lane, president of the Greenbriar Civic Association, came before the Board. He stated that the civic association is one of the largest organizations that would be using that building. They will stop having their civic association meetings in that building if they cannot control the parking. The other organizations have only a few people who attend the meetings. Those people could park in the parking lot that is on-site. There are eleven organizations that make up the group that actually constructed this building. The Greenbriar Civic Association has the majority vote on that Board. The idea of this building was from the Chantilly Jaycees. The corporation was formed from representatives of the eleven organizations which included the Greenbriar Civic Association. These organizations are made up of Greenbriar citizens. The meetings of these organizations would not meet until 1:00 p.m., but some of the social functions, such as the Christmas dinners, would.

Mr. Smith stated that they could not rent this building out to outside operators for outside activities. The problem is that one thing was presented to the Board at the time the Board granted permission to erect this building. Now, something else is presented entirely different which will have a far greater impact on the nearby residents. This group has already violated the Zoning Ordinance.

Mr. Shoemaker stated that they hope to have the lights on the path that leads to the Park Authority parking lot by June or July at the latest. The parking lot could still be used, but the people would have to walk around on Melville Lane to get to the building. He stated that it had never been his intention to disturb the residents on Melville Lane. He apologized for any violations they had had.

(The Club)

Mr. Kelley stated that he felt it is the feeling of the Board to allow them to keep the building open until 11:00 p.m. This would give them the use of the building for meetings, but would still limit the use of the building for larger functions until they can provide additional parking.

Mr. Smith stated that they can have six per year if they get permission from the Zoning Administrator.

Mr. Shoemaker asked if it would be possible to grant some additional late night activities beyond the six, some other reasonable figure.

The Board discussed this request and made the following motion.

RESOLUTION

In application S-33-76 by Greenbriar Civic Association, Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit change of hours of operation to 9:00 a.m. to 11:00 p.m. Sunday through Thursday and 9:00 a.m. to 1:00 a.m. Fridays and Saturdays, Stringfellow Road just north of Melville Lane, 45-3 ((1))11, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 6, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 1.5181 acres.
4. That compliance with Site Plan Ordinance is required.
5. That the applicant operates a community center on said property pursuant to S.U.P., S-39-74, granted May 8, 1974, which established hours of operation as 9 a.m. to 9 p.m.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this request does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 9:00 a.m. to 11:00 p.m. These hours are granted for a period of One (1) year from this date, at which time the applicant shall return for a re-evaluation hearing.
7. All other terms and conditions set forth in Special Use Permit No. S-39-74 shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

The Board agreed that the after hours parties that are limited to Six per year could be re-evaluated prior to the end of the year. After the applicant has had Six parties, he can again request the Zoning Administrator to request the Board to allow them to have additional parties, if there have been no violations regarding noise, parking, or any other conditions set forth in the Special Use Permit. The re-evaluation at the end of the year would be at no cost to the applicant.

DEFERRED CASE:

JOSEPH MARVICH appl. under Section 30-6.5 of the Zoning Ordinance to appeal Zoning Administrator's interpretation of a semi-detached dwelling, 5836 Biscayne Drive, 83-1(9)107A & B, (8,758 sq. ft.), Mt. Vernon District, (RM-1), V-37-76. Deferred from 4/13/76 in order for the Zoning Administrator to be present.

Mr. Gilbert R. Knowlton was present and presented his views and interpretations as reflected in the Staff Report submitted to the Board at the original scheduled date of April 13, 1976. That report stated:

"On November 10, 1964, the Board of Zoning Appeals granted a Variance to Mr. Joseph Marvich to permit 'dwelling and garage closer to rear line than allowed by the Ordinance'. The resulting construction was a large residential building over a two-car garage on 8,757 square feet of land known as Lots 107A and 107B of the Huntington Subdivision, Section 5. Although the property consists of two lots, the B.Z.A.'s Variance spoke of it as '...to permit dwelling...' (singular).

The appellant speaks of an oral discussion with the Zoning Administrator, Mr. Woodson, which is neither confirmed nor denied by the present Zoning Staff. Other than the B.Z.A. files, there is no record of any other actions.

The present zoning of the property is RM-1, a category which permits one-family dwellings or semi-detached dwellings. The term 'semi-detached dwelling' is so worded as to denote 'A (singular) one-family dwelling attached to another one-family dwelling by not to exceed one party or common wall...'. The appellant's proposal is to provide two dwellings within one building separated by a floor/ceiling division, which would meet the definition of a 'Two-family dwelling', a use not permitted in the RM-1 district.

Although Mr. Marvich is appealing, apparently, on the grounds that the Ordinance does not specify that the party or common wall must be vertical, I cannot find it within my discretion to approve a horizontal floor/ceiling as a wall. Likewise, I interpret that the definitions are such as to make the proposed use one which is not within the permitted uses of the district."

Mr. Knowlton stated that the Board would note from the copies of the building permit that ~~are~~ furnished in the file, that the building permit issued in 1965 was a building permit for a single dwelling. Down below on that form where it refers to the number of dwellings there had been written 2 and that had been changed (he stated that he assumed through the County processes of checking building permits) to one.

Mr. Joseph Marvich stated that he did not know who changed it and he wasn't aware of it.

Mr. Marvich stated that before the Board gets into the details he wanted to request that this case not be used as a precedent setting case. He stated that after all this time, since 1965, the definition of a 'semi-detached dwelling' in the Ordinance is no clearer now than when he was issued the go-ahead. The structure is now almost complete. He stated that if the Board would refer to the copy of page 464.3 of the Zoning Ordinance, it will find that the regulations are very clear-cut on townhouses, but not on semi-detached. That regulation for 'Dwelling, semidetached' reads:

"A one-family dwelling attached to another one-family dwelling by not to exceed one party or common wall."

The regulation, however, for 'dwelling, townhouse' is very clear-cut. That regulation specifically says that these units, separated from one another by continuous vertical walls...whereas the regulation regarding semidetached does not. These units in his house are separated by a horizontal wall.

He stated that his appeal is to recognize former Zoning Administrator, Mr. Woodson's, decision of approval to build a semidetached or two-family dwelling as authorized by his interpretation of a semidetached dwelling.

He stated that he and his family now occupy the lower unit no. 1 of this structure. He stated that building permit No. P25570, supplement to build interior of Unit #2 dated 2/9/68 signed by Messrs. C. W. Wood and V. B. Short indicates approval. In addition, he has paid the sewage connection fee for the full frontage of 95.53' instead of 31'8" for a single unit.

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MARVICH (continued)

Mr. Smith stated that unless Mr. Marvich had something in writing from Mr. Woodson, he could not accept the statement that Mr. Woodson had approved this. The question of whether or not the applicant has made an honest mistake is not before the Board. The only question before the Board is a question of interpretation of the Zoning Administrator's decision not to approve this structure for two dwelling units for two families. The house could be completed and used as a single family dwelling.

Mr. Durrer moved that the Board of Zoning Appeals uphold the decision of the Zoning Administrator and the interpretation of the Ordinance by the Zoning Administrator.

Mr. Barnes seconded the motion.

The motion passed unanimously, 5 to 0.

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AFTER AGENDA ITEM - APRIL 20, 1976

MILTON & MILDRED THORNE, V-40-76. The Board on April 13, 1976 granted a variance request in part (12.7' from side, 20' required instead of 10.7' from side) thereby cutting the garage size down from 22' to 20' in width. The applicant is requesting that the Board reconsider this request and grant the full request because Mr. Thorne did not bring out fully and does not feel the Board understands that there is a 5.5' area where the steps go down into the basement. By the time they subtracted that from the 20' they would not be able to get two cars into that garage. A letter was in the file giving more details.

The Board agreed that it should give the applicant the benefit of the doubt and view the property. They would consider this request again next week or the next meeting date of May 4, 1976.

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MEETING DATES FOR THE SUMMER

The Board agreed on the following meeting dates:

May 4, May 11, May 18 -- June 1, June 8, June 15 and June 22

July 6, July 13, July 20 -- August 31 -- September 7, 1976 and continue

every Tuesday thereafter until the caseload is down and the applications are being heard within the 60 days time period specified by the State Code.

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Mr. Knowlton discussed with the Board of Zoning Appeals two new zoning amendments. One of these amendments regards the standards for special use permit uses in R Districts and in C and I Districts. The other regards the appeals on allegations of error section of the Ordinance. The Board and the Zoning Administrator discussed these two amendments at length.

Mr. Knowlton stated that he had suggested to the Board of Supervisors that that Board consider meeting with the Board of Zoning Appeals and discuss several items where there are pending amendments to the Zoning Ordinance and also concerning the implementation of the PLUS program. The plans for the County can be greatly affected by this Board and this Board has never been presented with the PLUS program.

Mr. Smith stated that there had been an open meeting for citizens including this Board at Robinson High School. He stated that this Board will be happy to meet with the Board of Supervisors. It is up to the Board of Supervisors as to whether or not they wish to make that time available. They have been meeting with other Boards in the County in the evening and perhaps they could consider this. He stated that he felt these meetings would promote better communications between the two boards.

The other Board members agreed that this type meeting would be beneficial to both Boards.

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AFTER AGENDA ITEM:

INTERNATIONAL TOWN & COUNTRY CLUB, INC.

The Clerk presented the revised plat to the Board showing the relocation of the trailer that is to be used for the tennis pro for his office.

The Board checked the plat and determined that this was the only change to the original plat approving this entire use. Therefore, Mr. Swetnam moved that the Board approve these substituted plats.

Mr. Barnes seconded the motion.

The Clerk reported that the Club is still working on the non-residential use permit for the trailer. They still lack several inspections, but hope to have them all approved by May 4, 1976.

The Board requested a report on this at the May 4, 1976 meeting.

The motion passed 5 to 0.

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The Board meeting adjourned at 5:10 p.m.

Jane C. Kelsey
By Jane C. Kelsey

Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board of Zoning Appeals on May 4, 1976.

APPROVED May 4, 1976
DATE

Submitted to Board of Supervisors, Planning Commission and other Depts. on June 1, 1976

The Meeting of the Board of Zoning Appeals for May 4, 1976, was held in the Board Room of the Massey Building. Members present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Tyler Swetnam; and William Durrer.

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The meeting was opened with a prayer by Mr. Barnes.
(The meeting began at 10:20 a.m.)
10:00 - STEWART D. & CORA M. MCKNIGHT, V-52-76.
A.M.

Mr. Smith read a letter from the attorney for the applicant requesting that this case be withdrawn.

Mr. Kelley moved that this application be withdrawn without prejudice.

Mr. Barnes seconded the motion and the motion passed unanimously.

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10:10 - BROOKHILLS LIMITED PARTNERSHIP appl. under Section 30-2.2.2 CG Uses, a.m. Column 2, item 2 of the Fairfax County Zoning Ordinance to permit private storage locker to be constructed, Ravensworth Road on west side, 200' south of Little River Turnpike, S-53-76.

RICHARD T. WRIGHT & BROOKHILLS LIMITED PARTNERSHIP appl. under Section 30-6.6 of Ord. to permit construction of building closer to rear property line (15') than allowed by Ord. and to permit 6' chain link fence in front setback area, same address as above, V-54-76.

Mr. Donald Stevens, 4084 University Drive, Fairfax, attorney for the applicants, represented the applicants before the Board. He submitted notices to property owners which were in order.

Mr. Stevens stated that this property has been in the C-G zoning category ever since there was such a zoning district. Mr. Wright and this partnership first proposed to build a combination of some storage and retail commercial uses, but because of the cost of development, it became economically unfeasible. There is a considerable amount of medium and high density development in the Annandale area which, through surveys, has shown a need for this type private storage facility. Therefore, they are requesting this use for this facility. There will be a small two story section provided for the caretaker. He will use this apartment 24 hours per day, seven days per week. Even though he will be on the premises 24 hours per day, he does have to sleep sometime also. Therefore, this necessitates the 6' chain link fence for which they need the variance. A 4' fence is just not high enough for security purposes. The reason for the 5' variance for the building to be constructed closer to the rear property line is because of the shape of the lot. The shape of the lot puts a constraint on the way the building must be situated on the lot. Without the variance, there would only be room for one-way traffic. Another 5 feet in the rear would make the warehouses more convenient to the people who are backing their trailers back to the warehouses to load and unload their possessions. To the rear of this property is commercial property. Therefore, this variance of 5' will not create an adverse impact on the adjacent properties.

Mr. Kelley stated that he had viewed the property and this is right in the Annandale business district. It will look like Lorton, and there is no justification for this variance on this fence.

Mr. Stevens stated that the fence will be behind the service drive. He stated that if you measured from the existing right-of-way line, the applicants could probably meet the setback requirements. However, they must dedicate for the service drive which pushes the property line back.

Mr. Smith stated that this would be approximately 22' from Ravensworth Road. He stated that he agreed with Mr. Kelley, that this fence is not needed and should not be allowed in the established setback area. The service station next door would not be allowed to have a 6' fence all around the property. Perhaps this isn't the proper place for this use. This actually is similar to an industrial use.

Mr. Stevens stated that this facility is designed for the ordinary citizen who doesn't have enough room in his home or apartment to keep all the things that he might accumulate.

Mr. Durrer stated that he would disagree with Mr. Stevens as far as security is concerned. He stated that he did not think it would make much difference whether or not it is 4' high or 6' high, most people could still climb over it

Mr. Smith stated that if this use is not compatible with the surrounding development, then this Board has no authority to grant and if the Board intends to allow this fence that is not compatible with the other businesses in the area, then this use doesn't meet the criteria set forth in the Ordinance for Special Use Permit uses in C Districts.

Mr. Stevens asked the Board if it would view the fence differently if the applicants agree to face it with something other than chain link. He gave as an example of a fence in the front setback, a townhouse development called Elan Mews where the rear fence of the townhouse is 6' and is next to the road.

Mr. Kelley stated that that fence was constructed by right and not with a variance. The Board cannot control something that goes in by right. Mr. Kelley stated that variances are to be granted because of a physical hardship of the land, not a convenience. He stated that if only two people will be on the property at one time, he really could see no need for two way traffic which is the justification for the 5' variance for the building to be constructed closer to the rear property line.

Mr. Stevens stated that this is not a compelling hardship, but the matter of inconvenience can be a hardship. This could be an interference with the reasonable use of the property. He stated that what the Code prohibits is a variance being granted that constitutes a special privilege. Whether or not this variance is granted will not affect the storage bays being constructed. The only question is, "Will this variance affect anyone else?" He submitted that it would not.

Mr. Covington stated that the Zoning Ordinance does not just relate to hardship, but to the practical and reasonable use of the land, as well.

Mr. Stevens in answer to Mr. Smith's question stated that this structure will be of concrete block which will have an architectural coating. The two story portion will either be of that construction material or of brick. The hours of operation will be from 7:00 a.m. until 9:00 p.m.

There was no one to speak in favor or in opposition to this application.

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Mr. Smith welcomed the children from the Providence Nursery School to the Board meeting.

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RESOLUTION

In application S-53-76 by Richard T. Wright and Brookhills Limited Partnership under Section 30-2.2.2, Col 2, Special Use Permit Uses in C-G Zone, to permit private storage lockers to be constructed on property located at Ravensworth Road, 71-1(1)20, Annandale District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 4, 1976, and

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

1. That the owner of the subject property is Richard T. Wright, Trustee.
2. That the present zoning is C-G.
3. That the area of the lot is 1.760 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.
6. That the property is subject to Pro Rata Share for off-site drainage.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

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

2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The hours of operation shall be from 7:00 a.m. to 9:00 p.m., seven days per week.

7. All necessary landscaping and/or screening shall be provided to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion. The motion passed unanimously (5 to 0).

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In application V-54-76 by Richard T. Wright, Trustee, and Brookhills Limited Partnership under Section 30-6.6 of the Zoning Ordinance to permit building within 5' of rear property line (20' required) on property location at Ravensworth Road, 71-1((1))20, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 4, 1976, and

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

1. That the owner of the property is Richard T. Wright, Trustee.
2. That the present zoning is C-G.
3. That the area of the lot is 1.76 acres.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

- exceptionally irregular shape of the lot.

NOW, THEREFORE, BE IT RESOLVED that the application is granted in part. The request for the 6' fence in front setback area is denied. The variance to allow construction of building within 15' of rear property line is granted with the following limitations:

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligations to obtain building permits, a non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion. The motion passed unanimously (5 to 0).

10:30 - KHATTOR FARIS appl. under Section 30-6.6 of Ordinance to permit construction of garage closer to front property line than allowed by Ord. (37.5' from front line on Woodridge Road, 50' required), 6401 Woodridge Road, 72-1((6))125B, (22,187 sq. ft.), Mason District, (RE-0.5), V-55-76.

Mr. Norton represented the applicant. He submitted notices to property owners to the Board which were in order.

Mr. Norton stated that this property has a steep slope to the rear and this proposed location is the only location where a garage could be constructed on this property. The shape of the lot is triangular and the house sits about 2/3's up a hill. There is a garage underneath the house now, but the applicant needs more living space. He, therefore, proposes to construct this garage to the side of the house with a brick addition to go on top of the garage.

Mr. Smith stated that he felt there is no justification for the addition. In addition, the application that was submitted on which this case was advertised and the property posted indicated that the proposal was for a garage, not an addition over the garage for living space. This is a front setback that will be violated. He stated that there is no justification for that portion of the variance request.

Mr. Norton stated that there is correspondence in the file requesting the addition over the garage.

Mr. Swetnam stated that this property has a curve in the lot line along the north side along that street. He asked Mr. Norton if this lot was a rectangular shaped lot as is on the other side if a variance would be necessary.

Mr. Norton stated that it would not. It is because of this irregular shaped lot and property line along Woodridge Road that necessitates this request.

Mr. David Tater, the builder, came forward and stated that if the Board felt that the only request they could make was for the garage, that their request would be only for the garage.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-55-76 by Khattor and Phyllis E. Faris under Section 30-6.6 of the Zoning Ordinance to permit construction of a garage closer to property line along Woodridge Road than allowed by the Zoning Ordinance, 6401 Woodridge Road, 72-1((6))125B, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 4, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE0.5.
3. That the area of the lot is 22,187 sq. ft.

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

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

- (a) exceptionally irregular shape of the lot,
- (b) exceptional topographic problems of the land.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion. The motion passed unanimously (5 to 0).

10:40 - DONALD E. RICHBOURG appl. under Section 30-6.6 of Ord. to permit enclosure of carport closer to side property line than allowed by Ord., (9' total of 19.5', 8' total of 24' required), 2311 Concert Court, 38-1((22))128, (12.289 sq. ft.), Centreville District, (R-17C), V-56-76. (Notices to property owners were in order.)

Mr. Richbourg stated that they wish to convert their existing double carport into a double car garage. This action would not entail extending the existing roof structure due to the fact that there presently exists a double carport. The house is situated lopsided on the lot which causes an irregular property line on the south side of the house reducing the usable space. In addition, they have a 45 degree hill in the back of the house which further reduces the usable space on their property.

Mr. Kelley stated that he hoped that this Board could get with the Board of Supervisors and the Planning Commission on this very point. He stated that he feels that any time a homeowner wishes to enclose a carport, that it should be allowed and that it would certainly be appreciated by the next door neighbor. He stated that the present Ordinance permits a carport to extend into a setback, which encourages the construction of carports. Carports are actually an eyesore to the next door neighbor and he wishes that the Board of Supervisors would change the Ordinance to encourage the enclosing of carports, rather than the construction of them.

Mr. Smith stated that the planners in Fairfax County evidently feel that an open carport gives the neighborhood more light and ventilation than a garage. However, he stated that he agreed with Mr. Kelley that most carports are eyesores.

Mr. Smith stated that there is a note in the file from the contiguous property owner that would be most affected that this addition stating that he is in favor of it.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-56-76 by Donald E. Richbourg under Section 30-6.6 of the Zoning Ordinance to permit enclosure of existing double carport to garage 2311 Concert Court, 38-1((22))128, Centreville District, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals grant the following resolution:

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

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RICHBOURG (continued)

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 4, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17 Cluster.
3. That the area of the lot is 12,289 sq. ft.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved --
exceptionally irregular shape of the lot.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Swetnam seconded the motion. The motion passed unanimously (5 to 0).

11:00 - JEFFREY S. ACKERMAN, D.D.S. appl. under Section 30-7.2.6.1.14 of Ord.
a.m. to permit home professional dentist office, 4908 Sideburn Road,
68-2((4))(1)25, (15,222 sq. ft.), Annandale District, (RE-0.5 Cluster),
S-57-76

Dr. Ackerman submitted notices to the Board which were in order. He stated that he wishes to establish a family oriented dental practice in his home. He stated that he has investigated this community and has found that there is a need for this particular use. There is a shopping center going in nearby, but the owner of that center will not permit him to open a dentist office since there is a proposed office building going in in the near future. He stated that he now practices dentistry with a group of people in Reston as an employee of that group. He stated that he is under contract and the terms of that contract read that he cannot establish a private dental office within 7 miles, as the crow flies, from that office in Reston or any of its branch offices which are in Sterling, Virginia and the Dulles International Center. He stated that he had checked with the owners of the medical buildings in the center of Fairfax, which is very close to the 7 mile limit. However, even if it were outside that limit, the three medical buildings in Fairfax already have several dentists as tenants. This proposed location is near Robinson High and an elementary school which would make it convenient for the children to walk to his office. This is a growing area. Within the subdivision of Oak Walk, where this proposed office is located there are 400 homes. He stated that he would have one assistant and one appointment at a time. He has proposed two parking spaces as the Board's policy indicated should be shown. He originally had planned to have one nurse and one receptionist, but he felt that one qualified assistant would be able to do the job. He stated that he had talked with his neighbors and attended a general meeting that was called in the neighborhood where he answered questions and tried to explain what he was planning to do.

Mr. Kelley inquired if Dr. Ackerman was familiar with the comments from the office of Preliminary Engineering contained in the staff report. That report suggests that the proposed parking lot be redesigned to the satisfaction of the Dept. of Environmental Management in order to give sufficient turn around area. He stated that if the Board grants this Special Use Permit, Dr. Ackerman will have to comply with that suggestion. This will increase the paved area, which will affect the surrounding area.

Dr. Ackerman stated that he was not familiar with that letter. He stated that he had visited all the various departments in the County prior to coming to this Board. He stated that originally he had proposed to have more parking spaces, but had cut that number down to two when the Zoning staff told him about the Board's new policy regarding home professional offices under Special Use Permit.

Mr. Charlie Sher, representing himself, spoke before the Board. He stated that he is President of the Country Club View Civic Association. The application in question has not been brought to the full community because of the time constraints. He requested that this Board postpone decision until the community can meet and get a more exact feeling of the Board of Directors of the community and the citizens of the community on this application. He stated that he lives five houses from the proposed dental office where Dr. Ackerman will live. He has spoken with Dr. Ackerman and he and his family have reviewed Dr. Ackerman's intended use of the property. He stated that he and his family feel that this would not change the residential character of the neighborhood, nor would it adversely affect the traffic flow since Dr. Ackerman is only going to have one patient there at a time by appointment only. He requested that the Board grant Dr. Ackerman a temporary use of his home for this use until the office building that is proposed at the vicinity of Braddock Road and Route 123 is completed.

Mr. G. C. Williams, 5000 Portsmouth Street, spoke in opposition. He stated that he is an adjacent property owner. He stated that the back of his property backs up to this property and is slightly higher which means that his patio would directly overlook Dr. Ackerman's back yard and entrance to his dental office. He stated that he felt this would adversely affect his quality of life and property values. He stated that he felt there is no way to adequately screen Dr. Ackerman's property from his property.

Barbara Fry, 4906 Sideburn Road, contiguous property owner, also spoke in opposition. She agreed with the points raised by Mr. Williams.

Mr. Smith stated that the Board is in receipt of letters in opposition from Mr. and Mrs. James Palumbo, 5110 Portsmouth Road; Col. and Mrs. Kimsey, 5210 Concordia Street; Mr. and Mrs. Hunter, 10703 Buckingham Road; and Shirley Vasaly, 5041 Portsmouth Road. A petition was received in opposition. This petition was signed by ten different families, with fourteen signatures, living on Sideburn Road, Linfield Street and one street that was illegible on the petition.

Dr. Ackerman, in rebuttal, stated that there are 400 homes in this development. The opposition represents only a small percentage of these homeowners. He read a letter in support from one of the homeowners, Mrs. Parvey, who lives on Portsmouth Street. The letter alleged that there are other home professional offices, such as beauty shops, etc. in this neighborhood that the community is allowing to continue to operate by not reporting them as violators, yet these people come out and oppose this use that is trying to go in legitimately.

Dr. Ackerman stated that the use he proposes is only planned to be a temporary use, not a permanent use.

RESOLUTION

In application S-57-76 by Jeffrey S. Ackerman, D.D.S. under Section 30-7.2.6.1 .14 of the Zoning Ordinance to permit home professional dentist office, 4908 Sideburn Road, 68-2((4))(1)25, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 4, 1976.

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

1. That the owner of the property is Maurice B. and Patricia S. Colbert. The applicant is the contract purchaser.
2. That the present zoning is RE-0.5 Cluster.
3. That the area of the lot is 15,222 square feet.

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ACKERMAN (continued)

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

That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion. The motion passed unanimously (5 to 0).

Mr. Smith stated for the record that even the person writing the letter in support indicates that the traffic on Sideburn Road is a problem and a hazard, even now. To allow any activity that would generate any additional traffic would not be in the best interest of the community or to the two public schools in the area.

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11:20 - DR. HARVEY OAKLANDER appl. under Section 30-7.2.6.1.14 of Ord. to a.m. permit home professional psychologist office, 5503 Avon Court, 79-1 ((6))429, (11,323 sq. ft.), Annandale District, (R-12.5), S-59-76. (The hearing began at 12:20 p.m.)

Mr. Joel Greenfield, attorney practicing at 106 Little Falls Street, Falls Church, Virginia and residing at 1947 Kirby Road, represented the applicant before the Board. He submitted notices to property owners which were in order.

Mr. Greenfield explained to the Board the use of which Dr. Oaklander would make of his home. Dr. Oaklander is a clinical psychologist and wishes to have a part-time private practice in his home where he resides. The practice will be limited to providing services for adults. These services will include individual and marital psychotherapy and psychological assessment as prescribed under the Virginia law licensing clinical psychologists. It will not include any solely medical practices such as the prescribing of medication or any physical treatments. Dr. Oaklander is now a staff member of the Northern Virginia Mental Health Institute. The hours of operation are proposed to be from 6:00 p.m. to 10:00 p.m. on weekdays and Saturday mornings between 9:00 a.m. and 12:00 Noon. Dr. Oaklander would only see one client at a time or one married couple at one time. Occasionally, he might see a client and his family. There will be no employees. There will only be one car on the premises from these clients at any one time. There will be no changes to the exterior of the house since Dr. Oaklander plans to use an already finished basement with a separate entrance as the office. The doctor has lived at this location since February of this year.

The Board discussed the safety aspect of backing out onto the street.

Mr. Greenfield stated that Avon Court is a cul-de-sac which alleviates the problem somewhat.

Mr. Smith stated that the Board established as a policy quite sometime ago that it would not grant a use where a client of the use would have to back out onto a public street.

Mr. Durrer stated that it is a violation of the law, unless the law has been changed in the last year.

Mr. Smith stated that he felt the applicant needs at least two parking spaces and he does not have a turn around area either.

Dr. Oaklander testified on his own behalf regarding the type people and the type emotional problems that he deals with in his full time job, as well as the type people he expects to have as clients in his proposed part-time job. He stated that this part-time job will not conflict with his full-time job. He does not advertise or put a shingle out. His clients are from referrals from other doctors. He stated that the clients that he will have will be no danger to the neighborhood.

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POLICY

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Mr. Marvin S. Crow, 5505 Avon Court, contiguous property owner, spoke in opposition. He gave several reasons. One reason was that the angle of his house is so situated that the entrance to the home is about 25' from the patio that is on that corner of the house. The cars moving in and out of the carport will cause a problem. There are six homes on that cul-de-sac with numerous cars and several small children. The people who live there watch those children carefully as they play. A stranger to the neighborhood, particularly one that has problems, might not be so careful. This will create a hazard and a grave danger. This use in this residential community will also destroy the residential community that they have established in their area. He submitted a letter that he had sent to Dr. Oaklander and asked the Board to make it a part of the file. He also submitted the answer that Dr. Oaklander had sent to him.

The Board recessed this case to go to lunch and stated that the Board would read the correspondence while at lunch and would return to make a decision on this case.

(The Board recessed at 1:00 p.m. and returned at 2:10 p.m.)

Mr. Smith called the Oaklander case and asked Mr. Crow if he had additional comments. He stated that the Board had, during lunch, read the letters and other comments that Mr. Crow had submitted.

Mr. Crow stated that he wished to state that this is the first time that the applicant knew he would oppose the application. He stated that should the Board approve this use, he still would have a problem with the proper barriers between his house and this house. There is also still a question on the size and type of sign that would be permitted and the lighting of the property. He stated that he had lived in his home for ten years.

Mr. Greenfield stated that he wished to comment that he felt that Mr. Crow's letter indicated that all his questions had been satisfied and this is the first notice they had that Mr. Crow was going to oppose this application.

Mr. Smith stated that the Board had used the proper procedure to hear this case. The opposition is not required to make known their views prior to the hearing.

Mr. Greenfield stated that during lunch he had checked the law and found that it is not a violation to back out onto a public street. There are two statutes that are applicable and an ordinance adopted January 1, 1976. He read portions of those statutes and referred to section 46.1-223 of the State Code of Virginia.

Mr. Smith stated that it is an established fact that backing into a thoroughfare is not as safe as entering headon. For that reason, the Board, many years ago, established that this would not be permissible. He told Mr. Greenfield that, should he ever have an accident backing onto a public thoroughfare, that he would find that he is wrong. He stated that he had settled many claims involving this question.

Mr. Kelley questioned the comments made by Mr. Greenfield to the effect that they would request waiver of the 22' driveway requirement, the turnaround area, and part of the screening requirement. He stated that he did not think this use is compatible with this residential area.

Mr. Durrer earlier had questioned the applicant regarding the type practice he would have. Dr. Oaklander had responded that he does psychotherapy. He stated that should he feel that anyone who came to him that he might feel was the type that would endanger himself or others he would report it to the proper authorities and petition for commitment. He stated that he sees people with all kinds of problems; people who are depressed and people who have different stresses on their lives; marital problems. He stated that since he works with an in-patient facility, he is very familiar with the type people that need to be hospitalized. He stated that he would not be working with in-patients, but out-patients.

(Dr. Oaklander)

Mr. Durrer asked if he would determine if a person should be hospitalized once he had a session with the person. He said that the person could come to his place and be a danger and at that point the doctor would recommend that he be hospitalized. He asked the doctor if that was correct.

Dr. Oaklander stated that that would be his responsibility.

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Mr. Kelley questioned the hours of operation which he stated were given as from 6:30 p.m. to 10:30 p.m. in the testimony, but were much less in the file records.

Mr. Greenfield stated that he felt he was duty-bound to present the maximum. He stated that it wouldn't have been fair to state the minimum and come back five years later for something different. He stated that the doctor will not start out operating for that many hours.

RESOLUTION

In application S-59-76 by Dr. Harvey Oaklander under Sec. 30-7.2.6.1.14 of the Zoning Ordinance to permit home professional psychologist office, 5503 Avon Court, 79-1(6)429, Annandale District, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 4, 1976.

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

1. That the owner of the property is Harvey R. and Leah Oaklander.
2. That the present zoning is R-12.5
3. That the area of the lot is 11,323 sq. ft.

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

That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Kelley seconded the motion.

The motion passed unanimously (5 to 0).

DEFERRED CASES:

HOUSE OF BROKERS REAL ESTATE CORP., S-42-76; Deferred from April 20, 1976 for new plats showing more parking spaces.

The plats had been received showing the additional parking spaces as requested by the Board at the time of the hearing.

Mr. Langen, attorney for the applicant was present. He stated that there are fifteen parking spaces now shown as proposed.

Mr. Kelley stated that the staff report indicates that this use is not under site plan control. However, landscaping and screening should be provided as a condition of the Use Permit.

Mr. Smith stated that he felt this use should be under Site Plan control. This is a commercial use in a residential zone and should have to comply with the same laws and requirements that any other use would have to comply with.

Mr. Swetnam stated that if the Board grants this use as a temporary use, they should not have to file a site plan.

Mr. Smith stated that the Board had agreed at the original hearing to limit this use to a three year period.

RESOLUTION

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In application S-42-76 by The House of Brokers Real Estate Corp. under Section 30-7.2.9.1.7 of the Zoning Ordinance to permit real estate office in existing structure, 6800 Little River Turnpike, 71-2((5))9-15, Mason District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 20, 1976 and deferred to May 4, 1976 for new plats and decision.

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

1. That the owner of the subject property is Raymond and Marion Spagnola.
2. That the present zoning is R-17.
3. That the area of the lot is 41,793 sq. ft.
4. That the property is subject to Pro Rata Share for off-site drainage.
5. That compliance with all applicable State and County Codes is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. That a 22' travel aisle shall be provided from the entrance on Roberts Avenue to the proposed parking lot to assure safe and convenient access to the lot.
7. All necessary landscaping and/or screening shall be provided to the satisfaction of the Director of Environmental Management.
8. The hours of operation shall be from 9:00 a.m. to 9:00 p.m., daily.
9. This permit is granted for a period of Three (3) years.
- *10. That compliance with the Site Plan Ordinance is required.

Mr. Barnes seconded the motion. The motion passed 4 to 1 (Mr. Smith voted No. on the original motion.

*Motion amended on May 11, 1976 adding:

Item No. 10 above. Mr. Swetnam seconded that motion to amend. The motion passed unanimously. Mr. Smith stated that the only reason he had not voted for it originally was because he felt it should be under site plan control.

Page 214, May 4, 1976

DONALD G. WILKINS, Request for variance, Deferred from May 18, 1976.

Mr. Swetnam stated that he had talked with Mr. Wilkins earlier and Mr. Wilkins had had some confusion about the plats and his ability to be able to use part of his slab. Mr. Swetnam stated that he had given Mr. Wilkins some information about redesigning his proposed garage. He asked the Board to reschedule this case in about 2 weeks in order that the applicant can get squared away. He made that his motion.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Wilkins was advised to come back on May 18, 1976. This would be a deferred item that would come up after the regular agenda items.

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AFTER AGENDA ITEMS:

FAIRFAX BAPTIST TEMPLE, S-83-74 and S-258-75, Special Use Permits to permit Sunday School in mobil classrooms and school of general instruction in main building for 225 children.

There was a question from the site plan office on whether or not the church had permission to use the gravel parking lot that had appeared on their site plan when the plan came in for approval of the two mobil classrooms.

The Board recalled that some of the contiguous property owners had objected to the insufficient screening between their properties and the existing church parking lot. The Board stated that because of the close proximity of this gravel parking lot to the contiguous properties, they felt this would have an adverse impact on the surrounding properties. In addition, in order for the Board to vary this dustless surface requirement, it would be necessary for Fairfax Baptist Temple to file for a variance. However, the Board stated that it felt the church and the neighborhood would be better served if this lot was paved and adequate screening put in to insure that the residential properties that are contiguous are protected. The applicant was asked if they could pave this lot.

Mr. Jim Histan, Assistant Pastor for Fairfax Baptist Temple, stated that they did not want to pave that area because it might interfere with their future building plans. However, they have a great need for this parking area. They have been using this area for quite sometime. However, this gravel area was not on any of the plats that was approved by the County for that particular use. Now the County is holding up approval of the two mobil classrooms pending the approval of this gravel area.

Mr. Smith stated that the church would have to remove the gravel area from the plats, or request a variance which the Board would be reluctant to grant.

Mr. Covington stated that they have to be parking on it before they violate the law.

Mr. Smith stated that the church has stated that it does use the parking lot. Therefore, they will have to agree not to use it. The Board suggested that the church use the parking lot of the vacant church that is across the street for their busses. He told the church that definitely parking along the street would not be permitted. /representative

Mr. Swetnam asked that the Board request the applicant to come back in with plans showing their future building and future parking lot and perhaps the Board could grant a variance at that time to allow them to use the area where the building is proposed to be until such time as that building is constructed, without paving that area.

Rev. Histan stated that the church has more vehicles now than they can find a place to park them.

Mr. Smith stated that that would bring up a question on whether or not the church has adequate land area for any expansion. But, this is a question that will have to be answered when plans are submitted and an application filed.

The Board agreed that the church was not to use the gravel parking area in order for them to get their permits to use the two mobil classrooms for Sunday School classes.

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Page 215, May 4, 1976

AFTER AGENDA ITEM: SPRINGFIELD ACADEMY, 5236 Backlick Road, S-70-75; Granted June 20, 1973 for three (3) years with the Board of Zoning Appeals being empowered to grant three (3) one year extensions.

The Zoning Inspector, Lenn Koneczny, had checked this school and had found that there were no violations of the Zoning Ordinance or of the conditions of the Special Use Permit.

Mr. Kelley moved that the request for this extension be granted.

Mr. Barnes seconded the motion. The motion passed unanimously.

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AFTER AGENDA ITEM: MAY 4, 1976
CLAUDE A. WHEELER T/A PROCTOR HATSELL SCHOOL. Request to delete some of the land area from the original plat.

Mr. Wheeler came before the Board to explain that because commercial monies for school projects is rather difficult to secure, they have concluded that in order to secure an immediate start on the new facility, the adjacent lots 4, 6 and 2 which were a part of the original special use permit application, must be developed with single family homes and the proceeds from this development would be used as additional funds for the new school, thus limiting the need for outside financial assistance. He stated that he still would like to have 80 students at the school. He explained the area of the property that would be removed from the school property.

The Board's decision on this request was to request a new application with plats showing the deletion of land area and also screening.

Mr. Wheeler stated that he had already submitted an application just in case it was needed.

The Board asked the Clerk to schedule this case for June 8 if at all possible since the show-cause hearing on the other location was coming up on that date.

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AFTER AGENDA ITEM: MAY 4, 1976
SHELL OIL COMPANY -- S-168-74; TM 81-3((1))4A and S-35-70 (granting storeroom addition) and 9380 (Granted in 1962 for original construction of gas station).

This applicant is scheduled for a show-cause hearing on June 8, 1976 because they have failed to get a Non-Residential Use Permit for the operation of this station with its addition. The reason they have not been able to get the Non-Rup is because they have failed to put in the chain link fence and the screening as proposed by the applicant at the last hearing in 1974. The applicant is now going to try to construct the fence. The County's landscape architect has viewed the site and suggests that rather than put in the chain link fence and supplemental plantings as the applicant had proposed earlier, that the applicant put in a solid fence and no supplemental screening. In order to put in the supplemental screening, the applicant would have to remove the natural screening.

The Board read the memo from Oscar Hendrickson, the Branch Chief for Preliminary Engineering, dated May 4, 1976.

The Board discussed this question at length. It was the Board's feeling that most board fences get torn down quickly and do not stay in good repair. For that reason, the Board requested the Clerk to request the applicant to be more specific about the type of solid fence. When that information is obtained, the Board will again consider the request.

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AFTER AGENDA ITEM: MAY 4, 1976
MILTON M. & MILDRED J. THORNE, V-40-76, Variance granted on April 13, 1976. The applicants had written to the Board at the last meeting requesting that the Board reconsider the request for a 22' garage rather than the 20' garage which the Board granted because of a 5.5' area where steps lead down into the basement area. Mr. Barnes had agreed to view the site and determine whether or not this would be a factor to be considered.

Mr. Barnes stated that he had viewed the site and this 5.5' does, in fact, cut into the garage area and would make it too small for a two car garage.

Mr. Durrer moved that the case be reopened and the resolution be amended to grant a 22' garage. Mr. Swetnam seconded the motion. The motion passed unanimously. Mr. Smith abstained.

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Page 216, May 4, 1976

FINANCIAL PLAZA, a partnership, appl. under Section 30-7.2.10.4.1 of the Zoning Ordinance to permit construction and operation of gas station, Backlick Road approximately 200' south of junction with Cumberland Avenue, 80-4((1)) part of 9A (.62 acres), Springfield District, (C-D), S-47-76.

Mr. Smith called the case. He stated that the Board had agreed to let Mr. Scott know within two weeks whether or not this Board would be able to hear and make a decision on this case.

The Board asked the Clerk to contact Mr. Scott and let him know that the Board will not be able to hear this case because of the following findings of fact:

- (1) That the facts of this case are that an application for a special use permit for a gasoline service station was filed prior to the enactment of a Highway Corridor District, an overlay zone which prohibits gasoline service stations. Fairfax County Code § 30-2.2.2 (Highway Corridor District).
- (2) The Board of Zoning Appeals is created by statute with certain defined powers. Va. Code Ann. § 15.1-494, et. seq. One of those powers is to grant special permits.

To hear and decide applications for such special exceptions as may be authorized in the ordinance... Va. Code Ann. § 15.1-495(f)

- (3) That the Board of Zoning Appeals was advised by the Zoning Administrator of the passage of the Highway Corridor Ordinance prohibiting the special exception request.

The Board's conclusion of law was that:

The Board of Zoning Appeals does not have the authority to grant the special exception and, therefore, no hearing will be held.

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APPROVAL OF MINUTES

Mr. Kelley moved that the minutes for April 6 be approved with minor corrections.

Mr. Barnes seconded the motion. The motion passed unanimously.

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Mr. Swetnam moved that the minutes for April 13 and April 20, 1976, be approved with minor corrections.

Mr. Kelley seconded the motion. The motion passed unanimously.

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The meeting adjourned at 3:25 p.m.

Jane C. Kelsey
By Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED June 8, 1976
DATE

Submitted to BZA on May 18, 1976

Submitted to other Depts., Planning
Commission and Board of Supervisors
on June 1, 1976.

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The Meeting of the Board of Zoning Appeals for May 11, 1976, was held in the Board Room of the Massey Building. Members present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Tyler Swetnam; and William Durrer. The newly appointed member, John DiGiulian was also present.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - POTOMAC OIL, INC. appl. under Section 30-7.2.10.3.1 of the Zoning Ord. to permit construction of service station, Rolling Road, 500' south of intersection with Edinburgh Drive, 98-2((1))pt. of parcel 13, (22,245 sq. ft. after dedication), Springfield District, (C-D), S-60-76.

Mr. John Hazel, attorney for the applicant, P. O. Box 547, Fairfax, Virginia, represented the applicant before the Board. Notices to property owners were in order. He stated that this property is zoned C-D and is the site of a neighborhood shopping center in the Saratoga community. This shopping center and this gasoline station will be very similar to the one in Oakton. The Board granted that gasoline station previously. This station will be a four bay station. Potomac Oil will be the lessee of the property. A copy of the lease is in the file. This is a 20 year lease. This station will be of brick construction and similar in design to the Oakton gasoline station. This is a full-service gasoline station with two pump islands and a 24,000 gallon underground storage tank. There will be no free-standing sign for this station. The sign will be a part of the pylon sign for the entire shopping center.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-60-76 by Potomac Oil, Inc. under Section 30-7.2.10.3.1 of the Zoning Ordinance to permit construction of service station, Rolling Road 500' south of intersection with Edinburgh Drive, 98-2((1))pt. of parcel 13, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 11, 1976.

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

1. That the owner of the property is Wills and Van Metre, Inc. The applicant is the lessee.
2. That the present zoning is C-D.
3. That the area of the lot is 22,245 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. That compliance with all applicable State and County Codes is required.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

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

details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Any necessary landscaping and/or screening is to be provided to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion.

The motion passed unanimously (5 to 0).

10:20 - SUPERIOR ASPHALT & CONCRETE CORP., FAIRFAX QUARRIES, INC. & MCKINLEY a.m. ROBINSON appl. under Section 30-6.6 of Ord. to permit construction of building closer to zoning boundary line than allowed by the Zoning Ordinance, (36' from line, 100' required), 15717 Lee Highway, 64-1((1))pt. 16 and 17, (17.01973 acres), Springfield District, (I-G), V-61-76.

Royce Spence, 311 Park Avenue, Falls Church, attorney representing the applicants, submitted notices to property owners which were in order.

A copy of the lease was not in the file. The Board decided to hear the case and defer decision until the lease had been submitted.

The applicant was granted a special use permit (SP-140) by the Board of Supervisors on April 19, 1976, for an asphalt mixing plant and a concrete mixing and batching plant on property adjoining the quarry operation, which is located on the south side of Lee Highway with access to the subject property from Lee Highway at a point approximately 1400 feet west of its intersection with Bull Run Post Office Road. One of the structures shown on the plat submitted and approved in connection with SP-140 is proposed to be located 36 feet from an R District zoning boundary line. The applicant needs a variance of 64 feet.

In answer to Mr. Smith's question, Mr. Spence stated that they did not specifically point out to the Board of Supervisors that this structure would require a variance. However, the plans were reviewed by the Staff prior to going to the Board of Supervisors. These plats are identical to those presented to the Board of Supervisors.

Mr. Smith stated that the staff was reviewing the plan for the zoning. The planning staff would probably not know whether or not a variance would be needed unless it was pointed out to them. The plans are not reviewed by the Zoning Office in that much detail prior to going to the Board of Supervisors. This should have been called to the Board of Supervisors' attention by the applicants' agent.

Mr. Spence stated that this contiguous property is owned by Mr. McKinley Robinson, one of the applicants.

Mr. Spence stated that the only proffers that were offered were that there would be a 100 foot buffer strip between lot 73 and this parcel and another 100 foot buffer along the westerly property line. The lot lines on this property are all interior to an operating quarry that has been operating a long time. There is a permit to operate a rock quarry. That operation could begin tomorrow. It is approximately 336' to the closest property line not involved in the quarry operation.

Mr. Smith stated that Mr. McKinley Robinson is the only person that is entitled to relief under the ordinance because he is the owner of the property.

Mr. Spence stated that there are topographical problems with the land that prevent them from putting the structure elsewhere on the lot.

Mr. Smith stated that the Board needs a new plat showing the lease line of Fairfax Quarries and the owner, McKinley Robinson.

Mr. Spence stated that the plans before the Board show that McKinley Robinson owns the property that bounds this subject property on two sides.

There was no one to speak in favor or in opposition to this application.

The Board recessed this hearing until the proper lease could be submitted later in the day.

Later in the day, Mr. Spence presented the proper lease and the Board made the following resolution.

RESOLUTION

In application V-61-76 by Superior Asphalt and Concrete Corp. and Fairfax Quarries, Inc., and McKinley Robinson under Section 30-6.6 of the Zoning Ordinance to permit construction of a building within 36' of a zoning boundary line, 15717 Lee Highway, 64-1((1))pt. 16 & 17, County of Fairfax, Virginia, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 11, 1976, and

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

1. That the owners of the property are the applicants, Fairfax Quarries, Inc. and McKinley Robinson. Superior Asphalt and Concrete Corp. is the lessee.
2. That the present zoning is I-G.
3. That the area of the lot is 17.019 acres.

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

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

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously (5 to 0).

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10:30 - LAHAIROI, INC. appl. under Section 30-7.2.6.1.3.2 of the Zoning Ord. a.m. to permit additional uses of existing facility -- adult classes, five nights a week from 7 to 9 p.m. for 50 to 100 students, and to permit summer program of general education, weekdays 8 a.m. to 5 p.m. for 50 to 100 students, 8800 Arlington Blvd., 48-4((1))39, (7 acres), Providence District, (RE-1), S-62-76.

Ellen K. Blackwell, 9426 State Street, Vienna, Virginia, represented the applicant. She submitted notices to property owners which were in order. She explained to the Board what Lahairoi wishes to do as is stated in the caption.

There was no one to speak in favor or in opposition.

RESOLUTION

In application S-62-76 by Lahairoi, Inc. under Section 30-7.2.6.1.3.2 of the Zoning Ordinance to permit additional uses of existing facility, 8800 Arlington Blvd., 48-4((1))39, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 11, 1976.

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

1. That the owner of the property is the applicant.
2. That the zoning is RE-1.
3. That the area of the lot is 7.9 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to expiration.
3. This approval is granted for the building and uses indicated on the plans submitted with this application.
4. All other conditions of the existing special use permit shall remain in effect with the following changes.
 - a. The hours of operation shall be from 8 a.m. to 9:30 p.m.
 - b. This shall be for 120 students, seven days per week, 12 months per year.

Mr. Swetnam seconded the motion.

The motion passed unanimously (5 to 0).

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10:50 - TYSON'S TRIANGLE LIMITED PARTNERSHIP appl. under Section 30-6.6 of a.m. the Ord. to permit construction of 150' office building closer to side and rear property lines than allowed by Ord., (75' from side, 100' required; on rear line, 75' required), Tysons Corner Shopping Center, 39-2((1))pt. of 65A, (5.1422 acres), Dranesville District, (COH), V-63-76.

Don Stevens, P. O. Box 547, Fairfax, attorney for the applicant, submitted notices to property owners which were in order.

Mr. Stevens stated that the applicant is seeking the reissuance of a variance that was granted by this Board in 1970 and extended in 1971. The same size building is again proposed. This property slopes from the corner at the intersection of the subdivision and the beltway right-of-way. The property grade is 25' higher than that of the beltway. It will still be set back more than 75' from the travelway of the beltway. The building is proposed to be on the rear property line. On the side, they are proposing to place the building 75' from the property line. They are requesting that they be allowed to utilize that setback to compensate for the additional height of the building, which will be 150'. They would like to keep the parking away from the subdivision. Therefore, they are proposing to place the building closer to the property line and move the parking away from that property line.

Mr. Kelley stated that the advertising notice said that 75' is the amount that will be setback for the side property line and 100' is required. However 150' is required, if that is the height of the building.

The Board was in receipt of a memo from Shiva K. Pant, Chief of the Transportation Planning Branch, dated May 7, 1976 regarding a proposed pedestrian overpass near this location, stating that this variance would have an impact on whether or not this pedestrian overpass can be constructed.

Bob Moore from the County's Comprehensive Planning Office clarified that memo stating that it had been sent before they saw the proposed plan for this building. Now that they have seen the plan, they do not feel it would adversely affect the pedestrian walkway. There is still some dispute between the County, the State and the Lerner Corp. over the actual interest that would be conveyed. He stated that he felt there is enough setback from the subdivision so that the right of way can actually go through to the dedicated public street.

Mr. Smith expressed his concern about this building being constructed so close to the beltway.

Mr. Moore in answer to Mr. Swetnam's question stated that the width of the pedestrian walkway will probably be no more than 15 or 20 feet leading up to the structure itself. 75' would be sufficient.

Mr. Swetnam stated that he could see no reason to penalize the applicant when there is plenty of room here for that walkway. He stated that he felt that placing the parking along the side next to the subdivision rather than the building would cause more of a detrimental effect. The neighbors will be damaged much more by that pedestrian walkway than they will by this building.

A resident from 1918 Dogwood Lane, adjacent to the shopping center, inquired where the main roadway entrance to this building would be placed.

The Board asked her to come up and look at the plans.

Mr. Stevens stated that the entrance would be off the road in Tyson's Corner Center, it would not be off Gander Place.

Mr. Stevens stated that the applicant does not disagree with either the County's proposal for the pedestrian overpass or with the lady's position regarding the entrance. The only problem that Lerner had was that he wanted to have the County execute a hold harmless agreement so that he would not be held responsible for any accidents that might occur along that walkway.

Mr. Robert Pence, from the Lerner Corp., spoke to this point. He gave a run-down of the circumstances that have transpired in the negotiations for this pedestrian overpass.

The Board, after considerable discussion, deferred this case for 30 days to allow for more negotiations between the County, the State and the Lerner Corporation.

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11:00 - HENRY W. SCHMALENBERG appl. under Section 30-7.2.10.6.4 of the Ord. a.m. to permit amendment to existing SUP S-180-72 to include lot 29 for use as parking lot for recreational vehicles in conjunction with existing recreational vehicle dealership, 13616 Lee Hwy., 54-4((6))21, 22, & 29, (40,342 sq. ft.), Springfield District, (C-G), S-64-76.

11:00 - HENRY W. SCHMALENBERG appl. under Section 30-6.6 of Ord. to permit a.m. display and storage of recreational vehicles within front and side setback areas, (along property lines, 50' from front lines required and 25' from side line required), 13616 Lee Highway, 54-4((6))21, 22 & 29, (40,342 sq. ft.), Springfield District, (C-G), V-65-76.

(Began hearing at 11:55 a.m.)

Mr. Dave Boyd, attorney for the applicant with offices at 10533 Main Street, Fairfax, Virginia, submitted notices to property owners which were ruled in order. One of the notices that was submitted was not a certified notice. The property owner, Mr. Fletcher, had signed a waiver of notice stating that he actually had had timely notice of the hearing. Mr. Boyd explained that his secretary had neglected to send out five certified notices and that is why he had submitted the waiver of notice from Mr. Fletcher.

Mr. Kelley moved that the Board consider that the property owners have been properly notified.

Mr. Durrer seconded the motion.

The motion passed unanimously.

Mr. Smith read a memo from Zoning Inspector, Jack Ash, regarding the violations on the property.

Mr. Boyd stated that he knew that the applicant is responsible for keeping the vehicles within the proper setback area. However, the applicant is seeking this special use permit in order to have some place to park the vehicles. The property is zoned C-G and the adjacent property is also owned by the applicant, Henry W. Schmalenberg. Therefore, the request for the variance will not adversely affect any residential property owner. Mr. Schmalenberg has also opened another place in Loudoun County. He stated that he has a copy of the lease agreement and the permit granted by Loudoun County if the Board wishes to see them. This will enable Mr. Schmalenberg to move a number of units from the existing location in Fairfax County. The two streets from which the applicant seeks a variance on the rear lot are not developed streets and probably will never be developed. There is no residential land within two miles of this site.

Mr. William C. McKenna, nearby property owner, testified before the Board that he had no objection to these two requests by Mr. Schmalenberg. He stated that he owns parcel 54.

RESOLUTION

In application S-64-76 by Henry W. Schmalenberg under Section 30-7.2.10.6.4 of the Zoning Ordinance to permit amendment to S-180-72 to include lot 29 for recreational vehicle parking, 13616 Lee Highway, 54-4((6))21, 22, 29, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 11, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 40,342 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. All screening is to be at the direction of the Director of Environmental Management.
7. This permit shall run concurrent with the previous Special Use Permit granted January 10, 1973 for 5 years with the Zoning Administrator being empowered to grant three (3) additional one (1) year extensions.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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VARIANCE RESOLUTION

In application V-64-76 by Henry W. Schmalenberg under Section 30-6.6 of the Zoning Ordinance to permit display and storage of recreational vehicles in front setback area at rear of property located at 13616 Lee Highway on lot 29, tax map 54-4((6))21, 22, and 29, County of Fairfax, Virginia, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 11, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 40,342 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.
(a) exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED THAT the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure

indicated in the plats included with this application only, and is not transferable to other land. (This variance refers to display and storage of recreational vehicles within front and side property lines.)

2. This variance shall expire one year from this date unless operation has started and the parking spaces have been put in or unless renewed by action of this Board prior to date of expiration.

3. The granting of this variance shall run with the previously granted special use permit.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

11:20 - MR. & MRS. LOUIS J. MIELKE appl. under Section 30-6.6 of Ord. to a.m. permit construction of garage closer to side property line than allowed by Ord., (7.1' from side, 12' required), 5600 Justis Place, 82-1((9))16, (14,214 sq. ft.), Lee District, (R-12.5), V-66-76.

(Hearing began at 12:30 p.m.)

Mr. Stanley Wilson, Hechinger's permit agent, home address of 5020 Oglethorpe Street, Riverdale, Maryland, represented the applicant. He submitted notices to property owners which were in order. The main topographic reason for needing this variance is the irregular shape of the lot and the steep slope to the rear of the lot.

There was no one to speak in favor or in opposition to this application.

Mr. Wilson stated that the construction of this addition will be compatible with the existing house. The width of the proposed garage will be 20' and the length will be 20'.

RESOLUTION

In application V-66-76 by Mr. and Mrs. Louis J. Mielke under Section 30-6.6 of the Zoning Ordinance to permit construction of garage within 7.1' of side property line 12' required, 5600 Justis Place, 82-1((9))16, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 11, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 14,214 sq. ft.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

- (a) exceptionally irregular shape of the lot,
- (b) exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the application be and the same is hereby granted with the following limitations:

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Swetnam seconded the motion.

The motion passed unanimously (5 to 0).

11:40 - MESSRS. CYRIL T. VERNON AND FRED K. HINES appl. under Section 30-6.6 a.m. of the Ord. to permit subdivision of lot 5 into 2 lots, with one lot having less area than allowed by the Ord., and to permit less frontage on one lot than allowed by the Ord., (75' frontage on Pickett St., 90' required), 6415 South Kings Highway, 83-3((5))(3)5, (59,446 sq. ft.), Lee District, (R-17), V-67-76.

(Hearing began at 12:40 a.m.)

Mr. James Thomas, attorney with offices in Springfield, Virginia, represented the applicant before the Board. He submitted notices to property owners which were in order.

Mr. Thomas stated that on January 20, 1976, this property was conveyed to the applicants. He submitted a copy of the deed. There are two houses on this lot. It is the applicant's desire to divide the lot into two lots with one house on each lot. The house at 6428 Pickett Street is occupied by tenants. The other house is occupied by the applicants. The lot has a very irregular shape. With one part of the lot and one house on Pickett Street and the other house with its out-buildings facing South Kings Highway. The smaller lot which faces Pickett Street has 10,500 square feet of land and is the same size as the other lots along that street. There actually would be no visible change made. No new construction is proposed. Mr. Thomas submitted three letters from the neighbors stating that they have no objection to this application. He stated that several neighbors are also present. The applicants plan to continue to reside in the larger house that faces South Kings Highway. The applicants were not aware that a variance would be necessary to divide this large lot until the time of settlement.

The neighbors lots, 2, 3 and 4 were formerly a part of this large lot. These lots were sold off separately by the former owner, Mr. Thomas stated.

In answer to Mr. Smith's question, Mr. Thomas stated that, at the present time, there is no plan to sell the smaller lot. However, it could be sold at the end of the year or in a few years. The tenants lease is up in September. The tenant has no objection to this variance request.

Mr. Schmid, 6422 Pickett Street, Lot 4, inquired about the description of the property. He stated that, in the justification of the applicants, they have described this parcel of land and included his lot 4. This lot four is his lot. The applicants do not own it.

Mr. Smith stated that what he felt the justification was trying to say was that this smaller proposed lot along Pickett Street will have the same physical conditions as lots 2, 3 and 4 with 75' width and 10,500 square feet of land.

Mr. Schmid stated that, in that case, he would have no objections to this variance request being granted.

There was no one else to speak in favor or in opposition to this application.

Mr. Swetnam stated that this is an old subdivision that goes back to the early 50's.

Mr. Thomas confirmed this.

RESOLUTION

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In application V-66-76 by Messrs. Cyril T. Vernon and Fred K. Hines under Section 30-6.6 of the Zoning Ordinance to permit subdivision of lot 5 into 2 lots with one lot having less area*than allowed by the Ord. (75' frontage on Pickett Street, 90' required), 6415 South Kings Highway, 83-3((5))(3)5, Lee District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

*and less frontage

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 11, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 59,446 sq. ft.
4. That the area of lots 2, 3 and 4 is 10,500 sq. ft. each.

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

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

- unusual location of existing buildings.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County.

Mr. Barnes seconded the motion.

The motion passed unanimously (5 to 0).

The Board recessed at 1:00 p.m. for lunch and returned at 2:15 to take up

11:50 - FRANCONIA WESLEYAN CHURCH appl. under Section 30-7.2.6.1.11 of Ord. a.m. to permit construction of church parsonage on church property, 5504 Trin Street, 81-4((1))91, (4.1064 acres), Lee District, (R-12.5), S-68-76.

Rev. Paul Griffin, 5502 Trin Street, Alexandria, Virginia, pastor of the church, submitted notices to property owners which were in order.

Rev. Griffin stated that the church proposes to construct a new parsonage. The old parsonage will be used for a youth center, or perhaps a day care center. The parsonage will be brick on the front and sides and aluminum siding on the back. The existing church is a one-story brick with a two-story educational building attached to it. At the present time, they have 44 parking spaces and a membership of 126. This parsonage will not require additional church parking.

Mr. Smith inquired about the correct owner of the property. Rev. Griffin stated that the name of the church at the time the property was secured in 1967 was Pilgrim Holiness Church. That church joined with Wesleyan Holiness Church to form the Franconia Wesleyan Church.

There was no one to speak in favor or in opposition to this application.

In application S-68-76 by Franconia Wesleyan Church under Sect. 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of a parsonage, 5504 Trin Street, 81-4((1))91, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 11, 1976.

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

- 1. That the owner of the subject property is the applicant.
- 2. That the present zoning is R-12.5.
- 3. That the area of the lot is 4.106 acres.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

Mr. Kelley seconded the motion.

The motion passed unanimously (5 to 0).

DEFERRED CASES: MAY 11, 1976

HOLLIN MEADOWS SWIM & TENNIS CLUB, INC. appl. under Section 30-6.6 of the Ordinance to permit construction of tennis court fence closer to front property line than allowed by Ord., (20' from front property line, 45' required), 2500 Woodlawn Trail, 93-3((1))6A, (5 acres), Mt. Vernon Dist., (R-17), V-48-76.

HOLLIN MEADOWS SWIM AND TENNIS CLUB, INC. appl. under Sect. 30-7.2.6.1.1 of Ord. to permit construction of 3 additional tennis courts, S-49-76.

(Deferred from April 20, 1976 for applicant to reduce variance request and reduce number of tennis courts.)

The plats had been received showing only two tennis courts and the amount of the variance had been reduced showing the courts 36' from the undeveloped portion of Woodlawn Trail.

Mr. Smith stated that letters had been received from the neighbors regarding these courts and also regarding the membership roles. The Board discussed this problem at length with one of the objectors. It was Mr. Covington's decision that this would not need a variance and, therefore, it was withdrawn.

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HOLLIN MEADOWS

RESOLUTION

(TWO*TENNIS COURTS GRANTED)

In application S-49-76 by Hollin Meadows Swim & Tennis Club, Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit three (3)*additional tennis courts, 2500 Woodlawn Trail, 93-3(1)6A, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 29, 1976 and deferred to May 11, 1976 for decision only.

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 5 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part*with the following limitations:

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

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

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

* 6. This is granted for two (2) tennis courts.

7. All terms and conditions of Special Use Permit S-100-72 shall remain in full force and effect. They are:

(6. There will be a maximum of 300 family memberships which shall be limited to residents of Hollin Hills Subdivision and the immediate area.

7. Hours of operation shall be 9 A.M. to 9 P.M. Permission for Three parties per year can be granted by the Zoning Administrator. 3)

8. There shall be a minimum of 100 parking spaces for cars and 60 for bicycles. No parking space shall be located in any required setback or within a distance of 25' from any property line. Parking spaces to be paved and marked.

9. The site is to be completely fenced with a 6' chain link fence as approved by the Director of County Development.

10. Landscaping, screening, and planting shall be as approved by the Director of County Development.

11. All lights, loudspeakers, and noise shall be directed onto site and must be confined to said site. Lights for tennis courts, ~~not~~ permitted.

12. A dustless surface for all parking lots and travel aisles shall be provided with a sidewalk to the proposed tennis courts and existing pool from Woodlawn Trail. An emergency access to the existing pool shall be provided.

13. This permit is granted for a period of three (3) years with the Zoning Administrator being empowered to extend the permit for 3, one year periods.) This permit shall run concurrent with S-100-72.

Mr. Barnes seconded the motion.

The motion passed unanimously (5 to 0).

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Page 229, May 11, 1976
 AMENDMENT TO
 THE HOUSE OF BROKERS REAL ESTATE CORP. S-42-76, Granted May 4, 1976

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The Board reopened this case to discuss whether or not it was the intent of the motion to make it a requirement that this use come under Site Plan Control.

Mr. Kelley stated that it had been his intent. This is not an automatic procedure since this is under Group IX, the older structure section of the Ordinance.

Mr. Kelley moved to amend the resolution granting S-42-76, The House of Brokers Real Estate Corp. to include as Item No. 10 that "This use will be under Site Plan Control."

Mr. Swetnam seconded the motion.

The Board then discussed the size sign that would be allowed under the Ordinance.

Mr. Covington stated that under the Special Use Permit section, they would be allowed a 12 sq. foot sign, 8' high, and unless the Board says otherwise that is the sign that will be permitted for this use.

Mr. Smith stated that he felt there should be a condition limiting the sign to 2 sq. ft.

Mr. Swetnam stated that he agreed with the concept that only a 2 sq. ft. sign should be allowed, but he did not think that this limitation could be added at this point, after the meeting where the resolution was read formally.

Mr. Covington stated that he did not think that these people would even want the Special Use Permit if the sign was limited to 2 sq. ft.

Mr. Durrer stated that this is a temporary use that was granted for three years.

Mr. Swetnam stated that he does not feel that the Board can change this part of the resolution to add a limitation on the sign. The applicant has no way of knowing what he has.

Mr. Kelley stated that the motion reads that the applicant must comply with all State and County Codes. That should be sufficient.

The motion to add the condition that "This use will be under Site Plan Control" passed unanimously (5 to 0).

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AFTER AGENDA ITEM: MAY 11, 1976

CLARK'S CROSSING HOMES ASSOCIATION, S-63-75.

Mr. Smith read a letter from the applicant requesting that they be given a 6 month extension because they have not been able to begin construction as yet.

Mr. Swetnam moved that this request be granted.

Mr. Barnes seconded the motion.

The motion passed unanimously (5 to 0).

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AFTER AGENDA ITEM: MAY 11, 1976

Mr. Smith read a letter from Keith Nelms, Pastor of Christ's Covenant Church, requesting that his congregation be allowed to use the Congressional School facilities located at 3229 Sleepy Hollow Road, Falls Church, Virginia, for their services and activities.

The Board discussed this request. It was the Board's decision that this church, just as any other church or use requiring a Special Use Permit, would have to file a formal application and have a public hearing to determine whether or not there would be any adverse impact to the surrounding neighborhood.

The Clerk was requested to contact Rev. Nelms and send him the necessary forms for the application.

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MR. KELLEY'S LAST MEETING WITH BOARD OF ZONING APPEALS.

Mr. Kelley was appointed to the Board of Zoning Appeals on December 11, 1970.

Mr. Smith stated that he wanted to personally and on behalf of the Board members thank Mr. Kelley for his contributions to the Board. He stated that Mr. Kelley has been one of the best, if not the best, member the Board has had. He has spent more time working on Board business than anyone since Mrs. Henderson. He stated that he regreted his leaving. Mr. Kelley views the properties and this has been a great help to him personally and he was sure it has been a help to the other Board members too. He stated that he wanted to thank Mr. Kelley again for his very excellent service to Fairfax County.

Mr. Kelley thanked Mr. Smith and stated that this work has been interesting and educational and he felt that he had tried to do the right thing on this Board, but he never thought he would be compared to Mrs. Henderson. (Mrs. Henderson was a former Chairman of the Board of Zoning Appeals.) Mr. Swetnam stated that he wanted to thank Mr. Kelley for all the help he has been to him since he came on the Board last year.

Mr. Smith announced that there would be a luncheon for Mr. Kelley on Friday, May 14, 1976.

Mr. Jack Herrity, Chairman of the Board of Supervisors, presented Mr. Kelley with a certificate of appreciation for his service to Fairfax County for the past five years. He wished Mr. Kelley well in his future endeavors and personally thanked him for his service to Fairfax County.

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The Board meeting adjourned at 4:00 p.m.

James C. Kelsey
By James C. Kelsey
Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: June 8, 1976
DATE

Submitted to the Board of Zoning Appeals on May 21, 1976.

Submitted to other Depts., Board of Supervisors and Planning Commission on June 16, 1976.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on May 18, 1976. Members present: Daniel Smith, Chairman; Tyler Swetnam; George Barnes; William Durrer and the newly appointed member, John DiGiulian.

The meeting was opened with a prayer by Mr. Barnes.

(Hearing began at 10:10 a.m.)

Mr. Smith welcomed the new Board member, John DiGiulian, who was appointed to fill the unexpired term of Loy Kelley. Mr. Smith stated that the first order of business would be to elect a new Vice-Chairman.

Mr. Swetnam stated that he would consider it an honor and pleasure to nominate Mr. William Durrer as Vice-Chairman of the Board of Zoning Appeals.

Mr. Barnes seconded the motion.

Mr. Swetnam moved that the nominations be closed.

Mr. Barnes seconded the motion.

Mr. Durrer was elected unanimously.

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10:00 - MT. OLIVE BAPTIST CHURCH appl. under Section 30-7.2.6.1.11 of the Ord. to permit construction of additional building for existing church and to permit additional parking, 6600 Old Centreville Road, 65(1) 15 & 16B, (3.2 acres), Springfield District, (RE-1), S-69-76.

MT. OLIVE BAPTIST CHURCH appl. under Section 30-6.6 of Ord. to permit waiver of dustless surface requirement for addition to existing gravel parking lot, V-70-76.

Notices to property owners were in order.

Rev. Fred L. Brown, pastor of the church, testified before the Board. He stated that Mr. Vanegas, the engineer, and Mr. Charles O'Bryan, the architect, are both present to answer any questions.

Mr. Vanegas testified that the proposed addition will be 92' by 68'. This addition will have the same seating capacity as the existing church. This addition will replace the existing facility for church services. However, the church will continue to use part of the building for educational purposes.

Mr. O'Bryan stated that the addition will be basically frame and brick veneer. It will be a one-story building attached to the existing building.

There was no one to speak in favor or in opposition to this application.

Mr. Vanegas stated that the justification for the variance request is that this is a very rural area. The nearest home is about one mile away. The existing gravel parking lot is more in harmony with the surrounding area and therefore, they would like to add the 15 additional parking spaces and continue to use gravel. They now have 40 parking spaces. This gravel has been there for years.

Mr. Covington stated that the parking lot is laced with grass. There are no houses nearby. This will be in keeping with the community and meets the intent of the Ordinance.

Mr. Swetnam stated that this church is directly across the street from a VEPCO substation. It is also contiguous with a VEPCO right-of-way line. He stated that he did not feel this variance would adversely impact anyone in the surrounding neighborhood and it will be in harmony with the existing area.

There was no one to speak in favor or in opposition to this application. There were several people in the audience who were in support of both these applications, Rev. Brown stated.

RESOLUTION

In application S-69-76 by Mt. Olive Baptist Church under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of additional building for existing church, 6600 Old Centreville Road, 65((1))15 & 16B, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 18, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.2 acres.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

Mr. Barnes seconded the motion. The motion passed unanimously (5 to 0).

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In application V-70-76 by Mt. Olive Baptist Church under Sect. 30-6.6 of the Zoning Ordinance to permit waiver of dustless surface requirement, 6600 Old Centreville Road, 65((1))15 & 16B, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 18, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.2 acres.

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

Page 233, May 18, 1976
MT. OLIVE BAPTIST CHURCH (continued)

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

-- To maintain compatibility with the existing neighborhood.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations.

- 1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. This variance is for 55 parking spaces (40 existing, 15 additional). FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously (5 to 0).

MAY 18, 1976

10:20 - WILMA R. H. ALOUF appl. under Section 30-7.2.6.1.5 of the Zoning Ord. a.m. to permit beauty shop in home, 3714 Merlin Way, 59-3((14))132, (11,050 sq. ft.), Providence District, (R-17), S-71-76.

(The hearing began at 10:30 a.m.)

Mr. John Wilkins, attorney for the applicant, submitted notices to property owners which were in order.

Mr. Wilkins stated that this is a request for a Special Use Permit to allow the continuation of a use which Mrs. Alouf began in January of this year, mistakenly. She has been informed that she was in violation of the Zoning Ordinance and she is here to correct her error and comply with all codes. Mrs. Alouf proposes to operate this one-chair shop from 9:00 a.m. until 7:00 p.m. There will be no employees, no signs, no advertising. She expects to have approximately ten clients per day of ladies and children in the neighborhood primarily. A significant number of people will be walking or riding bikes. There is no need for off-street parking. The visual impact of this use will be zero. There will be no changes to the structure, no widening of the road and no changes to the existing driveway. There will be no substantial increase in traffic, perhaps 5 or 6 vehicles per day. There was a petition circulated in the neighborhood and this petition represents 143 homes. This petition was signed based on the restrictions that have been given to the Board, i.e. one chair, no employees, no more than three customers at one time, no advertising. This petition was signed by the neighborhood of Camelot. He stated that the question of covenants will be raised by the opposition. It was his opinion that the covenants of this subdivision do not restrict the use that is proposed.

Mr. Smith stated that this Board cannot and does not get into the question of covenants. This is a private, civil, legal matter and not within the jurisdiction of this Board.

Mr. Wilkins stated that this shop is 2.5 miles from the nearest beauty shop. There are no other beauty shops in the area.

Mr. Wilkins stated that Mrs. Alouf has three children. She would like to be home when they get home from school. They are teenagers.

Mr. Smith stated that he was surprised that Mrs. Alouf did not know she had to get proper permits, Special Use Permit, Health Department Permit and all the inspections done. He inquired of Mr. Wilkins as to who did the work of installing this shop.

Mr. Wilkins stated that Mr. Alouf and a friend did the work.

Mr. Covington stated that a building permit would be necessary and all inspections would have to be made.

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Jane R. Kalisch, 8205 Excalibur Court, which is down one block and over one block, spoke in support of the application, representing some of the neighbors in the area and also her and her husband. She expressed the great need that the applicant has to stay in the home and also earn some money.

Mr. Smith explained that the Board could not grant a Special Use Permit based on economic need of the applicant, but on the impact this use will have on the neighborhood. The Board must consider the safety factors, the traffic and the character of this residential neighborhood.

Betty Senter, 3719 Merlin Way, three houses down from the subject property, testified in support of the application. She also expressed the need for this use and also the need for the applicant to be at home with her children.

Mr. Bryan McCormick, attorney representing the adjacent property owners, Mr. and Mrs. Dennis, spoke in opposition. He stated that this use already has caused an adverse impact to this neighborhood with the traffic and increased activity at the property. He asked the following people to speak on different points of opposition.

Mr. Trice, 3724 King Arthur Road, whose back yard adjoins the subject property spoke in opposition to this use. He stated that he would like to see the integrity of the community preserved and this use would not be compatible with the residential character of the neighborhood.

Mr. Meter, 3718 Verlon Place, a few houses down from the subject property, spoke in opposition. He spoke about the additional traffic this use has created on their quiet residential street where the children play.

Mr. Jones, 3608 Druid Lane, directly across the street from Merlin Way, spoke in opposition. He testified about the adverse traffic congestion this use has caused and the change in the residential character when one can see six cars parking in front of the house at all times of the day and evening.

Mrs. Dennis, 3715 Merlin Way, contiguous property owner, spoke in opposition. She testified about the nuisance factor of this use. She testified that the trucks that make deliveries to the basement area where the shop is uses her driveway. She said she could sit at her front door and see the two driers in the basement, which looks very commercial.

Mr. McCormick stated that, rather than have Mr. Senter speak, he would call the Board's attention to a letter Mr. Senter had sent to the Board expressing his opposition to this use.

Mr. Craig, 3707 Marlin Way, three doors from this subject property, spoke in opposition. He stated that he felt this use or any business use would devalue the property. He used as an example the community of Bren Mar where he used to live. He stated that when one commercial use comes in, then others do also.

Mr. McCormick submitted a signed petition of neighbors in opposition that was transmitted through a memo from the Clerk of the civic association, Court of Camelot. He stated that he wanted to stress that the burden of proof that this use will be compatible is on the applicant and the only factors the applicant has used are regarding economic hardship.

Mr. Wilkins, in rebuttal, stated that Mrs. Alouf has meet all of the criteria for Special Use Permit Uses in residential districts, in his opinion. She will meet all the restrictions of the State and County Codes. The impact of this one-chair operation is very negligible, if at all. The property values will not be devalued. This is a small operation in the basement with no structural changes to the house. There is a substantial amount of support for this application from several of the nearby neighbors as evidenced by the petition signed by 163 names representing 143 families in this subdivision.

Mr. Smith stated that the people who live next door and those that are contiguous and directly across the street are the ones that will suffer more impact than anyone else in the area.

Mr. Smith stated that there are several letters in the file regarding this operation. These would be made a part of the file in this case. The letters have been read by each of the Board members.

RESOLUTION

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In application S-71-76 by Wilma R. H. Alouf under Section 30-7.2.6.1.5 of the Zoning Ordinance to permit a beauty shop as a home occupation, 3713 Merlin Way, 59-3((14))132, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 18, 1976.

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

1. That the owner of the property is Maurice & Wilma H. Alouf.
2. That the present zoning is R-17C.
3. That the area of the lot is 11,050 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

The motion passed 4 to 1. Mr. Swetnam voted No.

10:40 - COMMUNITY PRESCHOOL, INC. appl. under Section 30-7.2.6.1.3 of the Ord. to permit operation of nursery school in existing church, 25 children, ages 3 through 5, 9 A.M. to 3:30 P.M., weekdays, 1625 Wiehle Avenue, 18-1((1))15, 6.14102 acres, Centreville District, (RPC), S-72-76.

Ms. Babette Bloomgarden, director of the school, submitted notices which were in order. She explained that they had previously operated in another location but they wish to move into this new church. The children are transported by carpools organized by the parents. This will be the same type operation as they now have.

There was no one to speak in favor or in opposition.

RESOLUTION

In application S-72-76 by Community Preschool, Inc. under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit operation of a nursery school in existing church, 1625 Wiehle Avenue, 18-1((1))15, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 18, 1976.

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

1. That the owner of the property is Reston Community Unitarian Church Association.
2. That the present zoning is RPC.
3. That the area of the lot is 6.14 acres.

AND, WHEREAS, THE BOARD HAS reached the following conclusions of law:
That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 9:00 a.m. to 3:30 p.m., weekdays.
7. The ages of the children shall be from 3 to 5 years.
8. The maximum number of children shall be twenty-five (25).
9. The play area shall be properly fenced in accordance with the Health Department requirements.
10. This permit is granted for a five (5) year period with the Zoning Administrator being empowered to grant two (2), one (1) year extensions upon request and a copy of the current lease prior to expiration of this Special Use Permit.

Mr. Barnes seconded the motion. The motion passed unanimously (5 to 0).

11:00 - THE RIDGEMONT MONTESSORI SCHOOL, INC. appl. under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit operation of a nursery school in existing church, 80 children, 8:45 a.m. to 3:00 p.m., weekdays, 1326 Calder Road, 30-2((13))11, 12 & 13, (2.838 acres), Dranesville District, (R-17), S-73-76.

Mr. Joseph Duffy represented the applicant before the Board. He submitted notices to property owners which were in order.

Mr. Duffy stated that Ridgemont Montessori School has been operating at its present location at 888 Dolley Madison Boulevard in the Immanuel Presbyterian Church since 1965. They have been before this Board on four occasions and they have never had a complaint made against their school. They must move from the Immanuel Church because the church has decided to use the space for other purposes. He submitted numerous letters from the nearby property owners surrounding the present location testifying to the fact that they have been a good neighbor and caused no problems. He read portions of the letters to the Board from Alice Mary Hykes, Clerk of the Session, Immanuel Presbyterian Church; James N. Cooper, M.D., 200 Little Falls Street; Richard A. Grear, Minister, Immanuel Church; Catharine B. Fisher, 6039 Crimson Court, contiguous property owner next to Immanuel Church; Mary and Stephen Rozbicki, 1146 Basil Road, McLean; Scott E. Terrill, Jr., 1122 Saville Lane; Westgate Corporation.

Mr. Duffy stated that Ridgemont is affiliated with and certified by the Association of Montessori Internationale (AMI). All of Ridgemont's teachers hold AMI diplomas. A copy of each teacher's qualifications were in the file. He stated that they now have 65 students, but there is space in this church to have 80 students, with the addition of an additional laboratory.

Mrs. Katherine MacLane, 7400 Ball Crest Drive, spoke in support and stated that she was also speaking for 15 people in the audience who are in support of this application.

Mr. Bardon, 1051 Saville Way, McLean, spoke in support of this application.

Mrs. Taft, who resides in McLean, also spoke in support of this application.

Mrs. Irvin, 1321 Calder Road, directly across the street from the subject location, spoke in opposition. She stated that the previous school that operated out of this church was very noisy. This use will add additional traffic to a road that is already saturated. This increased traffic will further add to the safety hazard that is there already. She inquired about the entrance to the church and asked which road the school would use to enter and exit.

Mrs. Ruby Smith, 1323 Calder, directly across the street from the church, spoke in opposition. She stated that she was also speaking for Mrs. Maze, who lives at 1318 Calder Road. Mrs. Maze could not be present because she had to go out of town. There is also a letter of objection in the file from Mrs. Maze. Mrs. Maze lives adjacent to the play area. That play area is very close to the property line. Some of the neighbors had some very bad experiences with the School for Contemporary Education that was previously in this church. She said that she was speaking in opposition also for Mrs. Harris who was unable to come to the meeting today. She stated that Calder Road is extremely narrow and on Sunday the church's parishioners park on that road leaving only enough room for one car to pass.

Dorothy Gunlack, who also resides on Calder Road, spoke in opposition.

Carolyn Downey, nearby property owner, spoke in opposition. She stated that this school's traffic will conflict with the Franklin Sherman Elementary School's traffic. That school has 500 students.

Mr. Duffy, in rebuttal, stated that they do not intend to allow the parents to use Calder Road since it is a residential street. They propose to have the parents come down Chain Bridge Road, turn right on Brawner, left on Calder, and left again into the church parking out and exit back out onto Chain Bridge Road.

After much discussion on the pros and cons of this arrangement and whether the entrance and exit should be from Chain Bridge Road, the opposition agreed that Mr. Duffy's proposal would not be too objectionable.

Mr. Duffy stated that he would like the flexibility of being able to try this arrangement rather than having to be limited completely to the Chain Bridge Road entrance and exit.

He stated that this school is completely different from the school that was previously located in this church. That school was for emotionally disturbed children. Ridgemont's children will be supervised at all times. They will only be on the playground for 15 minutes in the morning and 15 minutes in the afternoon. He stated that he would adjust the hours of operation for pickup and delivery of the children so as not to conflict with the elementary school that is down the street. That school, Franklin Sherman Elementary, does not dismiss students until 3:15. Ridgement's children are dismissed earlier. He then submitted photographs of the play area and the surrounding properties to show the Board that there would be little impact on the surrounding community from the play ground.

Mr. Smith stated that the letter from Florence Maze is in the file and all the Board members have read it.

Mr. Smith stated that he felt the majority of the traffic should be from Chain Bridge Road and kept off this residential street. He said that the church should endeavor to keep their parishioners from parking along Calder Road during Sunday services. There should be adequate parking provided on site.

RESOLUTION

In application S-73-76 by The Ridgemont Montessori School, Inc. under Sect. 30-7.2.6.1.3 of the Zoning Ordinance to permit operation of a nursery school in existing church, 1326 Calder Road, 30-2((13))11, 12 & 13, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 18, 1976.

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

1. That the owner of the property is Trs. of McLean Baptist Church.
2. That the present zoning is R-17.
3. That the area of the lot is 2.838 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That the property is subject to Pro Rata Share for off-site drainage.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The number of children shall be limited to 80.
7. The hours of operation shall be from 8:45 a.m. to 3:00 p.m. These are to be adjusted so as not to conflict with the Franklin Sherman Elementary School hours.
8. The entrance to this facility shall be from Calder Road and exit shall be from Chain Bridge Road unless Chain Bridge Road is used exclusively, in order to keep most of the traffic off the residential streets.

Mr. Barnes seconded the motion.

The Board had a lengthy discussion regarding this entrance and exit.

The Board agreed that the applicant could have the parents come down Brawner Street, turn left into the church parking lot off Calder Road and exit by Chain Bridge Road. The Board stated that at no time do they want the parents to come down Calder and turn right into the parking lot, or exit onto Calder Road. The initial stages of this will take some cooperation from the parents, the school, the church and the residents.

The motion passed unanimously (5 to 0).

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Page 239, May 18, 1976

11:20 - ARTHUR B. & SARAH I. COFFEEN appl. under Section 30-6.6 of the Zoning Ord. to permit subdivision of lot into two with less than required frontage for both proposed lots, (lot 21A-71.4', lot 21B - 72.38', 80' required frontage), 4604 Medford Drive, 71-1((12))21, (20,000 sq. ft.) Annandale District, (R-12.5), V-74-76.

Mr. Gidney with Prestige Realty, 105 Annandale Road, represented the applicants. He submitted notices to property owners which were in order. The applicants have owned this property since 1954. They live across the street. There are no buildings on this lot. Lot 21 abuts improved lots zoned R-10 with a minimum frontage of 70' and lots zoned R-12.5 with a minimum frontage of from 65.0' to 72.5'. The subdividing of this lot 21 into two proposed lots is in conformity with the adjoining and abutting R-10 subdivision improved lots and adjoining and abutting nine improved lots zoned R-12.5. Lot 21 is the only remaining unimproved lot in the immediate neighborhood and is serviced by sewer and water, streets, sidewalk and other utilities. The cost of the lot is too expensive to construct an improvement in keeping within the values and costs of the immediate surrounding neighborhood. Subdivided into two lots, it would make it practical and feasible to improve the land with improvements in keeping within the neighborhood values and at a cost within a sixty to seventy thousand dollar price range. (* These are not required minimum frontages, but the existing frontages on these existing lots.) In answer to Mr. Smith's question, Mr. Covington stated that this request appears to make this property compatible with the surrounding area. Everything to the north seems to be R-10 and to the south, R-12.5. This street seems to be the dividing line.

Mr. Swetnam stated that the applicants have enough land area.

Mr. DiGiulian stated that the applicants could go to the cluster system of developing and get the land area down to 8,400 sq. ft.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-74-76 by Arthur B. and Sarah I. Coffeen under Sect. 30-6.6 of the Zoning Ord., to permit subdivision of lot into two lots with less than required frontage (lot 21A-71.4', lot 21B-72.38', 80' required), 4604 Medford Drive, 71-1((12))21, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 18, 1976, and

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

1. That the owners of the property are the applicants.
2. That the present zoning is R-12.5.
3. That the area of the lot is 20,000 sq. ft.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

-- That this is compatible with the surrounding neighborhood.

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

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire within 18 months of this date unless this division has been recorded.

FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the various requirements of this County, such as building permits, residential use permits, etc.

Mr. Barnes seconded the motion. The motion passed unanimously (5 to 0).

Page 240, May 18, 1976

11:40 - MR. AND MRS. ROGER GIBBONS appl. under Section 30-6.6 of the Zoning Ord. to permit construction of addition 33' from front property line, 40' required, 7615 Trammell Road, 60-3((29))12, (12,852 sq. ft.) Mason District, (R-12.5), V-75-76.

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(Hearing began at 12:45 p.m.)

Mr. Arvydas Barzdukas, architect, 3322 Hartwell Court, Falls Church, submitted notices to property owners which were in order. He stated that he could not place this addition elsewhere on the lot because of the steep slope to the rear of the lot. There is a 1 1/2 story drop immediately in back of the house. The house was constructed 16 years ago. The applicants have lived there nine years. This addition is for a master bedroom and bath.

Mr. Swetnam stated that this construction is forced forward because of the converging lines going from front to back.

Mr. Smith stated that this does not apply to the addition.

Mr. Swetnam stated that the proximity of the back line of the house to the two side property lines restricts the addition's placement, which necessitates this being constructed on the front.

Mr. Barnes stated that the shape of the lot is very irregular.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-76-76 by Mr. and Mrs. Roger Gibbons under Sect. 30-6.6 of the Zoning Ord. to permit construction of addition 33' from front prop. line, 7615 Trammell Road, 60-3((29))12, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 18, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 12,852 sq. ft.

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

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

- (a) exceptionally irregular shape of the lot, exceptionally shallow lot, and
- (b) exceptional topographic problems of the land.

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

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

FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the various requirements of this County, i.e. building permits, residential use permit.

Mr. Barnes seconded the motion. The motion passed unanimously (4 to 0).
Mr. Smith abstained.

The Board recessed for lunch at 1:00 p.m. and returned at 2:15 p.m. to take up the 11:50 item of MECCA appl. under Section 30-6.6 of the Zoning Ord. to permit a.m. subdivision of lot into two, with one interior lot having less frontage than allowed by the Ord. (20' of frontage, 200' required), and to permit one corner lot with less than required frontage, (115.61' of frontage 225' required), Springvale Road, 1500' NW of junction with Beach Mill Road, 3(1)29B, (9.9041 acres), Dranesville District, (RE-2), V-50-76.

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Mr. Raymond F. Crist represented the applicant. He submitted notices to property owners which were in order.

Mr. Crist stated that this was a ten acre parcel of land. It has been divided into half already. The two proposed lots in this request today have approximately 2 1/2 acres in each. The lot fronting on Springvale Road will have 2.5000 acres and the interior lot will have 2.4041 acres. The office of Preliminary Engineering has said that there is no possible way to divide this parcel without getting a variance. Denial of this variance would be unreasonable withholding of the use of the property. The division of the lot as shown on the plats before the Board was chosen after consultation with the office of Preliminary Engineering and after having perk tests done and after talking with the prospective purchasers of this property. This division is also done with the terrain in mind.

In answer to Mr. Smith's question, Mr. Crist stated that Mecca is the owner of the property. The deed was executed on the 31st day of December. He stated that he did not have a copy of the deed.

Mr. Smith stated that the land records do not reflect this. He asked Mr. Crist to get a copy of the deed and submit it to the Clerk. This must be done prior to the release of the variance.

Mr. Mitchell stated that he didn't just check the printed book in the land records office, he also checked the computer records to try to determine the correct owner.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-50-76 by MECCA under Section 30-6.6 of the Zoning Ord. to permit subdivision of lot into two lots with less than required frontage on each lot, Springvale Road at Beach Mill Road, 3(1)29-B, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt this resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 18, 1976, and

- WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is shown in the land books as John G. and Ruth A. Anderson. However, the applicant states that this land has been deeded to MECCA. The applicant will submit a deed showing this prior to release of this variance.
2. That the present zoning is RE-2.
3. That the area of the lot is 9.90 acres.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land. exceptional topographic problems of the land and lack of frontage.

NOW, THEREFORE, BE IT RESOLVED, that the application be granted with the following limitations:
1. This approval is granted for the location indicated in the plats with this application only, and is not transferable to other land.
2. This variance shall expire 18 months from this date unless this division has been recorded among the land records of Fairfax County.

FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the various requirements of this County. Mr. Barnes seconded the motion. The motion passed unanimously (5 to 0).

Page 242, May 18, 1976

12:10 - EDC JOINT VENTURE AND EDUCO, INC. appl. under Sect. 30-7.2.6.1.3.2 of
p.m. the Zoning Ordinance to permit construction of pool for existing school,
9525 Leesburg Pike, 19-3((1))19, (5 acres), Dranesville District,
(RE-1), S-87-76, OTH.

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(Hearing began at 2:30 p.m.)

Mr. Dick McCool, 112 South Fox Road, Sterling, Virginia, submitted notices to property owners which were in order. He stated that he is one of the operators of the school. He stated that this request is to add a swimming pool for the children of the school. This is something they have wanted for a long time, but could not build because of finances. This pool will be 25'x50' and will meet all County and State requirements. This pool is strictly for the children of the school and camp. Therefore, it will not create any additional traffic. The hours of operation will be within the hours of the school. They have placed the pool in a location, behind the old riding barn, so that it is out of sight for all the contiguous property owners.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In appl. S-87-76 by EDC Joint Venture and EDUCO, Inc. under Sec. 30-7.2.6.1.3.2 of the Zoning Ord. to permit addition of a swimming pool to existing school facilities, 9525 Leesburg Pike, 19-3((1))19, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 18, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.0 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Section 30-7.1.1 of the Zoning Ordinance, and

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

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

Mr. Barnes seconded the motion. The motion passed unanimously (5 to 0).

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DEFERRED CASE:

(AMENDED TO GEORGE E. WILKINS, OWNER OF THE PROPERTY)
DONALD G. WILKINS, appl. under Sect. 30-6.6 of Zoning Ord. to permit const. of garage closer to rear property line than allowed by Ord. (17' from rear) 6121 Dew Grass Drive, 82-3((13))11, 10,604 sq. ft., Lee Dist., R-12.5, V-46-76 (Deferred from April 20 for applicant to consider reducing request.)

The Board was in receipt of plats showing the addition within 21' of the rear property line.

Mr. Swetnam moved that the Board substitute the new plats. Mr. Barnes seconded. The motion passed unanimously.

RESOLUTION

In application V-46-76 by George E. Wilkins under Section 30-6.6 of the Ord. to permit construction of addition within 17' of rear property line, 6121 Dew Grass Drive, 82-3((13))11, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on April 20, 1976 and deferred to May 18, 1976 for new plats.

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is R-12.5.
- 3. That the area of the lot is 10,604 sq. ft.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
-- exeptionally irregular shape of the lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted*with the following limitations: *(IN PART)

- 1. The garage is to be 21' from the rear property line instead of the 17' as requested.
- 2. This approval is granted for the location and the specific structure indicated in the plats included;with this application only, and is not transferable to other land or to other structures on the same land.
- 3. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously (5 to 0).

AFTER AGENDA ITEM: MAY 18, 1976 -- LINVILLE & HOLLAND, S-28-76, Special Use Permit granted for Putt-Putt Golf Course.

Mr. Smith read a letter from Bernard Fagelson, attorney for the Permittee, requesting that they be permitted to shift the location of the Putt-Putt Golf to some degree.

Mr. Covington explained that Dart Drug had a line of sight provision in their lease that caused the Permittee to have to relocate the Putt-Putt golf area. He stated that, to the best of his knowledge, the Permittee does have enough parking.

Mr. Barnes moved that the request be granted. Mr. Swetnam seconded the motion. The motion passed unanimously (5 to 0).

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Page 244, May 18, 1976

INTERNATIONAL TOWN & COUNTRY CLUB -- Status Report. The Board had requested a status report on a weekly basis to determine whether or not the Permittee was diligently pursuing getting the Non-Residential Use Permit for the trailer that they were using for the tennis pro. The staff reported that the Non-Residential Use Permit has been issued. The Zoning Inspector is to be commended for his diligent pursuit of this action.

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May 18, 1976

REQUEST FOR OUT OF TURN HEARING; EUGENE SLAVEY -- Application for a Variance to allow a pool to be constructed closer to ingress - egress easement than is allowed by the Ordinance.

Mr. Smith read a letter from Mr. Slavey requesting the out of turn hearing based on health reasons. He wanted to get the pool constructed as soon as possible.

The Board discussed this case at length and granted an out-of-turn hearing for July 6, 1976.

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May 18, 1976

REQUEST FOR OUT OF TURN HEARING; RESTON CHILDREN'S CENTER, INC.; Application for day care center which they would like to begin operating before June 18.

Mr. Smith read the letter of request. The Board stated that there was no way to hear this case prior to June 18 and meet the advertising deadlines. The Board granted the out-of-turn hearing for July 6, 1976.

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May 18, 1976

BETHLEHEM BAPTIST CHURCH, 4601 West Ox Road, location of the Northern Virginia Christian Academy.

Mr. Smith read a memo from J. E. Ash, Zoning Inspector, dated May 12, 1976 reporting on several violations that had been issued for this school. The violations were: (1) Storing junk motor vehicles, (2) Improper use of shop garage facilities, and (3) Improper use of rear gate. (Gate left unlocked. Ingress and egress used for all purposes).

Mr. Ash reported that these violations were cleared by the deadline date of 5-5-76. He also listed in his memo several violations that were listed in complaints received in his office on March 30, 1976 which were unfounded.

Mr. Ash suggested that the Board might be more specific as to how many trees and the type of trees that were to be planted.

The Board stated that this question should be determined by the office of Preliminary Engineering. The Board leaves this question up to their determination. If they feel the applicant has not met the requirements, then a violation notice is in order.

The Board discussed the closing of Ruffin Drive and determined that it only had the authority to ask that the gate be closed to Ruffin Drive during the weekdays when the school is in operation. This church is not under Special Use Permit and the Board does not have the authority to ask that the gate be closed on Sundays.

PAINTING AND LETTERING OF VANS & OTHER VEHICLES USED FOR TRANSPORTING CHILDREN
The Board then discussed the lighting and painting of busses, vans and automobiles used for transporting children to and from these private schools.

Mr. Swetnam stated that he was not on the Board when the case came up that is soon going to Court, but, it was his understanding that the Permittee would not paint the busses because she felt there is no State law governing that.

Mr. Smith stated that the Board did not say that there was a State law requiring this. It is a condition for the safety of the pupils transported to and from these private schools that these vehicles used for this transportation be painted and marked in order that the motoring public will know that they should stop. This is a condition of the Special Use Permit.

Mr. Durrer stated that the Department of Education makes the determination as to what vehicles should or should not be painted.

Mr. Smith stated that the Board did not say that it was a State law. The Board did mention the State Code because the Board wanted the busses or vehicles to have the same color and lighting and lettering as the busses used for transporting public school children.

PAINTING &
LETTERING
OF VEHICLES
TRANS. PUPILS
TO & FROM
PRIVATE
SCHOOLS.

Mr. Smith stated that the Board might have, in referring to the color and lettering on the busses, used too broad a statement, but the intent was that the busses or vehicles be painted in conformity with the proper coloring and letters in order that everyone on the public highway will know that this is a vehicle that is transporting children and when the lights go on, that they are supposed to stop. The State Code says that this Board has the authority to place any reasonable condition on a Permit that is granted by this Board. This is a reasonable condition, simply because it is made to safeguard the school children involved. If this is not a reasonable condition then the requirement that the County school busses be painted is not reasonable either. It is for the same purpose. The Board is not saying that any vehicle, except those used for transporting the children to and from the school, be painted and lettered just like all other school busses.

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SHELL OIL COMPANY, n.w. corner of Valley Drive and Franconia Road, 81-3((4))4A last amendment, S-168-74. Show-Cause hearing scheduled for June 8, 1976, because the Permittee had not constructed a fence and put in screening as they were supposed to have done. They now are proposing to put up that fence. The landscape architect has viewed the site and recommends that this fence be a solid fence and that they not be required to install any additional plant material. The Board asked that the words "solid fence" be defined in order to be more specific because the Board does not feel that most solid fences are durable.

Mr. G. W. O'Neill, District Engineer for Shell Oil, in a letter dated May 12, 1976, addressed a letter to the Board requesting that the location of that fence be changed in accordance with a plat that he enclosed with that letter. He proposed the use of a "Slatlink" fence which would be vinyl clad and the wood slats would be of redwood. He enclosed a brochure of this type fence. The County Landscape Architect, Phil Garman, had concurred with this.

The Board reviewed the brochure and the plat for the relocation of the fence and approved both.

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EXTRA MEETING DATE IN JULY

The Board discussed the problem of scheduling cases to meet the 60 day Code requirement. The Clerk advised the Board that the staff is now scheduling cases for July 20 and would then move to August 31 which would be beyond the 60 day requirement.

The Board agreed that it would have to have an extra hearing day in July. The Board members suggested either July 16 or July 21, whichever date the Board room would be available.

// The meeting adjourned at 3:30 p.m.

Jane C. Kelsey
 Jane C. Kelsey, Clerk to the Board
 of Zoning Appeals

Daniel Smith
 DANIEL SMITH, CHAIRMAN
 APPROVED June 8, 1976
 DATE

Submitted to the Board of Zoning Appeals on May 28, 1976.

Submitted to Board of Supervisors, Planning Commission and other Depts. on June 16, 1976.

The Extra Meeting of the Board of Zoning Appeals Met on Tuesday, June 1, 1976, in the Board Room of the Massey Building. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam and John DiGiulian.

The meeting was called to order by Mr. Smith. Mr. Barnes said a prayer. The meeting began at 10:05 a.m. All members were present.

10:00 - HARRY L. AND LOUISE S. PHILLIPS appl. under Section 30-6.6 of the Ord. a.m. to permit garage to be constructed closer to side property line than allowed by the Ordinance, (6.4' from side, 20' required), 6255 Park Road, 31-3((32))2, (20,134 sq. ft.), Dranesville District, (RE-0.5), V-76-76.

Mr. Phillips submitted notices to property owners which were in order.

Mr. Phillips' main justification was that the lot is very narrow, 100' in width and 200' in length. There is an existing carport on the property now that they would enclose and add to in order to construct the 20' garage. He stated that they had owned the property since 1974. The size of the existing carport is 11.8' by 24'.

Mr. Lewis Gasper, contiguous property owner at 6253 Park Road, southeast of the subject property, spoke in opposition to this application. He felt that this enclosure and addition to the existing carport would cause the houses to be crowded. This request is for 2/3 less space from house to property line than is set by the zoning ordinance. He felt that this enclosure would also cause a serious drainage problem. The applicants are the original owners and were aware of the width of the lot at the time of purchase, he stated. He submitted a topographic map and stated that the average grade of the lot is about 8% and a grade of 60% only occurs to a very small extent. He also submitted photographs of the property.

Mr. Phillips, in rebuttal, stated that he felt the brick wall addition to the existing carport would add, not detract, from the attractiveness of the property, would not add to the drainage problems and would increase the value of the property, not decrease it. He agreed that the 60% grade only occurs on part of the property, but that the steep grade occurs from the front to the back of the house.

RESOLUTION

In application V-76-76 by Harry E. and Louise S. Phillips under Section 30-6.6 of the Zoning Ordinance to permit a garage to be constructed closer to the property line than allowed by the Ordinance, (6.4' from side, 20' required), 6255 Park Road, 31-3((32))2, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on the 1st day of June, 1976,

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

1. That the owners of the property are the applicants.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 20,134 sq. ft.

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

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

- (a) exceptional topographic problems of the land.

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not

transferable to other land or to other structures on the same land.

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

3. That this is granted for the purpose of the closing of the existing carport only.

4. That the enclosure shall be compatible to the architectural style of the existing house.

Mr. Barnes seconded the motion.

The motion passed unanimously to grant in part.

10:10 - ALVIN M. MAHER appl. under Section 30-6.6 of the Zoning Ordinance to permit construction of pool closer to side and rear property lines than allowed by Ord., (4' from side and rear, 20' from side and 25' from rear required), 8301 Weller Avenue, 20-3((11))40, (22,400 sq. ft. Dranesville District, (RE-1), V-77-76.
/Cluster

(Hearing began at 10:30 a.m.)

Mr. Maher presented notices to property owners which were in order.

Mr. Maher's justification was that his lot is extremely shallow. There is an ingress-egress easement along the side of the property leading back to another lot in the rear. This causes him to be unable to use that side of the property. He stated that there is no other lot in that area that is as shallow as his lot is. There is a septic field in the front yard. That is why the house was moved so far back on the lot. The house was constructed in 1968 and his family has been residing there since that time.

There was no one to speak in favor or in opposition. There was a letter in the file from Mr. Steve P. Horwath, contiguous property owner at 8230 Weller Avenue, stating that he has no objection to this request for a variance and urging approval of this request.

RESOLUTION

In application V-77-76 by Alvin M. Maher under Section 30-6.6 of the Zoning Ordinance to permit construction of an in-ground swimming pool, 4' from side and rear of the property lines, 20' from side and 25' from rear required, 8301 Weller Avenue, 20-3((11))40, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 1, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1 Cluster.
3. That the area of the lot is 22,400 sq. ft.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
--exceptionally shallow lot.

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

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

10:20 - CENTRAL CHRISTIAN CHURCH appl. under Sect. 30-7.2.6.1.11 of the Ord. to permit construction of church, 6427 Franconia Road, 81-3(1)19, (2.243 acres), Lee District, (R-17), S-79-76.

Mr. Walter Stevens, attorney with offices in Fairfax City, represented the applicant before the Board. He submitted notices to property owners which were in order.

Rev. Dale Jacobs, 6166 Edsall Road, Alexandria, stated that they propose to have 280 seats in their sanctuary and propose 70 parking spaces.

Several of the nearby neighbors raised questions regarding the screening and landscaping. They were Elmer A. Leotterle, 6408 Greenleaf Street, Carter Smith, adjacent property on the east side of the church and another neighbor from the neighborhood. There was a letter in the file from Heinz K. Taubenberger, president of the Springfield Forest Citizen Association, stating that if construction and screening is accomplished as shown on the site plan, they would have no objections to this special use permit being issued.

The Board advised the neighbors and Mr. Stevens to get together with the Department of Environmental Management and work with Mr. Garman in the Office of Preliminary Engineering in order to accomplish the screening and landscaping to everyone's satisfaction. If they were not able to accomplish this, then they should advise the Board. The lighting for the parking lot should also be confined to that lot and not flow into the neighbor's yard.

RESOLUTION

In application S-79-76 by Central Christian Church under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of a church, 6427 Franconia Road, 81-3(1)19, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 1, 1976.

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

1. That the contract owner of the property are the Trustees of the Central Christian Church. The record owner is John L. Scott and Loren L. Thompson, Trs
2. That the present zoning is R-17 and RE-1.
3. That the area of the lot is 2.243 acres.

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

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable

without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening shall be required. This shall be in accordance with the direction of the Director of Environmental Management.

7. The membership shall be 280.

Mr. Durrer seconded the motion.

The motion passed unanimously (5 to 0).

 The Board recessed at 11:08 a.m. and returned at 11:37 a.m.

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10:40 - WESTMINSTER INVESTING CORP. and FAIRFAX COUNTY NATIONAL BANK, appl. under Section 30-6.6 of the Zoning Ordinance to permit construction of drive-in window with canopy closer to front property line than allowed by Ord., (37.5' from front, 50' required), 6212 Leesburg Pike, 51-3(1)pt. of 29, (29.9245 acres), Mason District, (C-D), V-80-76.

Mr. Harold L. Bacon, vice-President of Fairfax County National Bank, submitted notices to property owners which were in order. He stated that Mr. Mitchell R. Nathanson, representing Westminster Investing Corporation, was also present. John Tompkins of the Mosler Safe Company is present to discuss the construction of the facility, should the Board have any questions on that. He stated that the applicants are requesting a variance to Section 30-2.2.2, Column 6, of the Zoning Ordinance to allow the installation of three drive-in banking lanes at the bank's main office located at 6212 Leesburg Pike. The office is located at the Seven Corners Shopping Center. Access to the center is from Leesburg Pike, Arlington-Boulevard, and Castle Road. The west front of the building, which faces the shopping center parking lot, is the main entrance to both the bank and the Post Office, thereby preventing drive-in banking at this location. The south front of the building, which faces Leesburg Pike is at a lower grade (four feet) than the west front, making this the only possible location for this type of facility. There are over 100 excess parking spaces at the shopping center now. They will eliminate only about ten for this canopy over the drive-in banking facility. The canopy will be in harmony with the existing building. There are no other drive-in facilities at this bank location.

There was no one to speak in favor or in opposition to this application.

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RESOLUTION

In application V-80-76 by Westminster Investing Corp. and Fairfax County National Bank under Section 30-6.6 of the Zoning Ordinance to permit construction of a drive-in window facility at existing bank, 6212 Leesburg Pike, 51-3((1))pt. 29, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 1, 1976, and

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

- 1. That the owner of the subject property is Westminster Investing Corp. Fairfax County National Bank is the lessee.
- 2. That the present zoning is C-D.
- 3. That the area of the lot is 29.9245 acres.
- 4. That the property is subject to Pro Rata Share for off-site drainage.

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

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

- exceptionally shallow lot.

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

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

3. * FURTHERMORE, the applicant should be aware that granting of this action does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a non-residential use permit and the like through the established procedures.

*3. The applicant will furnish to the Clerk of the Board of Zoning Appeals a copy of the existing lease from Westminster Investing Corporation to Fairfax County National Bank.

Mr. Barnes seconded the motion.

The motion passed unanimously (5 to 0).

11:00 - R. W. & L. M. CHRISTY appl. under Section 30-6.6 of Ordinance to permit construction of garage closer to side property line than allowed by Ord., (3.12' total of 24.42', 12' total of 40' required), 11600 Belmont Drive, 36-4((10))8, (21,368 sq. ft.), Centreville District, (RE-1 Cluster), V-82-76.

(Hearing began at 11:50 a.m.)

Mr. Christy submitted notices to property owners which were in order. His justification for this variance request was the irregular shape of the lot. He stated that it is impossible to construct to the rear of the house because of the septic field that is there. There is a well in the front yard. This side of the property where this garage is to be constructed abuts an access road leading back to a parcel of land owned by their homeowners association and used as a park. There will never be anything constructed on it. Mr. Clarke is the neighbor closest to this proposed garage and he has no objection. Mr. Clarke is also the president of the association of homeowners. All the other lots in the cul-de-sac are similar, but this lot is the only one without a garage.

Mr. Smith stated that he did not feel this is a minimum variance. A lesser variance would afford the applicant reasonable relief.

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CHRISTY (continued)

Mr. Christy in answer to Mr. Swetnam's question, stated that this garage would be of similar material and style as the existing house.

Mr. Clarke, 11601 Belmont Drive, the closest property owner to the proposed garage, spoke in support of the request.

Mr. Middleton, the contiguous property owner on the other side of the subject property, spoke in support of this application.

There was no one to speak in opposition.

Mr. Barnes stated that this lot is very unusual in shape and also has an access road cutting through beside it.

RESOLUTION

In application V-82-76 by R. W. and L. M. Christy under Section 30-6.6 of the Zoning Ordinance to permit construction of a two car garage within 3.12' of the side property line, 11600 Belmont Drive, 36-4((10))8, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 1, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1 Cluster.
3. That the area of the lot is 21,368 sq. ft.

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

That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
-- exceptionally irregular shape of the lot.

NOW, THEREFORE, BE IT RESOLVED, that the application be and the same is hereby granted with the following limitations:

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

11:10 - ROBERT J. NOLAN appl. under Section 30-6.6 of Ord. to permit construction of porch closer to front property line than allowed by the Ord., (33.17' from front, 40' required), 907 Emerald Drive, 111-2((6))(28)6, (14,210 sq. ft.), Mt. Vernon District, (R-12.5), V-83-76.

Mr. Nolan presented notices to property owners which were in order. His main justification was that the lot is extremely shallow. The back yard is very narrow. This is the only place on the property that a porch could be placed, he stated.

In answer to Mr. Barnes' question, Mr. Nolan stated that the size of the porch will be 22' by 12'. It will be of the same type construction as the existing house.

There was no one to speak in favor or in opposition.

RESOLUTION

In application V-83-76 by Robert J. Nolan under Section 30-6.6 of the Zoning Ordinance to permit construction of porch 33.17' from front property line, (40' required), 907 Emerald Drive, 111-2((6))(28)6, Mt. Vernon District, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 1, 1976, and

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is R-12.5.
- 3. That the area of the lot is 14,210 sq. ft.

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

That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
-- exceptionally irregular shape of the lot.

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

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

FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No. He stated that he was voting No because he felt this request is a matter of convenience rather than being justified under the Zoning Ordinance. He stated that it is his opinion that this applicant does not meet the justification under the Ordinance.

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11:20 - PUBLIC STORAGE SPACE, INC. appl. under Section 30-2.2.2, CG District, Col. 2, #2 of the Ordinance to permit storage lockers to be constructed on property located at 7393 Lee Highway, 50-1(1)39C, (4.1318 acres), Providence District, (CG), S-84-76.

(The hearing began at 12:12 a.m.)

Mr. James Nachod, 3127 Colvin Street, Alexandria, Virginia, represented the applicant before the Board. He submitted notices to property owners which were in order.

Mr. Nachod stated that these storage lockers are designed to provide storage space for rental unit residents, home owners, and small businesses. This property is under contract to purchase from the Washington Lee Savings and Loan Association. The staff report indicates that Virginia Savings and Loan is the record owner of the property. However, Virginia Savings and Loan had financial difficulties and the property was transferred to Washington Lee Savings and Loan, which is now the record owner.

Mr. Nachod did not have a copy of the contract with him. The file contained a letter from Washington-Lee Savings and Loan stating that the contract for purchase of this property was accepted by them subject to the granting of the Special Use Permit.

POLICY

The Board ruled, however, that it could not make a decision on this case, or any case in the future, without having a proper lease or contract to purchase on the property. The Board asked Mr. Covington, the Assistant Zoning Administrator, not to accept and schedule any application until that was in the file.

POLICY

The Board agreed in this case, since the applicant was not instructed of this requirement, to continue to hear the case and defer decision until a copy of that contract was in hand.

Mr. Nachod stated that the proposed hours of operation for this facility are from 8:00 a.m. to 9:00 p.m., Monday through Saturday. The Sunday hours will be from 12:00 Noon to 9:00 p.m. He estimated the traffic impact to be minimal, 8 to 12 vehicles per day or one vehicle per hour. The peak would be 3 to 4 vehicles per hour on Saturday afternoons, for example.

The building will be constructed of concrete floors, concrete block walls, brick facade and a false mansard roof. They plan to landscape the grounds and screen this facility in accordance with the County requirements. The building will be one-story with a low profile. His exhibit showed the elevations of the structure. He stated that this property is on Route 29-211. There is commercial all along this roadway. He submitted an overview sketch of the present retail commercial stores along this highway in this vicinity.

Mr. Nachod stated that this is a quiet operation with no through traffic. The property will be fully fenced. There will be a 24 hour caretaker on the premises. He stated that this will be a local ownership since he is a resident of Fairfax County and is sole owner of the corporation.

Mr. Charles L. Murdock, 2889 Oak Knoll Drive, spoke in support of this application. He stated that this would help alleviate the noise problems and the trash problems that presently exist on this property. He stated that he had been contacted by Safeway to testify against this case, but he felt that a large shopping center is not needed and would be much worse than the problems that they presently have with this vacant land. He stated that he was also speaking for Mr. and Mrs. Arthur, who are also contiguous property owners. Mr. Arthur could not be present, but Mrs. Arthur is present. They are in support of this application. They do, however, want to have a fence and shrubbery around this facility to keep kids from cutting through the property, he stated. He stated that, when this facility goes in, Mr. Nachod will have to connect to public water. This, in turn, will bring the water pressure up in their neighborhood.

Mrs. Walter Coverstone, 2855 Oak Knoll Drive, Lot 25, spoke in support of this application. She inquired about the rear view of this building. The rear of the property in question is their front yards. She stated that the neighbors are not in favor of a wooden fence since they fall down quickly. Safeway had to build a brick wall and they would like to see that wall continued.

Mr. Nachod stated that he had no objection to putting up a brick wall. The

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PUBLIC STORAGE (continued)

Office of Preliminary Engineering has said that the screening ordinance doesn't allow him to put up a brick wall that would be very high.

Mr. Smith stated that he could not put a 6' fence in the front of the property but he could on the side and rear.

Mr. Covington confirmed this and stated that he could continue the brick wall just as Safeway has done.

Mrs. Thomas Arthur, 2850 Oak Knoll Drive, spoke in support of this application if they will place a brick wall along her property line.

Mrs. Carl Anderson, 7306 Mendota Avenue, contiguous property owner, spoke in support and stated that she felt this would be a nice looking facility for the neighborhood.

Mr. Richard Nagele, resident of Alexandria, representing Safeway Stores, Inc., spoke in opposition to the application. He stated that Safeway feels that this facility will create an adverse impact on their property. He asked that he be allowed to submit for the record a copy of the covenants and lease-hold rights that Safeway has on this property.

Mr. Smith explained to him that the question on covenants and lease-hold rights is a private, civil, legal matter and is not a matter that this Board can consider. He stated that the Board would place those documents in the file, but they would not be placed in the record of this case.

In answer to Mr. Durrer's question, Mr. Nagele stated that Safeway is leasing the property next door, but it is a typical sale-lease back situation. Land America was the original owner. Unfortunately, the shopping center was never built, but it certainly will be in the future. The availability of commercial ground is very limited, he stated.

Mr. Smith stated that this use will not generate as much traffic as a shopping center would. He stated that it seemed to him that further development of this property would enhance the development of the Safeway Store there. He stated that he could understand the objections of Safeway, however, since this development will be constructed out in the front. This Board has to consider the reasonable use of the land. This Board cannot deny the owner the right to use the land. The neighbors surrounding this use have all agreed to it.

Mr. Nachod, in rebuttal, stated that after looking at the situation, he could not see that this use would have a major impact on Safeway. He stated that at the request of Safeway, he contacted Drug Fair to see whether or not they might wish to build a store there. The people at Drug Fair said they wouldn't build near a cemetery. (National Memorial Park is across the street from this site). He stated that there is also a problem with providing adequate parking on this site for a drug store or retail store complex. He stated that he did not feel this facility should be in an industrial area primarily because this facility is dealing with small storage spaces for use of citizens. People who want to store their recreational equipment, bikes, etc. He stated that he is trying to make this an attractive facility and he is willing to spend extra money to make it attractive. He stated that he has kept the residents of the area informed about what he is planning to do and has also kept Safeway informed.

Mr. Swetnam inquired ... if he had a plumbing shop and wanted to store some fixtures there, if he could do so.

Mr. Nachod stated that if the zoning permits that type storage in a C-G area, then he would have to say Yes. But, that is not the kind of storage he would want. He stated that the form lease that he would be using does, in fact, prohibit the storage of automobiles unless their ranks are empty and prohibits the operation of a business from these storage stalls.

The Board and Mr. Covington and Mr. Knowlton then had a discussion as to just what would be permitted to be stored in this C-G zone and what uses might possibly be made of these storage stalls.

Mr. Nachod, in answer to Mr. Swetnam's question, stated that the "B" units that are contiguous with the Safeway property are only about 10 or 15 units that people might visit one or two times a month.

This case was recessed until after lunch in order for the Board to read the contract of sale agreement that was presented to it. After lunch, it was deferred on Mr. Swetnam's motion and Mr. Barnes' second, to June 8, 1976, for decision only. The motion to defer passed unanimously. after 2:00 p.m.

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11:50 - DAVID E. CRAIS appl. under Section 30-6.6 of the Zoning Ord. to permit a.m. construction of garage closer to side property line than allowed by the Ord., (4' total 11.9'; 8' total of 20' required), 7516 Chancellor Way, 89-4((6))50, (8,489 sq. ft.), Springfield District, (R-12.5C), V-85-76.

Hearing began at 2:42 p.m.

Mr. Crais submitted notices to property owners which the Chairman ruled in order. His basic justification was the narrowness of the lot and the steep slope in the rear of the lot. He stated that the Fairfax County Park Authority has an easement that runs along the east side of his house. The proposed garage would be adjacent to that easement. Therefore, it would not impact upon any other residential dwelling. The steep slope begins about 12' from the rear of the house and, therefore, prohibits construction. He stated that this is for a garage only and he does not plan to build a living addition above the garage.

Mr. Smith stated that this addition is not large enough for a two car garage and is too large for a one car garage.

Mr. Crais stated that, after reading the section of the ordinance under which he applied, he did not apply for a two car garage as he had originally planned because the Ordinance restrictions relating to minimum requirements. This addition is the minimum requirement for a one car garage and a storage addition.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-85-76 by David E. Crais under Section 30-6.6 of the Zoning Ordinance to permit construction of garage addition within 4' and total of 11.9' from side property lines, 8' total of 20' required, 7516 Chancellor Way, 89-4((6))50, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution.

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 1, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 8,489 sq. ft.

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

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

- (a) exceptionally narrow lot,
- (b) exceptional topographic problems of the land.

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
- FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the requirements of this County. The applicant shall be responsible for obtaining building permits and the like through the established procedures.

Mr. Barnes seconded the motion. The motion passed 4 to 0. Mr. Smith abstained. He stated that he was abstaining because he did not feel this is the minimum variance that would afford the applicant relief from the strict interpretation of the Ordinance.

AFTER AGENDA ITEMS:

MILTON & MILDRED J. THORNE, V-40-76, 9832 Vale Road, Variance granted to permit 2 car garage closer to side property line than allowed, granted in part on 4-13-76, granted in full on 5-4-76 after further consideration.

Mr. Smith read a letter from Mr. and Mrs. Thorne dated May 18, 1976 requesting approval for the construction of a room above the garage for which the Board granted a variance. The letter stated that the dimensions of the room would be the same as for the garage 22'x26'3". The area of encroachment would be the same as the garage, only the height would be increased.

Mr. Smith stated that this approval would not be possible without a new application. This addition causes more impact to the surrounding area and would have to be considered at a new hearing.

Mr. Swetnam agreed and moved that the Board notify Mr. and Mrs. Thorne that the Board cannot grant this request without a public hearing.

Mr. Barnes seconded the motion and the motion passed unanimously.

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AFTER AGENDA ITEM -- JUNE 1, 1976

EDISON W. BUNCH, JR., Request for out-of-turn hearing for July 6, 1976.

Mr. Smith read a letter from the applicant stating that because of the State Highway Department's condemnation, they have been given until August 20, 1976 to get out of their present location near Tyson's Corner. They want to get the earliest hearing possible in order to relocate by September.

The Board discussed this request, noting that the new construction is for a ski shop, and stated that the ski season would not begin until later in the fall.

However, after checking the plats, the Board found that this application is for new construction that would have to be started immediately in order to be completed by late fall.

Mr. Barnes moved that this case be scheduled for July 6, 1976, if it can be arranged on the agenda.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEM -- JUNE 1, 1976

THE TIMBERS, INC. Special Use Permit which expired on May 6, 1976. However, the applicant had a site plan in the processing procedure of Design Review and had paid the bonding fee. On May 6, 1976, instead of getting the permit to construct, they were requested to get a letter explaining some technicality of the corporation. This delay caused their Special Use Permit to expire. They requested that the Board rule their Special Use Permit valid since they have been diligently pursuing it.

The Board felt that if they had had their request in prior to May 6, 1976, this could have been done. However, the special use permit actually expired on May 6, 1976, is now dead, and cannot be reconstituted.

Mr. Covington stated that the applicants do have a vested interest in the permit after getting site plan approval, paying their bond, and going this far down the line.

Mr. Smith stated that this is a legal technicality. The Court has decided that if a Special Use Permit is dead, it is dead permanently. Should the Board reconstitute it, there would always be a cloud on the association's title and special use permit for this facility.

Mr. Durrer moved that the Board deny the request and require a new application.

Mr. Barnes seconded the motion. After a brief discussion, the motion passed unanimously.

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Page 257, June 1, 1976 - AFTER AGENDA ITEM

REQUEST FOR TRANSFER OF APPLICANT FROM BROOKHILL LIMITED PARTNERSHIP TO SHERMAN CONSTRUCTION COMPANY

On May 4, 1976 the Board granted a Special Use Permit to Brookhill Limited Partnership to construct storage lockers on C-G property on Ravensworth Road in Annandale, Virginia. The applicant-partnership has owned the land for two and one-half years but was unable to build because of the sewer moratorium. They have found that the cost of building the complex is now prohibitive and Mr. Wilson C. Sherman of the Sherman Construction Company has offered to purchase the land from the applicant for the same purpose of constructing storage lockers. The applicant requested that the Board change the original applicant Richard T. Wright and Brookhills Limited Partnership to Sherman Construction Company.

The Board ruled that in accordance with its previous policy, it would be necessary to file a new application requesting this change.

Mr. Swetnam so moved and requested the Clerk to so notify the applicant. Mr. Barnes seconded the motion and the motion passed unanimously.

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AFTER AGENDA ITEM -- JUNE 1, 1976
BELLE HAVEN COUNTRY CLUB, INC., S-145-74 and S-227-75.

Mr. Smith read a letter from Robert A. Lawrence, attorney for the applicant, requesting that the Board further extend the Special Use Permit S-227-75 to construct an addition to the Club. He stated that this cannot be finalized until the sale of a portion of the club's property has been made. The sale of this property has been delayed because of a suit between the contract purchaser and the Board of Supervisors with regard to the Board's failure to rezone the property.

The Board denied the request and stated that it would be necessary to reapply. In addition, the Board asked the Clerk to inquire of the attorney if they were selling off land that was under Special Use Permit. If they are, then that is a change in the condition of the Special Use Permit and would be a violation. This change must be approved by the Board.

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AFTER AGENDA ITEM -- JUNE 1, 1976
CHARITY BAPTIST CHURCH, S-140-75, Special Use Permit granted September 4, 1975 for construction of a church at the southwest corner of the intersection of Lewinsville Road and Spring Hill Road. Request for relocation of church.

Mr. Smith read a letter from Russell W. Jenkins, Jr., architect, requesting the Board grant approval of this revision in the site plan moving the church back from the front property line to comply with setback lines.

The Board members reviewed the plats and determined that this was a minor engineering change and a necessary change to meet setback requirements. Therefore, the Board had no objections to this revision.

Mr. DiGiulian moved that the new plats be accepted in view of the minor engineering change, namely, moving the building back from the right-of-way line.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEM -- June 1, 1976
CENTRAL FAIRFAX SERVICES FOR RETARDED PERSONS, INC., S-77-74, 8922 Little River Turnpike and S-18-74, 9019 Little River Turnpike.

Mr. Smith read a letter dated May 25, 1976 from Marea B. Alexander, Executive Director of the corporation, requesting that the Board allow them to have 35 adults in each building instead of 25, since they have such a waiting list and will not have another building until September.

Mr. Durrer moved that the request be granted. Mr. Swetnam seconded the motion. The motion passed unanimously.

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AFTER AGENDA ITEMS:

CONGRESSIONAL SCHOOL, INC. The Humane Society people called, since they are overseeing the riding part of the school's summer program, and asked if some temporary shelters could be placed on this property to house the horses when it rains. This is a new State law, the caller stated. The caller was advised to contact the applicant and inform him that he should advise the Board of this need and also show the location of the shelters on the plats.

The letter and the plats had not been received.

Mr. Smith stated that if they want to build a three sided structure, it would require a building permit.

Mr. Covington stated that these temporary structures can be removed at the end of the summer season. They only have four posts and three removable panels.

Mr. Smith stated that if they would bring in the necessary information about where they are to be located and the type material that will be used, perhaps the Board could allow them to have them for 60 to 90 days to provide shelter for the horses during the summer program. In the meantime, they can file a new application, if they wish to put up more permanent structures.

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AFTER AGENDA ITEM: JUNE 1, 1976
LUCK QUARRIES, INC. SPECIAL USE PERMIT, north side of Route 29-211 near Centreville.

Mr. Royce Spence, attorney for the applicant, addressed a letter to the Board stating that they have requested the Board of Supervisors to grant a rezoning of 12 acres of this parcel under Special Use Permit to the Natural Resources Overlay District and that this rezoning be processed on the Board's Own Motion. The Board has agreed to hear this request at some future date, but no definite date has been set. He requested the Board of Zoning Appeals to continue the hearing scheduled for June 22 for decision or alternatively grant a temporary permit until a time subsequent to the action of the Board of Supervisors.

Mr. Spence stated in his letter that the south side operation of Luck Quarries comes up for rehearing in October of 1976. He requested that these two permits be combined and be heard at the same time perhaps to save the County and the applicant needless duplication and expense.

The Board discussed this question and Mr. Barnes moved that the existing Special Use Permit for the south side operation be extended for 90 days in order for the rezoning of the 12 acres to take place and that the south side operation and the north side operation be combined and heard at the same time under the same application at a time to be set on June 22, 1976 when the north side operation is scheduled to be heard. This time will probably be in September.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

The Board requested the Clerk to advise the applicant that he should file a new application combining the two applications.

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The meeting adjourned at 3:35 p.m.

Jane C. Kelsey
By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board of Zoning Appeals on June 8, 1976.

APPROVED: June 8, 1976
DATE

Submitted to the Board of Supervisors, Planning Commission and other Depts. on June 16, 1976

The Regular Meeting of the Board of Zoning Appeals was Held in the Board Room of the Massey Building on June 8, 1976. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam; and John DiGiulian.

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The meeting was called to order by the Chairman at 10:05 a.m. Mr. Barnes said the prayer.

10:00 - SHOW CAUSE HEARING: SHELL OIL COMPANY, 6136 Franconia Road, 81-3((4)) 4A; Show cause why applicant has not complied with screening and fencing requirement as per condition of Special Use Permit.

Mr. O'Neil from Shell Oil Company represented Shell before the Board.

John Furneisen, Zoning Inspector, stated that a Show-Cause hearing was initiated and a hearing held by this Board on July 24, 1974. This hearing was deferred for 120 days. Subsequently, the Shell Oil Company came back to the Board for relocation of pump islands and relocation of the fencing and screening. The Board granted this request. However, the applicant never received the Non-Residential Use Permit because the fencing and screening was never installed in accordance with the Board's original request or the last proposal of the applicant on November 13, 1974. Therefore, Shell Oil was issued another violation notice and this Board requested a Show-Cause hearing.

The subsequent events, as outlined by Mr. O'Neil, were that Shell had discussed this problem with the County's landscape architect who viewed the site and suggested that no supplemental screening be installed because it would cause the removal of existing screening. The landscape architect also suggested a solid fence, which they proposed to install and the Board approved. That fence is today being installed. A copy of the contract with Long's Fence Company is in the file before the Board. That fence should be completed within the next few days.

The Non-Residential Use Permit could then be issued and there will no longer be a violation.

Mr. Durrer moved that the Board defer this case until next week, June 15, 1976 until the Zoning Inspector can inspect the premises and determine if the fence is installed in accordance with the approved plan and report back to the Board.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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10:20 - SHOW CAUSE HEARING: CLAUDE A. WHEELER T/A PROCTOR HATSELL SCHOOL 7150 Telegraph Road, SUP S-27-74; Show Cause why SUP should not be revoked because applicant has not complied with conditions of SUP to obtain a Non-Residential Use Permit.

John Furneisen, Zoning Inspector, testified that the applicant had not received the Non-Residential Use Permit because he had not met the condition of the permit that the driveway and parking spaces be paved within the proper setback area. He stated that he had just inspected the premises last week after notification from the applicant that the paving had been completed. He stated that the driveway and parking spaces have been paved. There are five parking spaces. He has never seen more than three or four cars on the premises during his inspections. Therefore, he felt that the parking was adequate.

Mr. Wheeler stated that he has four employees during the morning session and four in the afternoon. He has about 45 children there. He apologized for the delay in satisfying the paving requirement and stated that it was beyond his control as he is a lessee of the property.

Mr. DiGiulian moved that the number of parking spaces be reduced from 19 to 5 because the number of students involved in the application has been reduced from the original amount requested and granted and because of the report from the Zoning Inspector, John Furneisen.

Mr. Swetnam seconded the motion. The motion passed unanimously.

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Mr. Swetnam moved that the Board defer decision on this show-cause case until June 22, 1976 in order to allow the applicant to obtain the Non-Residential Use Permit. The inspector can report back to the Board on this.

Mr. DiGiulian seconded the motion. The motion passed 5 to 0.

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10:40 - ST. AMBROSE CHURCH appl. under Section 30-7.2.6.1.11 of Ord. to permit construction of church, 3901 Woodburn Road, 59-3(1)11A, (14.1991 acres), Providence District, (RE-1 & RE-0.5), S-86-76.

Mr. William Hansbarger, attorney for the applicant, offices at 10523 Main Street, Fairfax, submitted notices to property owners to the Board. The notices were in order.

Mr. Hansbarger stated that this church has owned this property for some time. They have previously held church services in the existing building that is on the property. That building will be used for church related activities when the new church is constructed. This church will have a seating capacity of 600. The parking is already more than adequate for the use, he stated. The proposed structure will be of brick and steel and will be in harmony with the existing building on the property. He showed the Board a rendering of the proposed structure.

There was no one to speak in favor or in opposition.

RESOLUTION

In application S-86-76 by St. Ambrose Church under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of a new church, 3901 Woodburn Road, 59-3(1)1A, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 8, 1976.

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

1. That the owner of the property is the Catholic Church.
2. That the present zoning is RE-1 and RE-0.5.
3. That the area of the lot is 14,199 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, change in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit

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is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The seating capacity is to be 600.

7. There will be 125 parking spaces provided.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

11:00 - PARKLAWN RECREATION ASSOC., INC. appl. under Sect. 30-7.2.6.1.1 of the Ord. to permit construction of additional pool and two tennis courts to existing facility, 6011 Crater Place, Mason District, (R-12.5), S-88-76.

Mr. Don Stevens, attorney for the applicant, P. O. Box 547, Fairfax, Virginia submitted notices to property owners to the Board. The notices were in order.

Mr. Stevens stated that this association wishes to expand its recreational facilities by installing a new swimming pool and two additional tennis courts. He explained that there will be a small incursion into a back-water area of the 100 Year Flood Plain abutting Holmes Run in this area. However, the applicant feels that this will cause no harmful effect on the maximum flowage capacity of this reach of Holmes Run, and that this construction would not increase either the level or the duration of the peak flow at any point up and down stream from the proposed construction. He stated that they propose a small 5'x5' area in the existing bathhouse for Mr. Hunt to service tennis rackets. Mr. Stevens stated that this parcel of land is in a deep ravine. There is not one single occupied dwelling with 50' of vertical elevation. People looking out their back doors are looking out over everything that Park Lawn presently has or proposes to construct. The parking that they now have is more than adequate for these additions. The parking lot is never full, even on peak usage days. The present courts are lighted with the old type lights on high poles. The new courts are proposed to be lighted with the low Devoe type lighting. They would like the hours of operation extended beyond 1:00 a.m.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-88-76 by Parklawn Recreation Assoc., Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit construction of additional pool and two tennis courts, 6011 Crater Place, 61-4 & 72-2((6))(T)parcel C, Lot 56, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 8, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 14.5468.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The number of family memberships shall be 350.

7. The hours of operation shall be from 6:00 a.m. to 1:00 a.m. for the tennis courts and,

-- the hours of operation shall be from 9:00 a.m. to 9:00 p.m. for the swimming pools.

8. There may be six (6) after hours parties with the prior written approval of the Zoning Administrator for each.

The Board discussed the hours of operation. Mr. Stevens assured the Board that the extended hours of operation would not affect the contiguous property owners which overlook this pool because of the topography of the land. He stated that should this become a problem for any reason, the Board could further restrict the hours of operation. He also stated that these new type low lights that are proposed for the two new courts do not have a lot of glare and will shine directly on the tennis courts.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

11:20 - LLOYD C. YEAGER appl. under Sect. 30-7.2.6.1.5 of the Zoning Ordinance, to permit one chair barbershop in home, 3314 Collard Street, 92-2((19))24 & 25, (19,500 sq. ft.), Lee District, (R-17), S-89-76.

(Hearing began at 11:35 a.m.)

Mrs. Yeager represented her husband. She submitted notices to property owners. Those notices were in order. She stated that her husband could not be present because he was taken to the hospital unexpectedly. She stated that he had previously worked in the Alexandria, Fairfax County area as a barber for thirty years. At the expiration of the last lease, due to conditions in the barbering business and the high cost of operating a business, Mr. Yeager was unable to renew his lease. Mr. Yeager is 56 years of age and is not eligible for retirement. A change of occupation at his age is difficult. He feels that he knows enough people that he could probably supplement her income in order for them to carry on with their lives at this difficult time. The hours of operation are proposed to be five days a week, Monday through Friday probably, although this is not certain. It would depend on how the business is.

There was no one to speak in favor or in opposition.

Mr. Durrer stated that he was out of the room during a portion of the testimony and wondered if there had been any testimony about the nearest barber shop.

Mr. Smith stated that there had not been any testimony on that.

RESOLUTION

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In application S-89-76 by Lloyd C. Yeager under Sect. 30-7.2.6.1.5 of the Zoning Ordinance to permit a one-chair barber shop, 3314 Collard Street, 92-2 ((19))24 & 25, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 8, 1976.

WHEREAS, the Board has made the following findings of fact:
1. That the owners of the property are Lloyd C. and Margie S. Yeager.
2. That the present zoning is R-17.
3. That the area of the lot is 19,500 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law:
That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

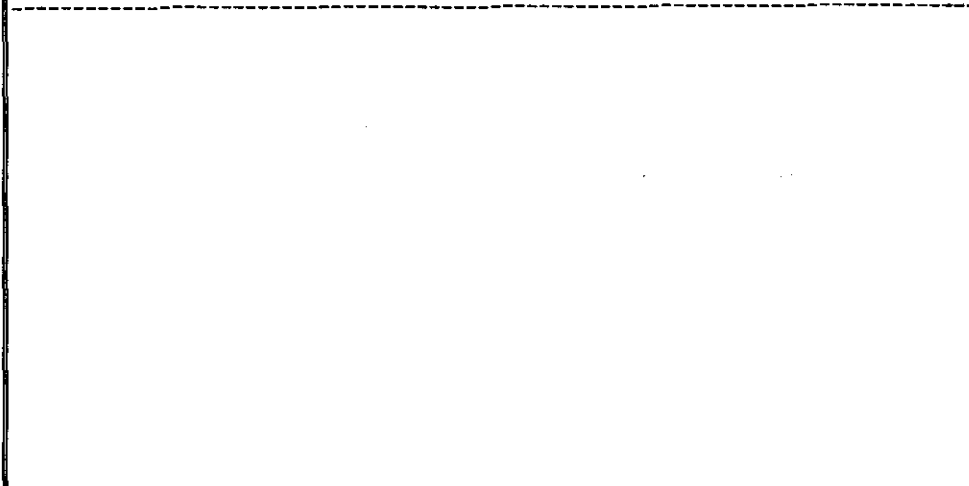
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit shall not be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. That the hours are to be from 9:00 a.m. to 5:00 p.m. by appointment only, five (5) days per week, exclusive of Sunday.
7. That all County and State requirements be met.

Mr. DiGiulian seconded the motion.

Mr. Durrer stated that normally he votes against this type operation in the home, but due to the extenuating circumstances, he was going to vote for this one.

Mr. Smith stated that this is granted to the applicant only. No one else can operate, or help to operate, this shop except Mr. Yeager.

The motion to grant passed 5 to 0.



Page 264, June 8, 1976

11:40 - THOMAS P. MESSIER appl. under Sect. 30-6.6 of the Ord. to permit addition closer to side property line than allowed by Ord. (8' total of 22.6', 8' total of 24' required), 14905 Greymont Drive, 53-2((2)) (4)7, (12,085 sq. ft.), Springfield Dist., (R-17C), V-90-76.

(The hearing began at 11:52 a.m.)

Mr. Messier submitted notices to property owners to the Board. Those notices were in order.

Mr. Messier's main justification was that the lot is wider in the back than it is in the front. The variance is only needed on the front portion of the addition. They cannot built in the back of the house, however, because the main drainage of the lot is just to the rear of the house and if they were to build in the rear, it would cut this main drain and cause a small lake in the back of the house. There is a pool further to the rear of the lot. The construction of the pool did not affect the drainage.

Mr. Messier stated that this addition would be constructed of similar materials and architecture as the existing structure. He stated that he had owned the house for eight years. He is the original owner of the house.

In answer to Mr. Smith's question, Mr. Messier stated that he could not cut the width of the addition down because the interior of the room is now only slightly over 11 feet and the length (interior) is 27'. That is more than a 2 to 1 ratio. In addition, the fireplace chimney sticks out into this addition, further cutting it down.

There was no one to speak in favor or in opposition.

RESOLUTION

In application V-90-76 by Thomas P. Messier under Section 30-6.6 of the Zoning Ordinance to permit construction of addition (recreation room) closer to side property line than allowed by the Ord. (8' total of 22.6', 8' total of 24' required), 14905 Greymont Drive, 53-2((2))(4)7, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 8, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17 Cluster.
3. That the area of the lot is 12,085 sq. ft.

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

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

- (a) exceptionally narrow lot.

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

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

FURTHERMORE, the applicant should be aware that this action does not constitute exemption from the requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits and the like through the established procedures.

Mr. Barnes seconded the motion. The motion passed 4 to 0. Mr. Smith abstained.

12:00 - THOMAS H. SCOTT, JR. appl. under Sect. 30-6.6 of the Ord. to permit construction of a garage within 16'10" of side property line and 34'8" from the front, 9208 Cherrytree Drive, 110-4((3))89, (20,153 sq. ft.), Mt. Vernon District, (RE-0.5), V-91-76.

Mr. Scott submitted notices to property owners which were in order.

Mr. Scott's stated that his home was constructed in 1963 with a carport. Probably to preserve a number of large trees, and since the western side of the property slopes significantly downward, and because it is a corner lot, the architect elected to site the house on a 45 degree angle to the street. As a result its eastern side is much closer to bordering property lines than are the other sides.

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

RESOLUTION

In application V-91-76 by Thomas H. Scott, Jr. under Sect. 30-6.6 of the Zoning Ordinance to permit construction of garage within 16'10" of side property line and 34'8" from the front property line, 9208 Cherrytree Drive, 110-4((3))89, County of Fairfax, Mr. Swetnam moved that the Board adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 8, 1976, and

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is RE0.5.
- 3. That the area of the lot is 20,153 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has satisfied the Board that the following physical condition exists which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land or building involved: -- unusual condition of the location of the existing building.

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

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

FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained. He stated that he did not feel this is a minimum variance request.

DEFERRED CASE -- PUBLIC STORAGE SPACE, INC. appl. under Sect. 30-2.2.2, CG Dist., Col. 2 #2 of the Zoning Ordinance to permit storage lockers to be constructed on property located at 7393 Lee Highway, 50-1((1))39C, (4.1318 acres), Providence District, (CG), S-84-76. (Deferred from June 1, 1976 for decision only.)

RESOLUTION

In application S-84-76 by Public Storage Space, Inc. under Section 30-2.2.2 of the Zoning Ordinance to permit storage lockers to be constructed, 7393 Lee Highway, 50-1((1))39C, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 1, 1976 and deferred to June 8, 1976, and

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

1. That the owner of the property is Washington Lee Savings and Loan Assoc.
2. That the present zoning is CG.
3. That the area of the lot is 4.13 acres.
4. That the applicant is the contract purchaser.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application (with minor changes). Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 8:00 a.m. to 9:00 p.m. weekdays, (Monday through Saturday) and from 12:00 Noon to 9:00 p.m. on Sunday.
7. This use shall be under Site Plan Ordinance.
8. Landscaping and screening shall be in accordance with agreements made with contiguous property owners and subject to the approval of the Director of Environmental Management.*
9. Continue the brick wall similar to and the same height as Safeway and the same distance from the property line. This brick wall shall be in accordance with the agreements made with the contiguous property owners. This agreement is in the file of this case. *
10. This is not necessarily in conformity with the plat submitted with the application, as to the brick wall.

*The agreement was submitted to the Board on June 15, 1976 and the resolution amended to include "in accordance with agreements made with the contiguous property owners".

Mr. DiGiulian seconded the motion. The motion passed 5 to 0.

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AFTER AGENDA ITEMS -

(6136 Franconia Road, 81-3((4))4A.)
SHELL OIL COMPANY -- Request for extension. The Board granted an extension for 6 months from November 24, 1975 and again until June 8, 1976 until a final determination was made on the Show-Cause Hearing. Shell's justification for this further extension is that the Virginia Highway Department has been delaying the negotiations which has prevented them from relocating the pump islands and moving the sign.

Mr. Durrer moved that this application be extended for another six months from June 8, 1976 to allow the pump islands to be relocated and the sign to be moved.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

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AFTER AGENDA ITEMS -- APPROVAL OF MINUTES FOR MAY 4, MAY 11 and MAY 18, 1976.

Mr. Swetnam moved that the minutes of the Board of Zoning Appeals for May 4, May 11 and May 18, 1976 be approved with minor corrections.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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JUNE 8, 1976.

REQUESTS FOR OUT OF TURN HEARINGS FOR A'NANDA MARGA PRESCHOOL.

The Board granted this hearing for July 16, 1976, if the applicant can get correct plats in prior to the advertising deadline. The applicant had all the information the Board requires, but it was on two plats.

-- OUT OF TURN HEARING REQUEST FOR IMMANUEL BAPTIST CHURCH --

The Board granted this hearing for July 13, 1976, if the applicant gets the plats in before the advertising deadline.

//
JUNE 8, 1976.

The Board considered and granted a six month extension for the Springfield Branch, Reorganized Church of Jesus Christ of Latter Day Saints. This Special Use Permit, S-85-75, was granted June 3, 1975. The church was unable to begin construction within the year time limit because of financial difficulties.

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CONGRESSIONAL SCHOOL -- Request for permission to erect temporary shelters for horses for summer program.

The Board reviewed the plats submitted by the applicant's attorney, Royce Spence, showing the location of the proposed structures.

Mr. Barnes moved that the applicant, Congressional School, Inc., be permitted to erect these temporary structures on the site 100 feet from the property line, if that is possible without removing any trees.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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Mr. Covington brought up a question he had regarding a proposed band concert on the lawn of the Sleepy Hollow Nursing Home. He stated that this concert is for the benefit of the patients.

The Board of Zoning Appeals had no objections to this concert.as long as it is for patient recreation and there was no charge.

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The meeting adjourned at 12:45 p.m.

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Jane C. Kelsey
By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED June 22, 1976
DATE

Submitted to the Board of Zoning Appeals on June 15, 1976

Submitted to the Board of Supervisors, Planning Commission and other Depts. on July 22, 1976.

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The Board of Zoning Appeals for Fairfax County held a Regular Meeting in the Board Room of the Massey Building, Tuesday, June 15, 1976. Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam; John DiGiulian.

The meeting was opened with a prayer by Mr. Barnes. All members were present. The meeting began at 10:05 a.m.

10:00 - DR. JOSEPH B. CULBERTSON appl. under Sect. 30-7.2.6.1.14 of the Zoning Ordinance to permit chiropractic office in home, 3044 Annandale Road, 50-4((1))5B, (20,906 sq. ft.), Mason District, (R-10), S-92-76.

Mr. Robert Dain, 2150 Golf Course Drive, Reston, Virginia, represented the applicant. He submitted notices to property owners of this hearing. The notices were satisfactory. He also submitted to the Board new plats showing two parking spaces instead of three.

Mr. Dain stated that the applicant has been living in this house since September 1975 and plans to continue to live there at least another three years. Mr. Dain graduated from Logan College in St. Louis, Mo. He has not had a regular practice. He is not currently employed. He will see approximately 8 to 10 patients per day. He stated that he has no way of knowing exactly the number of patients he might have in the future since he has not been practicing in the area before.

Mr. Smith stated that he knew of a similar practice in the area that has a patient load of about 50 to 75 per day. This is a small one-story house and there isn't much room for many patients. (Dr. Culbertson's house)

In answer to Mr. Barnes' question, Mr. Dain stated that Dr. Culbertson would only have a small 2 square foot sign which would state 'Dr. Joseph B. Culbertson, Doctor of Chiropractic Medicine'.

Mr. Smith stated that he would be limited to 2 square feet if this is granted. This has been the Board's policy.

Mr. Dain stated that this would only be a temporary office for Dr. Culbertson while he is getting his practice started.

There was no one to speak in favor or in opposition.

R E S O L U T I O N

In application S-92-76 by Dr. Joseph B. Culbertson under Section 30-7.2.6.1.14 of the Zoning Ordinance to permit chiropractic office in home, 3044 Annandale Road, 50-4((1))5B, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 15, 1976.

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

1. That the owner of the property is Ralph D. Gift. The applicant is the lessee.
2. That the present zoning is R-10.
3. That the area of the lot is 20,906 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. That the property is subject to Pro Rata Share for Off-Site drainage.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

POLICY

MENTIONED

the application, and is not transferable to other land.

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

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The sign shall conform to the Fairfax County Sign Ordinance, i.e., 2 square feet.

7. This Special Use Permit will expire if this house is no longer used as a residence, or three (3) years whichever comes first.

8. There shall be no exterior alterations.
Mr. Barnes seconded the motion.

The Board discussed the three year limit. Mr. Smith reminded the Board that it is a Board policy passed February 17, 1976, to limit these home professional offices to two parking spaces and three years and no exterior alterations shall be made.

Mr. Swetnam stated that these policies are subject to amendment. He revised No. 7 to read that it be limited to a three year period. He removed the wording regarding extensions by the Zoning Administrator.

The motion passed 3 to 2 with Messrs. Smith and Durrer voting No.

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10:20 - VILLAGE CENTRE PARTNERSHIP appl. under Section 30-7.2.10.4.3 of the a.m. Zoning Ordinance to permit construction and operation of a motel (inn), intersection of Walker Road and Columbine Street, 13-1((1)) part 6, (7.94 acres), Dranesville District, (C-D), S-93-76.

(The hearing began at 10:30 a.m.)

Mr. Mike David, 859 Golden Arrow Street, Great Falls, Virginia, represented the applicant. He submitted notices to property owners to the Board. The notices were in order.

Mr. David stated that there are six (6) suites proposed. Each consists of two bedrooms and a sitting room and bath. The intent is to offer a local inn type facility where people visiting the community could stay on an extended basis.

Mr. Smith stated that this seems to be more permanent living quarters than a motel. Mr. David then explained that this is not necessarily for someone who would want to stay a month. There will be no kitchen in these suites. There are dining facilities downstairs. This is not intended to appeal to highway or passthrough traffic. Its location in the shopping gives proof to that. It is in the very back. From Route 193, or Walker Road, it will not be visible.

Mr. Swetnam stated that he felt it is a great idea.

This inn will be constructed at the same time as the shopping center. This plan is now in its third submission to the Site Plan Department. The only problem is the waste disposal system.

There was no one to speak in favor of this application.

Mr. Arnold R. Wahl, 1004 Columbine Street, Great Falls, spoke in opposition to the rezoning.

Mr. Smith explained that this is not a rezoning, but a Special Use Permit for a motel. The zoning has already been passed several years ago. The applicant can construct the shopping center by right. It is only the inn that is before this Board.

He came forward to the counter and the Board explained to him where the inn would be located within the shopping center.

Mr. Wahl stated that he had no further comment.

Mr. Charles Evans, 856 Constellation Drive, spoke before the Board to ask two questions. He wanted to know if the applicant would be limited to six suites, or if this number could be expanded in the future.

Mr. Smith explained that the number of suites could not be expanded without a new application and further hearing by this Board.

In answer to Mr. Evans' question as to whether or not the septic field that is to be used for this center and this inn would affect the wells, Mr. Swetnam stated that the Health Department is very strict on this question. If there is any question regarding the adequacy of the septic field or any other question regarding the waste disposal, the applicant would not be allowed to construct.

R E S O L U T I O N

In application S-93-76 by Village Centre Partnership under Section 30-7.2.10.4.3 of the Ordinance to permit construction of motel (inn) with sleeping accommodations in six suites, intersection of Walker Road and Columbine Street, 13-1((1))part parcel 6, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 15, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is C-D.
3. That the area of the lot is 7.94 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

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

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

from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

10:40 - EDITH H. BREEN (Contract Purchaser) appl. under Sect. 30-7.2.6.1.14 of a.m. the Zoning Ordinance to permit operation of home professional psychologist office, Colchester Brook Lane, 48-4((1))pt. parcel 45, Chesterfield Mews Townhouses, Sec. 1, lot 35, (1,947 sq. ft.), Providence District, (RTC-5), S-94-76.

Mrs. Breen presented notices to property owners to the Board. The notices were in order. She had notified Westmore Associates, the builder of this townhouse development, who stills holds title to all the townhouses. None of the townhouses that have contracts on them have been settled yet, Mrs. Breen stated. Her notices were in order.

Mr. Smith stated that he was concerned about the people who have purchased these townhouses who are not aware that this is a proposed use and they have no opportunity to speak.

Mrs. Breen stated that she would have what might be called a part-time practice of psychology in her home. She does primarily marriage counseling. She sees people by appointment only, individually, one at a time. She stated that she feels there will be no parking problems. She is entitled to two parking spaces and she only has one car. Her practice will be conducted during the day from 9:00 a.m. to 5:00 p.m.

Mrs. Breen's statement in the file indicated that she would also have evening hours, two or three evenings per week from 7:30 p.m. to 9:30 p.m. and one or two appointments on Saturday on an infrequent basis.

Mr. Durrer stated that if there is no parking problem, this will be the first development in Fairfax County without a parking problem.

Mrs. Breen stated that if the parking is a concern, Mr. Craven, who owns Craven's Nursery next door, has agreed to rent her two spaces.

Mr. Smith stated that if Mr. Craven has two spaces that he is not using, he should start to use them because Mr. Craven has problems with parking of his own. On Saturdays, there are cars all over the highway from this nursery.

In answer to Mr. Smith's question, Mrs. Breen stated that she is now operating out of her home. It is a single family home. She has been doing so for several years, since 1972.

Mrs. Sue Drye, 3818 Winterset Drive, Annandale, Virginia, one of the contract purchasers of one of the townhouses, spoke in opposition. She called the Board's attention to the fact that the streets in these townhouse developments are maintained by the homeowners and this proposal is for a commercially oriented use. Hence, it would appear that the use of these private streets for a professional use is not appropriate.

Mr. Smith read her letter of opposition into the record.

Mr. Steve Reynolds from the Department of Preliminary Engineering explained to the Board how the streets within a townhouse development are maintained. He stated that the homeowners are responsible for the parking areas, the travel aisles and that each homeowner is assessed a certain amount for this maintenance.

Mr. Smith then read a memo from the Office of Comprehensive Planning which stated that "As on the north side of Route 50, other than low density residential development should not extend west of Prosperity Avenue," as to the Sector F-2. The plan recommendation for the north side of Route 50 is much

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more explicit and reads as follows:

"Land Use -- The demarcation line separating planned commercial, industrial, and higher density residential development has long been established in adopted County plans as Prosperity Avenue between Route 29-211 and 50. This affirms the continuation of the demarcation line at Prosperity Avenue on the east and Fairfax Circle east as far as Bear Branch on the west with low density residential in the intervening area separating two intensively planned and developing cluster areas centered on Fairfax Circle and at the Yorktowne intersection of Gallows Road and Route 50. Therefore,

A. All additional commercial and office uses and all additional industrial uses on land not already zoned for industrial uses should be confined to the area east of Prosperity Avenue, to commercially zoned land in the vicinity of Fairfax Circle and to land within the Vienna and Dunn Loring Metro Complex Areas..."

Mr. Swetnam stated that he felt the homeowners as a whole in the development should be given an opportunity to address this question.

R E S O L U T I O N

In application S-94-76 by Edith H. Breen under Sect. 30-7.2.6.1.14 of the Zoning Ordinance to permit operation of a home professional psychologist office, 3174 Colchester Brook Lane, 48-4((1))pt. parcel 45, Chesterfield Mews Townhouses, Section 1, lot 35, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 15, 1976.

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

1. That the owner of the property is Westmor Associates, Inc. The applicant is the contract purchaser.
2. That the present zoning is RTC-5.
3. That the area of the lot is 1,947 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

Mr. Barnes seconded the motion.

Mr. Swetnam stated that he would vote against the motion to deny because he thought the applicant should be given the opportunity to address this whole proposition to her future neighbors. He offered a substitute motion that would postpone this hearing until sometime in September. This would give her neighbors an opportunity to move in and give her an opportunity to see if, in fact, the future residents will be affected, Mr. Swetnam stated.

Mr. Swetnam's motion died for lack of a second.

The original motion to deny passed 4 to 1. Mr. Swetnam voted No.

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11:00 - LUKE FARLEY, S-95-76.
a.m.

Mr. Smith read a letter from the applicant requesting that this case be withdrawn.

The Board withdrew this case without prejudice.

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11:20 - ARTHUR M. KNOPP appl. under Sect. 30-6.6 of the Zoning Ord. to permit a.m. subdivision of lot with one lot having less than required frontage, (10' frontage, 150' required), 1326 Windy Hill Road, 30-1((9))6A, (2.621 acres), Dranesville District, (RE-1), V-96-76.

Mr. Don Stevens, P. O. Box 547, attorney for the applicant, presented notices to property owners to the Board. The notices were in order.

Mr. Stevens stated that this property was originally part of a five acre tract. In 1956, Mr. Knopp acquired this 2.621 acres from Mr. Roberts. At that time, the zoning on the property was rural residential. This was long before the adoption of the present zoning classification. In 1961 or 1962, the property was put into the RE-1 zoning district which provides for a one acre minimum lot size. These lots had already been divided into long narrow lots. In order for Mr. Knopp to utilize the property under the current zoning regulations that are applicable now, he has to have a variance. The appearance of the lot will not change from what it is today. There is a common driveway that is used by both Mr. Knopp's property and Mr. Roberts' property. Mr. Knopp's property is immediately adjacent to the Mackall property which is zoned R-17. To divide this lot in any other manner from what is proposed would put Mr. Knopp's existing house in violation to the setback requirements of the RE-1 zoning regulations.

Mr. Kent, 1307 Scotts Run Road, directly in back of Mr. Knopp's property, spoke regarding the run-off problem that he has.

Mr. Smith stated that the drainage and run-off problems are something that are taken care of under the Site Plan.

Mr. Kent stated that he has had to go to the expense of putting in under ground sewers to take care of some of the water problem.

Mr. Stevens stated that when a building permit is submitted to the County, the applicant for that building permit will be required to adequately accommodate the drainage so as not to cause the water to shoot down toward Mr. Kent's property. The same is true for the Mackall property. He stated that Mr. Kent has a legitimate problem, but he feels it will be adequately taken care of through the County's regulatory process.

R E S O L U T I O N

In application V-96-76 by Arthur M. Knopp under Section 30-6.6 of the Zoning Ordinance to permit subdivision of lot into two lots with one lot having 10' frontage, (150' required), 1326 Windy Hill Road, 30-1((9))6A, (2.621 acres), Dranesville District, (RE-1), V-96-76.

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 15, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.621 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

(a) the unusual development on the existing lot. Reasonable development cannot take place on the remainder of the property under the present zoning category without this variance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same

is hereby granted with the following limitations:

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

11:40 - L. EVERETT ROBERTS appl. under Section 30-6.6 of Zoning Ordinance to a.m. permit subdivision of lot with one lot having less than required frontage, (10' frontage, 150' required), 1332 Windy Hill Road, 30-1((9))6, (2.472 acres), Dranesville Dist., (RE-1), V-97-76.

(The hearing began at 11:47 a.m.)

Mr. Donald Stevens, P. O. Box 547, Fairfax, attorney for the applicant, submitted notices to property owners to the Board. The notices were in order.

Mr. Stevens stated that Mr. Roberts' situation is exactly the same as Mr. Knopp's. Mr. Knopp is the man who made the mistake of dividing his property in the manner that he did back in 1956 before the County placed the property in the RE-1 zoning classification. He did not request this zoning. Mr. Roberts could not use his property in accordance with this zoning.

In answer to Mr. Smith's question, Mr. Stevens stated that neither Mr. Knopps or Mr. Roberts own any other property in the area with similar problems.

Mr. Stevens stated that the existing driveway will be used by both houses. There is an oak tree in the area where the driveway is to go which will necessitate either moving that tree or moving the driveway around it. They prefer to move the driveway around it.

Mr. Smith stated that it would have to be aligned within that 10' lot frontage.

Mr. Stevens stated that the applicants understand that. This is lot frontage. They are not considering it as a driveway.

Mr. Arthur Kent, 1307 Scotts Run Road, stated that the statement he made against the Knopp application would apply exactly to this application. He stated that he wished to go on record as repeating that statement for this case also. His previous statement related to the problems of drainage onto his property and the fear that this construction on these two lots would worsen that condition.

RESOLUTION

In application V-97-76 by L. Everett Roberts under Section 30-6.6 of the Zoning Ordinance to permit subdivision of existing lot into two lots with one lot having less than required frontage, (10' frontage, 150' required), 1332 Windy Hill Road, 30-1((9))6A, (2.621 acres), Dranesville District, (RE-1), V-97-76, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 15, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.472 acres.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

-- unusual development on the existing lot which would cause the/reasonable use of the land, if this variance is not granted.

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

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

FURTHERMORE, the applicant should be aware that this granting by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

11:50 - WILLIAM WATERS UNITED METHODIST CHURCH appl. under Section 30-7.2.6.1 a.m. .11 of the Zoning Ordinance to permit addition to existing church, 1219 Swinks Mill Road, 29-2((1))15, (5.297449 acres), Dranesville District, (RE-0.5), S-98-76.

(Hearing began at 12:00 Noon)

Brenda Dickerson, 2010 Echo Place, Falls Church, represented the applicant before the Board. She presented notices to property owners to the Board. The notices were in order.

Ms. Dickerson stated that the house that is on the property at the present time was being used as a parsonage until the 1st of June when they moved the pastor to another building in anticipation of beginning construction on this addition.

Mr. John Strang, architect, told the Board that this addition will consist of approximately 430 square feet of additional space. The church will take the living room of the existing house and expand it into a multi-purpose room that will be used as a sanctuary. The exterior of the addition will be masonry to match the existing building.

Mr. John Strong, McLean, Virginia, spoke for the congregation stating that they are anxious to begin construction and move into their church.

Mr. Raymond S. Shaver, Sr., 1410 Sheppard Street, Washington, D. C. spoke in support. He stated that he is the church's lay leader. He reiterated that the congregation is anxious to get into this church and he asked the Board to grant their request for this addition.

Ann Castilow, 1201 Swinks Mill Road, one house removed from the church, spoke in opposition, not to the church, but to the development of the site. She suggested that the entrance to the church be from Lewinsville Road rather than Swinks Mill Road. She also asked that the parking lot be located in such a way so as not to cut down the trees. She stated that the front of the lot is covered with large beautiful oak trees. She was also concerned about the compatibility of the building with the neighborhood.

Mr. Strang showed Ms. Castilow a plat of the proposed construction. He stated that the parking will be in the open field. They will only have to remove five trees and three of them are locust that are in bad condition and would have to be removed anyway.

Mr. Smith stated that the applicants will have to widen Swinks Mill Road and put in a deceleration lane. The architect has stated that the only feasible way to enter the property would be from Swinks Mill Road. However, this is something that is controlled by the State Highway Department. The State Highway Department will require the safest entrance to the property.

In answer to Ms. Castilow's question, Mr. Strang stated that this proposed entrance has been okayed by the Highway Department tentatively.

Mr. Smith stated that this application was previously granted, but expired before construction could begin.

R E S O L U T I O N

In application S-98-76 by WILLIAM WATTERS UNITED METHODIST CHURCH under Sect. 30-7.2.6.1.11 of the Zoning Ordinance to permit addition to existing church, 1219 Swinks Mill Road, 29-2((1))15, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 15, 1976.

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

1. That the owner of the subject property is Trustees of William Watters United Methodist Church.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 5.297449 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The seating capacity shall be 60.
7. The parking shall be 18 spaces.
8. The addition shall be architecturally compatible with the existing building.

Mr. Barnes seconded the motion. The motion passed 5 to 0.

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12:10 - CLAUDE A. WHEELER T/A PROCTOR HATSELL SCHOOL appl. under Sect. 30-7.2 p.m. .6.1.3.2 of the Zoning Ordinance to permit day care center with less area than on original SUP, 7136 Telegraph Road, 91-4((3))12, (27,286 sq. ft.), Lee District, (RE-1), S-100-76, OTH.

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Mr. Claude Wheeler, 6300 Wales Street, Springfield, Virginia, appeared before the Board. He stated that his attorney had not yet arrived with the notices.

Mr. Smith stated that after looking at the plats that are before the Board, it has become apparent that there is a need for a variance or the building will have to be moved back 2 feet away from the side property line.

Mr. Wheeler stated that the building would be moved. He stated that this is an error on the part of the engineer.

An attorney from Mr. Odin's office arrived with the notices. However, one of the notices was not certified, but was signed by the property owner as having been notified on June 11, 1976.

It was the Board's decision that these notices were not adequate.

Mr. Durrer moved that the Board reschedule this case for July 6 in order for the applicant to properly notify property owners of the hearing and that he present new plats showing the building the proper distance away from all property lines.

Mr. Barnes seconded the motion. The motion passed 5 to 0.

Mr. Smith inquired of Mr. Mitchell if the land area was adequate for the proposed 75 children on this reduced amount of land.

Mr. Mitchell stated that the Ordinance does not have any requirement for overall land area per pupil. The Health Department controls the adequacy of the outdoor recreation area and indoor school space.

Mr. Smith asked that the property be reposted for the July 6 hearing.

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DEFERRED CASE:

TYSON'S TRIANGLE LIMITED PARTNERSHIP appl. under Sect. 30-6.6 of Ord., V-63-76 (Deferred from May 11, 1976 to allow additional time for negotiations between the County, the State Highway Dept. and the Lerner Corporation for the right of way easement for the pedestrian overpass.)

Mr. Bob Moore from the Office of Comprehensive Planning stated that there has been no agreement reached between the Lerner Corporation and the County and State. He stated that he doubted whether or not such an agreement can be easily forthcoming. He stated that it is his understanding that the Lerner Corporation has not taken an active interest in pursuing this. As to the question of whether or not the pedestrian overpass could still be built if this variance is granted to allow this building on the property line, it is probable that it might involve some redesign and some additional associated cost, but it probably could still be built.

Mr. Smith stated that Mr. Pant who was down just before lunch requested the Board defer this since no agreement had been reached.

In answer to Mr. Smith's question, Mr. Moore stated that if this applicant were not granted a variance of 75' to build this building, the overpass could be built more economically.

Mr. Swetnam stated that the problem is that the Lerner Corporation wants to have a hold harmless agreement and nobody is willing to guarantee them of this. The County and the State are unwilling to do this. The witness has said that this may run the cost up a bit. He asked the Board what it thought this overpass is going to cost the Lerner Corporation.

Mr. Smith stated that the Lerner Corporation is the one that wants to build the building on the property line. He stated that he felt the Board should defer this, in all fairness, to the citizens of Fairfax County and to the State.

Mr. Swetnam disagreed and stated that the time has come for a motion.

R E S O L U T I O N

In application V-63-76 by Tyson's Triangle Limited Partnership under Section 30-6.6 of the Zoning Ordinance to permit construction of 150' office building 75' from side property line and on rear property line (150' required from side and 75' required from rear), Tyson's Corner Shopping Center, 39-2((1))pt. 65A, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on May 11, 1976 and deferred for decision until June 15, 1976, and

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is COH.
- 3. That the area of the lot is 5.1422 acres.

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

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

- (a) exceptional topographic problems of the land.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a non-residential use permit and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No.

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AFTER AGENDA ITEM; June 15, 1976

CLARIFICATION ON MOTION FOR PUBLIC STORAGE SPACE, INC., S-84-76, Granted June 6, 1976.

(Mr. Nachod)

The applicant's agent appeared before the Board and submitted agreements from the contiguous property owners affirming that they did wish to have a 6' brick fence similar to Safeway's, and affirming that the applicant would construct that fence. There was a slight deviation from the 6' brick fence over next to the Safeway's fence, however. The Safeway's brick fence comes over the property line and across the easement extending into the applicant's property. The applicant would extend that fence up to the back of the proposed building and would not fence behind that one building, but leave the existing screening as is. This was agreed to by the contiguous property owner. The fence would begin again on the other side of that building and continue on to the west property line, or within a few feet of the west property line. He submitted photographs of how he proposed the fence to look which was a curved brick fence rather than a straight brick fence.

The Board agreed to this arrangement and stated that they felt it would look much better this way. Mr. Nachod also submitted a photograph of the existing screening behind the back building and stated that that screening would remain

AMENDMENT TO RESOLUTION GRANTING APPLICATION

The Board amended Resolution No. 8 of the Resolution granted June 8, 1976 to read:

"8. Landscaping and screening shall be in accordance with agreements made with contiguous property owners and subject to the approval of the Director of Environmental Management.

9. Continue the brick wall similar to and the same height as Safeway and the same distance from the property line. This brick wall shall be in accordance with the agreements made with the contiguous property owners. These agreements are in the file of this case,"and

listed below:

"We the undersigned in order to have attractive screening along the southern boundary of Lot 39C and our residences would like to see the following:

1. A brick wall running north from the Safeway retaining wall to the rear ~~most~~ Public Storage Space, Inc. (PSSI) building.
2. The retention of the existing screening along the southwestern 168 foot boundary as shown on the plat submitted to the BZA.
3. A brick wall running east from the eastern end of the rear most building to within 10' of the eastern boundary of the property.
4. A brick wall design similar to the designs proposed by PSSI and of a height of 6 to 7 feet as required to blend with the surroundings.
5. PSSI assures that it will not position or store trash containers near the rear boundary.
6. PSSI will landscape the end of Oak Knoll Drive and will sod up to a forty (40) foot section of the end of the same if the County will permit it.
7. The brick wall along the 358 foot southern boundary shall be set back 4 to 6 feet from the boundary."

These agreements were signed by: James H. Noehod, representing Public Storage Space, Inc.; Charles L. Murdock, 2849 Oak Knoll Drive; Gertrude M. Meyer, 2851 Oak Knoll Drive; Mr. and Mrs. Carl G. Anderson, 7306 Mendota Avenue; Nancy and Thomas Arthur, 2850 Oak Knoll Drive, Falls Church, Virginia.

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AFTER AGENDA ITEM; June 15, 1976; SHELL OIL COMPANY, Show-Cause Hearing. (Deferred from June 8, 1976 for one week to allow applicant to finish putting up fence and obtain Non-Residential Use Permit.

The Zoning Inspector, John Furneisen, reported to the Board that the fence was up and the Non-Rup had been issued.

The Board then cleared the Show-Cause Hearing and confirmed that this is now a valid Special Use Permit.

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AFTER AGENDA ITEM; June 15, 1976; WADE E. HANSBOROUGH & CLARENCE E. REID, JR., V-156-76. Request for out-of-turn hearing.

Mr. Reid appeared before the Board to explain that this property is under contract subject to obtaining this variance. The contract will expire if an out-of-turn hearing is not granted. These are the last two lots in this subdivision of Beverly Manor, which was started many years back. These houses will be constructed just as the other 50 have been. Those 50 houses did not get variances because of a different interpretation of the Ordinance by a different Zoning Administrator. Mr. Knowlton and Mr. Covington have said that because the land on either side of the subject lots are in the same ownership as the subject lots, an administrative variance cannot be issued. This is a substandard subdivision, but this is not a resubdivision of this subdivision. (Mr. Covington confirmed this.)

The Board granted the out-of-turn hearing for July 16, 1976. However, the applicant was instructed to apply for a variance on each house with two separate applications. The plats should be separate on each house. The applicant should be the owner, only. The contract purchaser should not even be involved. He cannot have a hardship when he doesn't even own the land. Only the owner can have a hardship according to the Code.

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AFTER AGENDA ITEM: June 15, 1976

REQUEST FOR OUT OF TURN HEARING, DISMAS HOUSE

The applicant wish^d to get an out of turn hearing as soon as possible in order to begin operation of a school of general instruction for six boys who would also have dormatory facilities in the building. The applicant went into the details of the need for this type facility in Fairfax County. The letter stated that they would loose the contract on this piece of property if the out of turn hearing was not granted.

The Board granted the out of turn hearing for July 16, 1976.

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AFTER AGENDA ITEM: June 15, 1976

LORD OF LIFE LUTHERAN PRESCHOOL, S-55-73; Request to be allowed to have an afternoon session with the same number of children as the morning session.

The Board ruled that this would require a new application. The Board granted an out of turn hearing for that application if the applicant could get it in time for the advertising deadline. The hearing was scheduled for July 20, 1976.

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APPROVAL OF MINUTES --

Mr. Swetnam moved that the minutes for June 1, 1976 be approved with minor corrections.

Mr. Barnes seconded the motion.

The motion passed unanimously.

// The meeting adjourned at 3:45 p.m.

Jane C. Kelsey
By Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

Daniel Smith

DANIEL SMITH, CHAIRMAN

Submitted to Board of Zoning Appeals
on June 22, 1976

APPROVED July 16, 1976
DATE

Submitted to Board of Supervisors,
Planning Commission and other Depts.
on July 22, 1976

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The Board of Zoning Appeals for Fairfax County met on its regular meeting date of June 22, 1976 in the Board Room of the Massey Building. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; Tyler Swetnam; George Barnes; and John DiGiulian.

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Mr. Barnes opened the meeting with a prayer. All members were present.

10:00 - PINE CREST SWIM & TENNIS CLUB, INC. appl. under Sect. 30-7.2.6.1.1 a.m. of the Zoning Ordinance to permit construction of recreation facility, (pool, 3 tennis courts with lights, 1 multi-purpose court), south side of Pine Crest Road, approximately 150' west of Fox Mill Road, 25(1)pt. parcel 78, (4.26077 ac.), Centreville District, (RE-1), S-99-76.

Mr. Bob Hanna, Chairman of the Board of Directors, submitted notices to property owners. The notices were in order.

Mr. Hanna stated that residents from Fox Mill Estates plan to build and operate this recreational facility. He stated that he is representing the entire community. In answer to Mr. Smith's question, he stated that they have submitted the articles of incorporation to the State Corporation Commission, but they have not been returned.

Mr. Smith stated that since this is not yet a corporation in good standing in the State, the Board would not be able to make a decision on this case today.

Mr. Durrer stated that the Staff Report indicates that there are also some problems with the site plan as presented to the Board. He stated that the Staff Report indicates that this parcel of land is the subject of a rezoning application that is pending before the Board of Supervisors to place this land in the R-17 Cluster category. If that is granted, the setbacks as shown on the proposed site plan will be satisfactory. However, if it is not granted, the setbacks will not be correct and will have to be amended.

Mr. Swetnam moved that this case be rescheduled for a public hearing for 12:20 p.m. on August 31, 1976.

Mr. Durrer seconded the motion.

Mr. Terry Light with the firm of Hazel, Beckhorn and Hanes, attorneys with offices on University Drive in Fairfax City, testified that his firm prepared the papers to form this corporation and he sees no problem with this corporation being approved by the State Corporation Commission.

The Board, however, felt that there were sufficient problems that should be solved prior to public hearing to justify this deferral. The motion to defer passed 5 to 0.

There were several people in the audience who indicated support of the application. There was one gentleman who raised his hand that he intended to oppose the application.

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10:20 - JAMES THOMPSON appl. under Sect. 30-6.6 of the Zoning Ordinance to a.m. permit construction of dwelling closer to front and side property lines than allowed by Ord., (38.2' from front, 50' required; 15.2' from side, 20' required), 3221 Highland Lane, 59-1((2))44, (48,723 sq. ft.), Providence District, (RE-1), V-102-76.

Mr. Robert Sheason appeared before the Board and submitted notices to property owners of this hearing. The notices were in order.

Mr. Shea stated that he is the prospective buyer of this property.

Mr. Smith inquired if Mr. Shea was acting as agent for the applicant, Mr. James Thompson. Mr. Shea answered that he was acting for himself.

Mr. Smith stated that under the ordinance, Mr. Shea had no hardship and could not be granted a variance by this Board. Only the owner of the property can have a hardship with the land.

Mr. Durrer moved that this case be deferred until the application is properly processed with the proper owner of the property.

Mr. Barnes seconded the motion to defer.

The motion passed unanimously. The Board's decision was that the property will have to be reposted, ^{and} property owners renotified.
Mr. Smith told Mr. Shea that he would either have to have the owner sign this application, get proper authorization to act as the owner's agent, or if Mr. Shea takes title to the land, reapply in his own name.

Mr. Mitchell stated that there is also a problem with the plan as submitted in connection with this application. The plat does not indicate the setback from the proposed porch on this proposed house. The variance request is from the house. If the porch is going to be constructed, the variance request must be from the porch. That setback must be shown.

Mr. Shea stated that since he had applied for this variance, he had selected a house plan that does not have a porch.

Mr. Smith stated that the Board would also need corrected plats. He stated that this property was the subject of another variance application a few years ago. That variance request was granted in part. Mr. Smith stated that if the property is sold, the case will have to be readvertised.
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10:30 - BEA MAR ASSOC. OF VA., INC. appl. under Section 30-6.6.5.4 of the a.m. Zoning Ordinance to permit dwelling to remain closer to side property lines than allowed by the Ordinance (10.7' total of 37.8', 12' total of 40' required), 2958 Fort Lee Street, 36-1((1))pt. parcel 10, Folkstone Sec. 1, lot 61, (27,971 sq. ft.), Centreville District, (RE-1 Cluster), V-103-76.

Mr. Orlo C. Paciulli, agent for the applicant, with offices at 307 Maple Avenue, West, Vienna, Virginia, submitted notices to property owners of this hearing. The notices were in order.

Mr. Paciulli stated that he could not tell the Board exactly how the error occurred. He stated that he had only had this happen once before. The building was staked too close to the side yard, he stated. The error was not discovered until after the house was well under construction. This variance will not impair the intent and purpose of the Zoning Ordinance. Compliance with the ordinance would create a hardship on the applicant.

In answer to Mr. Durrer's question, Mr. Paciulli stated that he stakes out 300 or 400 houses a year.

Mr. Durrer stated that this request is for a 2.3' variance only on one corner of the structure.

Mr. Swetnam stated that this point of the house that is too close to the property line is next to a pipestem set of entrances. Therefore, it does not make it closer to another dwelling. He stated that he could fully understand Mr. Paciulli's problem.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

In application V-103-76 by Bea Mar Asssoc. of Va., Inc. under Section 30-6.6.5.4 of the Zoning Ordinance to permit dwelling to remain 10.7', total of 37.8' from side property line, 12' total of 40' required, 2958 Fort Lee St. Section 1, lot 61 of Folkstone Subd., 36-1((1))pt. parcel 10, (27,971 sq. ft.), Centreville District, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on June 22, 1976, and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the subject property is the applicant.

2. That the present zoning is RE-1 Cluster.
3. That the area of the lot is 27,971 square feet.

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

1. That the applicant has satisfied the Board that this non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and
2. That this granting will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

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

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

FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

10:40 - DAVID J. DEBOER appl. under Section 30-6.6 of the Zoning Ordinance to a.m. permit 2 story addition to be constructed closer to side property line than allowed by the Zoning Ordinance (10' from side, 12' required), 8518 Cyrus Place, 102-4((5))(11)30, (15,186 sq. ft.), Mt. Vernon District, (R-12.5), V-104-76.

Mr. DeBoer submitted notices to property owners of this hearing to the Board. The notices were in order.

Mr. DeBoer stated that he wished to convert his existing double carport and porch to a double garage with enclosed family room on the first floor and two bedrooms on the second floor directly above. This will be an 18'7" garage. The first story will be faced with matching brick and the second story with matching aluminum exterior. The lot is very irregular in shape. It is very deep, but only 83.39 feet wide on the front. The back portion of the lot is sloping and rolling. This is ideal for the split level home, but not applicable for construction of an addition, he stated.

There was a letter in the file from Charles and Deloris Hergenrather, 8520 Cyrus Place, Alexandria, a contiguous property owner, stating that they support the proposed variance request of two feet.

There was no one present to speak in favor or in opposition to this request.

R E S O L U T I O N

In application V-104-76 by David J. DeBoer under Section 30-6.6 of the Zoning Ordinance to permit addition 10' from side property line (12' required), 8518 Cyrus Place, 102-4((5))(11)30, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 22, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 15,186 sq. ft.

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

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

- (a) exceptionally narrow lot,
- (b) unusual condition of the location of existing building.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

10:50

a.m. - BETTY ANN ANDERSON appl. under Section 30-7.2.6.1.5 of the Zoning Ord. to permit one chair beauty shop in home, 11117 Byrd Drive, 57-3((7)) 408, (10,538 sq. ft.), Annandale District, (R-12.5), S-105-76.

Mrs. Anderson submitted notices to property owners of this hearing to the Chairman. The Chairman ruled the notices in order.

Mrs. Anderson explained that she wished to have a one-chair beauty shop in her home because she wished to work at her own pace. Her proposed hours of operation were from Tuesdays through Fridays from 9:00 a.m. to 5:30 p.m. and Saturdays from 9:00 a.m. to 1:00 p.m. She stated that she would not have any employees.

Mr. Smith stated that no employees would be allowed anyway, under the Ordinance.

Mrs. Anderson estimated that she would have about nine patrons a day after the business is established. She would serve only one customer at a time. She stated that she is presently employed in one of the beauty shops in Fairfax City. She stated that she must work in order to help support her children.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-105-76 by Betty Ann Anderson under Section 30-7.2.6.1.5 of the Zoning Ordinance to permit one-chair beauty shop in home as home occupation, 11117 Byrd Drive, 57-3((7))408, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 22, 1976.

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

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1. That the owner of the property is Gale M. and Betty A. Anderson.
2. That the present zoning is R-12.5.
3. That the area of the lot is 10,537 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of this Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. There shall be no signs permitted on the property.
7. The hours of operation shall be Monday through Friday from 9:00 a.m. to 5:00 p.m. and on Saturdays from 9:00 a.m. to 1:00 p.m.
8. This shall be a one-chair, one customer at a time operation.

Mr. DiGiulian seconded the motion.

The motion passed 3 to 2 with Messrs. Smith and Durrer voting No.

11:20 - FOX MILL WOODS SWIM CLUB, INC. appl. under Section 30-7.2.6.1.1 of the a.m. Zoning Ordinance to permit construction and operation of recreation facility, Black Fir Court, Fox Mill Woods, parcel F, 26-3((1))pt. parcel 6, (5.116 acres), Centreville District, (RE-0.5), S-106-76.

Mr. James L. Nomar, Director and Vice-President of the corporation, appeared before the Board on behalf of the applicant. He stated that the notices to property owners before the Board went to eight individual property owners. There are no contiguous property owners except the construction company.

Mr. Smith stated that the notices had not been sent certified mail, nor were they sent ten full days prior to the hearing. Some of the notices had been delivered on the 16th.

The Board ruled that the notices were not in order. The Board deferred this case until July 20, 1976, at 2:00 p.m. Mr. Smith stated that the applicant would have to renotify all the people by certified mail at least ten full days prior to the hearing. The property would have to be reposted also.

Mr. Smith asked the applicant if this could be considered notification to them of this deferral. Mr. Nomar answered that it would be considered sufficient notification.

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11:40 - SUN S. SHIN appl. under Sect. 30-6.6 of the Zoning Ord. to permit a.m. enclosure of carport 7.3' total of 17.1' from side property line, V-107-76

(Hearing began at 11:55 a.m.)

Mr. Shin submitted notices to property owner of this hearing. The notices were in order.

Mr. Shin stated that, because of the slope in his rear yard, he was unable to build a garage any place else on his property. He stated that he had owned his property for two years. He stated that this enclosure would be used for his garage and would not be used for living space.

There was no one to speak in favor or opposition.

RESOLUTION

In application V-107-76 by Sun S. Shin under Section 30-6.6 of the Zoning Ord. to permit enclosure of carport closer to side property line than allowed by Ord., (7.3' total of 17.1'; 8 total of 20' required), 7916 Lake Pleasant Drive 98-2((6))388, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on June 22, 1976, and

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is R-12.5 Cluster.
- 3. That the area of the lot is 9,102 sq. ft.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
-- exceptionally narrow lot.

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

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

FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits, a residential use permit and the like through the established procedures.

Mr. DiGiulian seconded the motion.

The motion passed 5 to 0.

Page 288, June 22, 1976

12:00 - LUCK QUARRIES, INC. appl. under Section 30-7.2.1.3.1 of the Zoning a.m. Ordinance to permit renewal of SUP #S-271-66 for stone quarrying operation, NW corner of Lee Hwy and Bull Run Post Office Road, Springfield District, (RE-1), S-113-76.

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The Board had previously deferred this case for 90 days from the expiration date of June 28, 1978, in order for the rezoning of the 12 acres that was inadvertently excluded from the Natural Resource District to take place by the Board of Supervisors. The applicant was also requested to combine the two applications to include both the south side and the north side of this operation.

Mr. Joseph Telchen, 2801 N. Minnesota Avenue, N.W., Washington, D. C. spoke on behalf of his wife, Claire, in opposition to this application.

Mr. Smith explained to Mr. and Mrs. Telchen that this quarry has been in operation since 1924, and even though there may have been some problems with it in the past, in the past few years, there have been new technological advances in the operation of these facilities. There has been new dust control equipment installed. He asked Mr. and Mrs. Telchen if any of the conditions of this existing Special Use Permit facility were being violated at the present time.

Mr. Telchen answered that they have no knowledge of the conditions being violated. He stated that the mere fact that this quarry has been in operation for many years does not give them the right to automatic extension.

Mr. Barnes stated that another consideration is that this is a natural resource and it can't be moved to another location.

The Board set the hearing date for the Luck Quarries, Inc. application on the north and south side to September 28, 1976, at 10:00 a.m. Mr. and Mrs. Telchen accepted this as notice to them.

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DEFERRED CASE: JUNE 22, 1976 -- DECISION ON SHOW-CAUSE HEARING FOR PROCTOR-HATSELL SCHOOL, S-100-76, 7150 Telegraph Road. This was deferred from 6-15-76 to allow the applicant to obtain the Non-Residential Use Permit. The Inspector reported that the necessary paving had been completed and the applicant had obtained the Non-Residential Use Permit.

The Board cleared the Show-Cause hearing and dismissed it. The applicant now has a valid Special Use Permit.

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JUNE 22, 1976

AFTER AGENDA ITEM: Request for out-of-turn hearing -- RIDGE DEVELOPMENT CORP. & EDW. R. CARR & ASSOC., INC., Variance request to allow house to remain with the garage closer to side property line than allowed by the Ord. The applicants requested this out-of-turn hearing because they just had discovered that an error had been made and the house was ready for occupancy. The purchasers are ready for settlement and need to move into this house. Waiting until the September, 1976, would pose a problem and a hardship for both the prospective purchasers and the developer.

The Board granted the request and set the hearing for 12:20 p.m., July 20, 1976.

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JUNE 22, 1976

After Agenda Item: Request for out-of-turn hearing -- Ben Thompson variance request to put addition on existing house.

Mr. Thompson requested this early hearing in order to have his house addition completed by September when his new family would move in.

The Board granted the out-of-turn hearing for 12:30 p.m., July 20, 1976.

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AFTER AGENDA ITEM: RUTHERFORD AREA SWIMMING CLUB CORP., S-112-72, Request for snack bar.

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Mr. John Coakley, president of the corporation, spoke before the Board to request that the club be allowed to put up a 7'x7' Pepsi Cola building which is a temporary building. This would be used for a snack bar for the club. It also would have a window that would open onto the Rutherford County Park. They have had numerous requests for snack bar items and the people who use the park also use their bathrooms.

The Board, after a brief discussion, approved this 7'x7' temporary Pepsi Cola building for use as a snack bar, as long as it is removed at the end of the summer.

Mr. Coakley stated that it would be removed at the end of the summer season.

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GRACE EVANGELICAL LUTHERAN CHURCH, 3233 Annandale Road, Falls Church, Special Use Permit granted September 25, 1974.

Mr. Smith read a letter from W. F. Beckmann, pastor of the church, requesting that they be allowed to increase the age group from 4 through 10 to 4 through 14. Rev. Beckmann stated that this would not increase the number of students allowed.

Mr. Barnes moved that this request be granted, as long as there is no increase in the number of students.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

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DR. JAMES G. O'NEIL, JR., T/A HUNTER MILL ANIMAL HOSPITAL, 2935 Chain Bridge Road, Oakton, Virginia.

The Board read a letter from Dr. O'Neil requesting a waiver of a public hearing. He stated that his plans are to develop a vacant portion of the property at 2935 Chain Bridge Road in Oakton. This building would connect to the existing animal hospital that is under Special Use Permit granted by this Board. The proposed additional building would be two stories, with the first floor being stucco over masonry and the second, mansard treatment with cedar shakes. The additional building would closely match the existing structure. Dr. O'Neil submitted a plat showing the additional building and increased parking spaces to fifteen. He originally had 10 spaces for the animal hospital. The Board discussed this problem at length. The Board found that there is C-N zoning all around this property.

Mr. DiGiulian moved that the Board allow the addition of the office building as shown on the plans submitted. The plans were dated 6/16/76. The addition is a 54'x28'6" building, 2 stories, 2,890 net ^{floor} total for both floors, the exterior being stucco over masonry and the second, mansard treatment with cedar shakes compatible with the existing building. He also moved that the Board grant a waiver of public hearing for this addition since there is C-N zoning all around the building and C-OL zoning across the street. Office uses are uses permitted by right in a C-N zone. It is understood that the intended use of this additional building is for light office use. The applicant is to provide adequate parking for this addition over that necessary for the animal hospital. Upon final approval, a copy of the final as-built site plan is to be placed in the Board of Zoning Appeals file on this case to be made a part of the permanent records.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEM: PARLIAMENT POOL ASSOCIATION (KINGS PARK SUBDIVISION)

The Board considered a request to be allowed to sponsor a marathon for swimmers (Swimathon) from 8:00 p.m. July 10 to 8:00 a.m. July 11, 1976. The proceeds from this event are designated to support the Association's swim/dive team financial expenses and provide a charitable contribution to Children's Hospital. The owners of the property adjoining the pool have been advised of this planned Swimathon and the times involved were emphasized.

The Board was in receipt of a statement indicating by the owner's signatures that they had no objection to this event.

Mr. Durrer moved that the request be granted.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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APPROVAL OF MINUTES

Mr. Swetnam moved that the minutes of the Board of Zoning Appeals for June 8, 1976 be approved with corrections as indicated in the Resolution for Public Storage Space, Inc. which were discussed at the meeting June 15, 1976.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

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The Board discussed the amended resolution forms that the Clerk had presented to it. There were suggestions as to the spacing of these forms, size of page, etc.

Mr. Swetnam moved that the variance resolution forms be approved and adopted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Swetnam moved that the special use permit forms be approved and adopted leaving open items no. 4 and 5 in the limitations for possible rewording.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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The meeting adjourned at 12:45 p.m.

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Jane C. Kelsey
BY Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to Board of Zoning Appeals on July 6, 1976

APPROVED: July 16, 1976
DATE

Submitted to Board of Supervisors, Planning Commission and other Depts. on July 22, 1976

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 6, 1976. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam and John DiGiulian.

The meeting was opened with a prayer by Mr. Barnes. The meeting began at 10:08 a.m.

10:00 - EDGAR & JUDITH POE appl. under Sect. 30-6.6 of the Zoning Ord. to permit a.m. construction of addition 10' from side property line, 15' required, 6508 Smoot Drive, 30-2((17))38, (18,943 sq. ft.), Dranesville Dist., (R-17), V-108-76.

Mr. Poe presented notices to property owners to the Board. The notices were in order. He stated that the builder located his home on the west side of the lot because of the storm drainage problems on the east side of the lot. He stated that he is proposing to tear down the existing screened porch and add a brick masonry addition. This is the only place on the lot where they can build this addition.

Mr. Ingram, one of the original owners in this subdivision, testified that he had lived in this area prior to the time this house was constructed. His address is 1481 Waggaman Circle. He stated that the area to the west side of the subject property was a gully. The builder began constructing on the west side of the lot. Mr. Ingram stated that he informed the builder of the drainage problems and the builder moved the house over. The first owner of that house still had extensive water problems in their house, however. He stated that Mr. Poe cannot build on the west side, in his opinion, because of the water problems and the lowness of the land there.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-108-76 by Edgar and Judith Poe under Section 30-6.6 of the Zoning Ordinance to permit construction of an addition 10' from side property line, 6508 Smoot Drive, 30-2((17))38, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners and a public hearing by the Board held on July 6, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 18,943 sq. ft.

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

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

- exceptionally irregular shape of the lot and severe water problems on the west side of the house.

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

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

FURTHERMORE, the applicant should be aware that granting of this action by this

Board does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits and the like through the established procedures.

Mr. Barnes seconded the motion. The motion passed unanimously.

10:10 - CONSTANCE H. BABB appl. under Section 30-7.2.6.1.3 of the Zoning Ord. a.m. to permit operation of nursery school in existing church, 60 students, 5 days a week, 7 A.M. to 6 P.M., 7000 Arlington Blvd., 50-4((16))182A, (3.511 acres), Providence District, (R-10), S-109-76.

(Hearing began at 10:20 a.m.)

Ms. Babb presented notices to property owners to the Board. The notices were in order. Ms. Babb gave her address as 3217 South 6th Street, Arlington. She stated that she planned to have this school in this church in order to help working mothers. She stated that she had employed Andrew Blevins, Jr., owner of two other preschools in the area, to assist her in getting started. The school director will be a certified teacher and will be responsible for hiring the other teachers in the school. She expects to have 40 cars arriving to deliver the children in the morning and noon. This is when they have full enrollment. This school will serve Jefferson Village and vicinity. This also includes the Broyhill Park subdivision. The only exterior change will be the addition of the playground and fence around that playground.

Mr. Swetnam in answer to Mr. Barnes question, stated that the playground as shown on the plats will be 24'x100'.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-109-76 by Constance H. Babb under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit operation of a nursery school in an existing church, 60 students, 5 days a week, 7000 Arlington Blvd., 50-4((16))182A, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 6, 1976.

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

1. That the owner of the subject property is Boulevard Baptist Church.
2. That the present zoning is R-10.
3. That the area of the lot is 3.511 acres.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit shall not be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. This school shall have a maximum number of 60 children. The ages shall be from 2 through 6.

7. The hours of operation shall be from 7:00 a.m. to 6:00 p.m., Monday through Fridays.

Mr. Barnes seconded the motion. The motion passed unanimously.

10:30 - JEROME BROWN & VIRGINIA BRETT appl. under Sect. 30-7.2.6.1.7 of the a.m. Zoning Ordinance to permit operation of antique shop, 2169 Chain Bridge Road, 39-1((4))10, (21,700 sq. ft.), Providence District, (RE-1), S-110-76.

10:30 - JEROME BROWN & VIRGINIA BRETT appl. under Sect. 30-6.6 of the Zoning a.m. Ord. to permit waiver of dustless surface requirement for parking area, 2169 Chain Bridge Road, 39-1((4))10, V-111-76.

(The hearing began at 10:35 a.m.)

Ms. Brett, 2169 Chain Bridge Road, Vienna, Virginia, presented notices to the Board. The notices were in order.

Ms. Brett, in answer to Mr. Smith's questions, stated that her partner, Mr. Brown, owns the property. They do have a partnership agreement.

Mr. Smith stated that the Board would need a copy of that agreement and a lease agreement.

Mr. Swetnam moved that the case be heard on its merits and the decision would be contingent on the receipt of those items.

Mr. Durrer seconded the motion. The motion passed 4 to 0. Mr. Smith abstained.

The Board members discussed the comments and memo from the County's Office of Comprehensive Planning regarding the Area 2 plan and how that plan affected this application. The memo stated that under the Area 2 plan, no special use permits for commercial uses should be permitted in this area in question.

Mr. Mitchell stated that these applications are made through the Zoning Office and the Zoning staff does not know all of the impositions of the area plans. This puts the staff in a bad spot insofar as the applicants are concerned. If the comprehensive plan is to be considered binding, then the staff should be in a position to tell the applicants not to waste their money and time by applying. The only thing the Zoning staff could do would be to send the applicants over to Comprehensive Planning. The area plans have been adopted by the Board of Supervisors, but there is not a single map that puts everything together. There is the text of the plan and the final amending policy statements and now there are new amendments that are being considered. The staff has to fit all these together.

Mr. Smith stated that it is incumbent on the applicant to research the plans and prepare their case. He stated that the Board has denied several applications in that area recently.

Ms. Brett stated that her proposed antique shop would be on the ground floor of a free standing, two story garage building. There is an apartment on the second floor of the garage which is used as guest quarters. The only changes in the exterior of the building will be the garage doors will be removed and replaced by windows and a single entrance door. The hours of operation are proposed from Tuesday through Saturday. There are four parking spaces provided on the plats. The estimated maximum number of people who might visit the site at any one time would be four. This is a small operation. The antiques will be primitive country antiques, such as Pennsylvania Dutch hand made furniture. The property has an access road running along one side. That

road serves two properties in the back of the subject lot. The road is owned and maintained by other than these three property owners. She did not know the name of that person.

In answer to Mr. Smith's questions, Ms. Brett stated that she has lived at this address on this property since March. Mr. Brown has owned the property for about four or five months.

The comments from Preliminary Engineering Branch suggested that commercially oriented traffic not be allowed over the existing 20' outlet road without specific written permission of all people responsible for the maintenance of that outlet road. That branch also suggested that all access to the use be provided over a minimum 22' access drive as required by Sec. 30-11 of the Zoning Ordinance and that the access be allowed only from Chain Bridge Road, and that a minimum 30' entrance be provided within the existing State right-of-way.

Mr. Brown spoke in support of the application. He gave his address as 3467-A South Stafford Street, Arlington, Virginia.

Mr. Ross Buckley, 108 St. Andrews Drive, Vienna, Virginia, spoke in opposition. He stated that he had been the past president of the West Briar Civic Assoc. which represents 500 homes within the Town of Vienna and in that particular area. This site is 1/8 mile from the town boundary, where the town boundary cuts east along Wolftrap Road. He stated that the town has frequently opposed any commercial use and rezoning for commercial purposes for this area. The granting of this use will affect the integrity of the area plan for this area and will invite further commercial uses to come in.

Mr. Swetnam stated that the problem is trying to figure out what an appropriate temporary use of this land would be, something that this land could be used for until the planned use can come in. The planned use is a higher density residential.

Mr. Buckley stated that the granting of this use will have an adverse affect in trying to maintain the residential character of that property.

Mr. Smith stated that he disagreed with Mr. Swetnam that it is this Board's responsibility to find an interim use for this property. This is one-half acre of land with two living units on it. This is a reasonable use of the land for the owner.

The Board continued to discuss this point at length, and the problem with the Area II plan.

Ms. Brett in rebuttal to Mr. Buckley's opposition stated that if the Town of Vienna opposes this commercial use, why does it allow a doctor and dentist office to be located just across the street in the residential subdivision.

There was no one from the Town of Vienna present.

Mr. DiGiulian moved that the Board defer this case for the lease and partnership agreement and written statement from the owner of the access easement.

Mr. Barnes seconded the motion. The motion failed 3 to 2 with Messrs. Smith, Swetnam and Durrer voting No.

Mr. DiGiulian then made the following motion to grant.

RESOLUTION

In application S-110-76 by Jerome R. Brown and Virginia K. Brett under Sect. 30-7.2.6.1.7 of the Zoning Ordinance to permit operation of antique shop, 2169 Chain Bridge Road, 39-1((4))10, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property

owners, and a public hearing by the Board held on July 6, 1976.

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

1. That the owner of the property is Jerome R. Brown.
2. That the present zoning is RE-1.
3. That the area of the lot is 21,700 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plan submitted with this application. Any additional structures of any kind, change in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit shall not be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of this Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Screening is to be provided to the satisfaction of the Director of Environmental Management.
7. A minimum 30' entrance is to be provided within the existing State right-of-way of Chain Bridge Road.
8. Commercial oriented traffic will not be allowed over the existing 20' outlet road without written agreement of all people responsible for maintenance of the outlet road.
9. Hours of operation are to be from 10:00 a.m. to 6:00 p.m. Tuesday through Saturday, or by appointment.
10. This Special Use Permit is granted for a period of three (3) years.
11. No sign is permitted.
12. A written partnership agreement and lease will have to be presented prior to release of this Special Use Permit.

Mr. Swetnam seconded the motion.

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The motion passed 3 to 2 with Messrs. Smith and Durrer voting No.
*

Mr. Durrer stated that he agreed with the Chairman that this is not a transitional area for commercial. It is residential. He stated that he felt this will open the door for other commercial activity in this area.

Mr. Smith stated that this owner purchased the property five months ago and he must have been aware that this area is limited to residential uses.

Mr. Durrer agreed and stated that he did not think there was any doubt but that the applicant bought this property for this type activity knowing that it is a residential area.

RESOLUTION

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In application V-111-76 by Jerome R. Brown and Virginia K. Brett under Sect. 30-6.6 of the Zoning Ordinance to permit waiver of dustless surface requirement in parking area, 2169 Chain Bridge Road, 39-1((4))10, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 6, 1976, and

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

1. That the owner of the property is Jerome R. Brown.
2. That the present zoning is RE-1.
3. That the area of the lot is 21,700 sq. ft.

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

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

-- the conditions of the previous Special Use Permit motion, THEREFORE, the application is granted.

The motion passed 3 to 2 with Messrs. Smith and Durrer voting No.

Mr. DiGiulian for clarification stated that it was the intent of his motion to grant the Special Use Permit with the stipulation that the new 30' entrance be paved for its length within the Chain Bridge Road right-of-way. The remainder of the area would stay the same.

Mr. Swetnam agreed. He stated that his intent in granting the variance was that the applicant would not have to pave the area of the driveway remaining after he paved the 30' entrance along the length of the right-of-way and that he would not have to pave the parking area either.

10:50 - NO. VA. SPEECH & LANGUAGE CENTER, INC. T/A DOLLEY MADISON PRESCHOOL
a.m. appl. under Sect. 30-7.2.6.1.3 of the Zoning Ord. to permit change of ownership of preschool in existing church, 66 students, weekdays, 9:15 a.m. to 3:45 p.m., 888 Dolley Madison Boulevard, 31-2((1))4A, (6 acres), Dranesville District, (RE-1), S-112-76.

(Hearing began at 11:40 a.m.)

Mr. Michael Orend, 9911 Bull Run Drive, Great Falls, Virginia, submitted notices to property owners which were in order.

Mr. Orend stated that this school will be for children who are having language difficulties. The church has been interested in this work for a good many years. However, the church has been unable to raise enough money to give scholarships for all the children in the area that need this help. Therefore, it was felt that there was a need for this school. They plan to combine it with a normal preschool. They feel this will be a benefit to both the children with speech difficulties and to the children with no speech difficulties to learn to adjust to each other. The church is in full support of this school. The directors of this corporation are trustees of the church.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application No. S-112-76 by No. Va. Speech and Lanuage Center, Inc. T/A Dolley Madison Preschool under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit change of ownership of preschool in existing church, 888 Dolley Madison Blvd., 31-2((1))4A, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local

newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 6, 1976.

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

- 1. That the owners of the property are Trustees of the Presbytery of Washington City.
- 2. That the present zoning is RE-1.
- 3. That the area of the lot is 6 acres.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The maximum number of children shall be 66, ages 2 through 6 years.
- 7. The hours of operation shall be from 9:00 a.m. to 4:00 p.m., five days a week, Monday through Friday.
- 8. This Special Use Permit is granted for One (1) year with the Zoning Administrator empowered to grant three (3) one year extensions upon presentation of a new lease thirty days prior to the expiration date of this permit.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

11:10 - ALBERT E. DADLEY appl. under Sect. 30-6.6 of Ord. to permit construction a.m. 15' from front property line, 45' required), 4100 Duncan Drive, 59-3 ((11)20, (22,558 sq. ft.), Annandale District, (R-17), V-114-76.

(Hearing began at 11:55 a.m.)

Mr. Dadley, 4100 Duncan Drive, presented notices to property owners to the Board. The notices were in order.

His justification for this variance request was that he could not build any other place on his lot because of a septic field, oil tank and patio in the back. There is a well on the right side of the property, and the property has a steep slope. In answer to Mr. Barnes' question regarding site distance, Mr. Dadley stated that there are a good many trees and shrubs along the right side of the property now. They have been there. Some are on his property and some are on the public right-of-way. Therefore, this addition cannot even be seen from the street and could not possibly cause a site distance problem. There is a circular driveway in front of the house with two entrances on the road. This addition is needed for the use of his family. This is not for resale purposes. He stated that it isn't practical to make this addition any smaller.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application V-114-76 by Albert E. Dadley under Section 30-6.6 of the Zoning Ord. to permit construction of addition 15' from front property line, 4100 Duncan Drive, 59-3((11))20, County of Fairfax, Virginia, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 6, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 22,558 sq. ft.

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

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

- (a) exceptional topographic problems of the land.

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

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

FURTHERMORE, the applicant should be aware that this action does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

 11:25 - EDWIN T. OLIVER, JR. appl. under Sect. 30-6.6 of the Zoning Ord. to a.m. permit carport 21' from front property line, 40' required, 5730 Clarence Avenue, 61-4((20))5, (10,609 sq. ft.) Mason District, (R-12.5), V-115-76.

(The hearing began at 12:12 p.m.)

Mr. Oliver presented notices to property owners to the Chairman. The notices were in order.

Mr. Oliver's justification was the irregular shape of the property and the steep terrain. He stated that Fairfax County also has a sewer easement through the property which drastically cuts down on the use of his property. His file showed photographs showing the steep terrain of his property. The sewer easement was reflected on the plats in the file.

There was no one to speak in favor or in opposition to this application.

In answer to Mr. Barnes' question regarding Preliminary Engineering Branch's comments on site distance, Mr. Oliver stated that the intersection is reasonably wide. From the center of the intersection to the corner of his house is 90'. The distance from the road itself to this carport would be 31'. There is no site distance problem that this carport would cause.

RESOLUTION

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In application V-115-76 by Edward T. Oliver, Jr. under Section 30-6.6 of the Zoning Ordinance to permit carport to be within 21' of the front property line, 45' required, 5730 Clarence Avenue, 61-4((20))5, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 6, 1976, and

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

- 1. That the applicant is the owner of the property.
- 2. That the present zoning is R-12.5.
- 3. That the area of the lot is 10,609 sq. ft.

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

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

- exceptional topographic problems of the land and location of the sewer easement on the property.

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

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

FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the requirements of this County. The applicant shall be responsible for fulfilling his obligation to obtain building permits and the like through the established procedures.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

11:35 - EUGENE SLAVEY, V-119-76, OTH. a.m.

Mr. Slavey or his agent was not present. The Clerk stated that Mr. Slavey had called and stated that he was not able to notify all the neighbors because they were on vacation. He requested the Board reschedule his case for sometime in September.

The Board rescheduled Mr. Slavey's application for September 21, 1976, provided he meets all the notification requirements.

The property would be reposted.

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11:50 - EDISON W. BUNCH, JR. appl. under Sect. 30-6.6 of the Zoning Ord. to a.m. permit use of land zoned residential as travelway for commercial business, 2964 Chain Bridge Road, 47-2((1))31, (1.2190 acres), Centreville District, (RE-1 & CN), V-134-76, OTH.

(The hearing began at 12:40 p.m.)

Mr. Bunch presented notices to property owners to the Chairman. The notices were in order.

In answer to Mr. Smith's question, Mr. Bunch stated that he purchased the

300

property in January of this year. He stated that he knew that the property was zoned C-N and residential but he did not know that it would be this much of a problem to use this small residential strip for the travelway. The adjoining properties are in the master plan for commercial. They plan to construct a new building. The existing building will be torn down. He stated that the C-N portion was zoned in 1959 and he did not know why this small strip was left residential. There is no other access to this property other than by this residential strip. He stated that the use of the building will be for the Alpine Ski Shop which is now located at Tysons Corner. The Highway Dept. is condemning their land. They have 16,000 square feet and the highway is taking 9,000 square feet. Therefore, they have to find available space before the skiing season this fall. The building and parking are both on the commercial land, at the subject location, 2964 Chain Bridge Road, 2122. There was no one to speak in favor or in opposition to this application. Mr. Bunch stated that he had not thought of having the land rezoned.

RESOLUTION

In application V-134-76 by Edison W. Bunch, Jr. under Section 30-6.6 of the Zoning Ordinance to permit use of land zoned residential as travelway for commercial business on commercial property, 2964 Chain Bridge Road, 47-2((1)) 31, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners and a public hearing by the Board held on July 6, 1976, and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1 and C-N.
3. That the area of the lot is 1.2190 acres.

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

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

- unusual condition in that a small part of the land is zoned residential.

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application and is not transferable to other land or to other structures on the same land.
2. This variance shall be granted for a period of three (3) years to allow the applicant to apply for rezoning.
3. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that this granting does not constitute exemption from the various requirements of this County. The applicant shall be responsible for obtaining building permits and the like through the established procedures.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

Page 301, July 6, 1976

DEFERRED CASE: 12:10 p.m. CLAUDE A. WHEELER, T/A PROCTOR HATSELL SCHOOL appl under Sect. 30-7.2.6.1.3.2 of the Zoning Ordinance to permit day care center with less area than that of original Special Use Permit, 7136 Telegraph Road, 91-4((3))12, (27,286 sq. ft.), Lee Dist., (RE-1), S-100-76, OTH (Deferred from June 15, 1976 for proper notices and new plats.) The property had been reposted. New plats were in the file showing the proposed building the proper distance from the property line.

Mr. Dexter Odin, 4035 University Drive, Fairfax, attorney for the applicant, presented notices to property owners to the Chairman. The notices were ruled in order by the Chairman.

Mr. Odin stated that on August 1, 1975 Mr. Wheeler was granted a Special Use Permit to construct a school for 80 children on two lots consisting of 1.2 acres of land. He is now making application to reduce the land under SUP from two lots to one lot and the land area from 1.2 acres to 27,286 square feet. The number of children would be reduced to 75. Mr. Wheeler has been unable to obtain financing for this school and he felt that taking the other lot and constructing a house on it, it would give him the necessary capital in order to secure the rest of the money for the construction of the school. Mr. Wheeler has operated a school at 7150 Telegraph Road for many years and he plans to move the operation from that location to this location.

Mr. Odin submitted an addendum to the contract of sale. He stated that the contract was extended to September 30, 1976. Mr. Wheeler is paying \$150.00 per month in the intervening months.

Mr. Odin stated that the school building will be 47' by 52'. The material to be used will be masonry and brick. The outside of the building will be faced with brick. The proposed hours of operation are from 6:30 a.m. to 6:30 p.m. The ages are from 2 through 7.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-100-76 by Claude A. Wheeler T/A Proctor Hataell School under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit school of general education on property located at 7136 Telegraph Road, 91-4((3))12, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 6, 1976.

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

1. That the owner of the property is John C. Meyers. The applicant is the contract purchaser.
2. That the present zoning is RE-1.
3. That the area of the lot is 27,286 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. The property is subject to Pro-Rata Share for off-site drainage.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by

this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The number of students shall be 75.

7. The hours of operation shall be from 6:30 a.m. to 6:30 p.m., Monday through Friday.

8. The age of the children shall be 2 through 7 years.

Mr. Barnes seconded the motion.

The motion passed unanimously.

1. JULY 6, 1976

AFTER AGENDA ITEM: SUN OIL COMPANY GASOLINE SERVICE STATION, CHAIN BRIDGE ROAD AND OLD COURT HOUSE ROAD, 39-1((16))15, 16 & 17. Special Use Permit originally granted in 1968, S-902-68. Came back to BZA in 1969 for shift in building location.

Mr. John W. Kinnally requests permission to have a vegetable stand on this property for the summer months. He appeared before the Board with a letter from Sun Oil stating that they have no contract over this location. This matter is strictly up to the dealer, Mr. Thomas R. Michie. The letter was signed by Mr. R. F. Watson, Division Sales Manager, Sunmark Industries, 5900 Princess Garden Parkway, Suite 700, Lanham, Maryland 20801.

Mr. Smith stated that Sun Oil Company does have control over this property as long as they have a Special Use Permit and operate this gasoline service station. This Special Use Permit was granted to Sun Oil Company and it is Sun Oil Company's responsibility.

The Board was also in receipt of a property contract signed by Mr. Kinnally and Thomas Michie renting the property to Mr. Kinnally for 90 days.

Mr. Kinnally had submitted a plat to the Board showing the location of the proposed vegetable stand. Mr. Kinnally told the Board that he planned to sell sweet corn and other vegetables that he grows on a farm in Maryland.

After a lengthy discussion, Mr. Swetnam moved that the Zoning Administrator be directed to grant a permit for this vegetable stand for a period of ninety (90) days on a trial basis. The vegetable stand size would be 8'x10'. This would be accepted as a temporary use on this property under Special Use Permit.

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2. JULY 6, 1976 -- AFTER AGENDA ITEM

SPECIAL USE PERMIT GRANTED TO LAWRENCE E. GICHNER, JUNE 28, 1960 for filling station with 25' setback for pump islands from Route 236 only, S.W. corner of Route 236 and Columbia Road. Granted with stipulation that there be no trailer or U-Haul on the property.'

The Board was in receipt of a letter from George Vogan, sales representative for Exxon, requesting that the presently constructed 4'x8' structure be permitted to remain for the purpose of providing information and maps to visitors to the Washington area and for the purpose of selling homemade ice cream and some produce.

After a lengthy discussion, the Board felt that since this small structure was connected to the main building and met the setbacks of the zone, that this use would be permitted on a temporary trial basis for 90 days, for the purpose of providing information and maps and selling ice cream.

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AFTER AGENDA ITEM, No. 3
CHARITY BAPTIST CHURCH, S-140-75. The Highway Dept. has required the applicant to move the driveway entrance from Lewinsville Road to Springhill Road.

The Board reviewed the revised plats.

Mr. Swetnam moved that the revised plats showing the new entrance to the church be accepted for that change only. All other conditions of the original granting would remain in effect.
Mr. Barnes seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEM, No. 4
OUT OF TURN HEARING REQUEST -- MERRIFIELD MONTESSORI PRESCHOOL. School proposed to go in existing church. The applicant requested the out of turn hearing in order to begin operation by September 7.

The Board granted the out of turn hearing for August 31, 1976.

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AFTER AGENDA ITEM, No. 5
OUT OF TURN HEARING REQUEST -- SPRINGFIELD GOLF AND COUNTRY CLUB, addition of tennis courts and tennis club house to existing country club.

The Board reviewed the plats. It was unable to determine what was existing and what was proposed. The dimensions of the small rectangle that was assumed to be the tennis club house had no dimensions on it. The Board also questioned the setbacks from the courts to the property lines.

This use went in without a Special Use Permit prior to 1959.

The Board requested the Staff to check the building permit and occupancy permit for the existing structures and also requested that the applicant comply with the instructions as to the plats that were submitted and make the proper corrections. This item was deferred until the Board had the information it requested.

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AFTER AGENDA ITEM, No. 6
GREENBRIAR POOL CLUB, INC., S-870-68, Granted July 23, 1968.

The Board was in receipt of a letter from the Greenbriar Pool Club requesting that they be allowed to offer the American Red Cross course, Advanced Life-saving and Water Safety to its membership this summer from 9:00 p.m. until 11:00 p.m. from July 12 through July 23, 1976.

Mr. Swetnam moved that this request be granted. Mr. DiGiulian seconded the motion and the motion passed unanimously.

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AFTER AGENDA ITEM, No. 7
APPEAL ON REVOCATION FOR BERNARD C. COX RIDING STABLE.

The Board was in receipt of a document from Bernard C. Cox appealing the decision of the Zoning Administrator and requesting a hearing based on three points: "(1) The Zoning Administrator made his decision based upon photographs without requiring identification of same and without exhibiting said photographs or any other evidence to the applicant for explanation, thus denying applicant rights as granted by law and granted by the Constitution of the United States. (2) The Zoning Administrator failed to give notice to Council of Record. (3) The Board of Zoning Appeals had no authority to transfer the exercise of their authority to the Zoning Administrator. /s/ Bernard C. Cox, by Counsel, Friedlander, Friedlander & Brooks, 2018 North 16th Street, Arlington, Virginia 22201."

This appeal was filed with the Office of the Zoning Administrator on June 28, 1976. The notice to Mr. Cox of the revocation was stamped by the Post Office on June 17, 1976, which notice was signed by Mr. Cox.

Page 304, July 6, 1976
 COX (continued)

The Board set the hearing for this appeal for September 21, 1976. The Board directed that Mr. Cox file a formal application, however.

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AFTER AGENDA ITEM, No. 8.
 JULY 6, 1976

9915 Richmond Hwy., 11500124

PUBLIC STORAGE, INC., S-71-74, Granted June 19, 1974. Request for a change in building design and layout of building on site.

Mr. John Schiller, engineer for the project with offices at 1418 North Garfield Street, Arlington, Virginia, represented the applicant. He submitted the plans before the Board that had previously been approved by the office of Design Review. However, when it got to the Zoning Office, the Zoning Administrator realized that the building layout, design and square footage of building space were not the same as that approved by the Board in 1974. There is more building coverage, but less coverage as far as roof areas. There was a travel lane, 19' in width, that extended the entire frontage of the property, 322'. This entire driveway has been eliminated and replaced with a row of trees. The driveway has been moved to the interior of the site. The buildings will be entered from the rear. The opening between the buildings on the previous plan for the fire equipment was faulty. This has been changed to give fire equipment straight access into the site on a level grade, rather than the previous uphill grade. Even though the square footage of the building has been increased, the water retention capabilities has been increased. The same setbacks have been maintained and the building facade will remain the same. This is a treated architectural facade.

Mr. Covington stated that the perimeter hasn't changed and basically, the changes that have been made are improvements.

Mr. Swetnam stated that it looks like everybody has benefited from these changes.

Mr. Durrer stated that when a Permittee comes back in with a completely revised building plan like this is, it is something that should have been done to begin with.

Mr. Swetnam stated that he saw nothing wrong with the changes and it is an upgrade over the previous plan. They have better fire protection with this plan. As one drives by this site, he sees a grassy bank and trees instead of the row of doors for the warehouse, as was on the previous plan.

Mr. Covington stated that there was no opposition to the original plan. The previous plans were hastily filed in order to meet deadlines. If these deadlines had not been met, the lady who originally owned the land would have been repossessed.

Mr. Schiller stated that Mr. Cory has decided, in order to counterbalance the increase in square footage, to build phase 1 and phase 2 of the service drive now, instead of waiting for two years to build phase 2 of the drive. The new plan has 43,000 sq.ft. and the old building configuration had 35,900 sq.ft. for a difference of 7,900 sq.ft., or an 18% increase.

Mr. DiGiulian moved that the Board accept the amended plans. Mr. Swetnam seconded the motion. The motion passed 4 to 0. Mr. Smith abstained.

// The meeting adjourned at 3:46 p.m.

Jane C. Kelsey
 By Jane C. Kelsey, clerk
 to the Board of Zoning Appeals

Daniel Smith
 DANIEL SMITH, CHAIRMAN

APPROVED: *July 16, 1976*
 DATE

Submitted to the Board of
 Zoning Appeals on July 13, 1976

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

July 22, 1976

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The Board of Zoning Appeals held a Regular Meeting in the Board Room of the Massey Building on Tuesday, July 13, 1976. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam and John DiGiulian.

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The meeting was opened with a prayer by Mr. Barnes. All members were present.

10:00 - MR. & MRS. CHARLES KING appl. under Section 30-6.6 of the Zoning Ord. a.m. to permit construction of addition closer to front property line than allowed by the Ord. (39' from line, 45' required), 7424 Rebecca Drive, 93-3((16))12, (17,411 sq. ft.), Mt. Vernon District, (R-17), V-116-76.

Mr. King submitted notices to property owners to the Chairman. The notices were in order.

Mr. King's main justification for the need for this variance request was because of the topographical problems he had with the land. He stated that, because of the slope of the land, no extension could be made in the one direction where adequate setback space is available, to the south. He stated that this is a corner lot which limits the ability to extend the house in either an easterly or westerly direction from the two window-free walls. This addition will be for an 8' x 12-1/2' storage room to the northeast corner of the house in the direction of Rebecca Drive.

In answer to Mr. Swetnam's question, Mr. King stated that the addition will follow the existing roof line. He will have the same architect that they had in 1969 when they built a two-story addition to the house. That addition did not require a variance. The architecture will be compatible with the rest of the house. He submitted additional photos of the existing house.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. Swetnam made the following resolution:

WHEREAS, in application no. V-116-76 by Mr. and Mrs. Charles King under Sect. 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of addition 39' from front property line (45' required by Ord.), 7427 Rebecca Drive, 93-3((16))12, County of Fairfax, Virginia, which application has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 13, 1976.

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

1. That the owner of the property is the applicant.
2. That the area of the lot is 17,411 square feet.
3. That the Board has found that the applicant's property has exceptional topographic problems.

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. That the architecture and materials used for this addition will be compatible with the existing structure.
4. This granting does not exempt the applicant from all other State and County requirements.

Mr. Barnes seconded the motion. The motion passed 4 to 0. Mr. Smith abstained.

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10:10 - STEPHEN V. SNYDER appl. under Sect. 30-6.6 of the Zoning Ord. to permit enclosure of carport to garage 16.3' from side property line (20' required), 2436 Carey Lane, 38-3((28))6, (25,172 sq. ft.), Centreville District, (RE-0.5), V-117-76.

Mr. Snyder presented notices to property owners to the Board. The notices were in order.

Mr. Snyder stated that he has an extremely narrow lot. He stated that his house and the next applicant, Mr. Withrow, are the only homeowners in the area that do not have enclosed garages. Three other variances were granted by this Board over the years to three other property owners in the area in order that they might enclose their carports and make garages.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

Mr. Durrer made the following resolution:

WHEREAS, application no. V-117-76 by Stephen V. Snyder under Section 30-6.6 of the Zoning Ordinance to permit enclosure of carport to garage 16.3' from side property line (20' required), 2436 Carey Lane, 38-3((28))6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 13, 1976.

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

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is RE-0.5.
- 3. That the area of the lot is 25,172 sq. ft.
- 4. That the Board finds that the applicant's property is exceptionally narrow.

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

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

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

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
- 3. The architecture shall be compatible with the existing structure.
- 4. This granting does not exempt the applicant from complying with all other State and County Codes.

Mr. Barnes seconded the motion. The motion passed 5 to 0. All members present.

10:30 - JOHN AND ANN WITHROW appl. under Sect. 30-6.6 of the Zoning Ord. to a.m. permit enclosing of carport into garage 17.6' from side property line, (20' required), 2440 Carey Lane, 38-3((28))7, (25,275 sq. ft.), Centreville District, (RE-0.5), V-118-76.

(The hearing began at 10:30 a.m.)

Mr. Withrow presented notices to property owners to the Board. The notices were in order. He stated that he is the original owner of this house and has owned it for six years. His lot is very narrow. There are also storm drainage easements in the rear yard that prevent him from being able to use the major portion of the rear yard.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. DiGiulian moved that the Board grant the following motion:

WHEREAS, application No. V-118-76 by John and Ann Withrow under Sect. 30-6.6 of the Fairfax County Zoning Ordinance to permit enclosing of carport into garage 17.6' from side property line, 2440 Carey Lane, 38-3((28))7, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 13, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 25,275 sq. ft.
4. That the Board finds that the applicant's property is exceptionally narrow and that there are two storm drainage easements in the rear of the lot.

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

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

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. The architecture shall be compatible with the existing structure.
4. This granting does not exempt the applicant from complying with all other State and County requirements.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

10:40 - PLEASANT VALLEY PRESCHOOL, INC. appl. under Section 30-7.2.6.1.3 of a.m. the Zoning Ord. to permit operation of a preschool in existing facility, 15 children, 9 a.m. to 12 noon, weekdays, 4616 Stringfellow Road, 45-3((1))11, (1.52 acres), Springfield District, (R-12.5), S-121-76.

Mrs. Rebecca Crouch submitted notices to property owners. The notices were in order. She gave her home address as 14486 Golden Oak Road, Centreville.

Mrs. Crouch stated that this school is a cooperative preschool for 3 and 4 year olds. The proposed hours of operation are from 9 a.m. to 12 Noon, Monday through Friday, with a school year and holiday schedule that coincides with the Fairfax County Public School calendar. They have one professional teacher and one cooperating mother assistant to work with no more than 15 children a day. The Pleasant Valley Preschool, Inc. is registered in good standing with the State Corporation Commission and is a member of good standing of the Northern Virginia Council of Cooperative Preschools. They expect approximately five vehicles to arrive daily for the 9 o'clock beginning and return for the 12 noon dismissal. The teacher and assistant's vehicles will remain on the premises during the hours of 9 a.m. to 12 noon. The immediate Greenbriar community and a radius of about 10 miles will be served by the preschool. The entire school will be housed in the existing one story frame structure that is the Greenbriar Community Center.

Mr. Smith stated that this granting will not be released until she has supplied the Board with a signed lease agreement. She agreed to do that within the next few days.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

In application S-121-76 by Pleasant Valley Preschool, Inc. under Sect. 30-7.2.6.1.3 of the Zoning Ordinance to permit operation of preschool in existing facility, 4616 Stringfellow Road, 45-3((1))11, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with all requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 13, 1976.

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

1. That the owner of the subject property is Greenbriar Community Assoc., Inc. The applicant is the lessee.
2. That the present zoning is R-12.5.
3. That the area of the lot is 1.52 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The number of children shall be fifteen (15).
7. The hours of operation shall be from 9:00 a.m. to 12 noon, 5 days a week, Monday through Friday.
8. This permit is granted for one year. The Zoning Administrator is empowered to grant three (3) one year extensions upon presentation of a properly executed lease at least 30 days prior to expiration date.

Mr. DiGiulian seconded the motion. The motion passed 5 to 0.

11:00 - COLVIN RUN PET-OTEL, INC. appl. under Sect. 30-7.2.8.1.1 of the Zoning Ordinance to permit continued operation of boarding kennel, 10127 Colvin Run Road, 12-4((1))30, (5.279 acres), Dranesville Dist., (RE-1 and C-G), S-122-76.

Jim Morrison, manager of the kennel, submitted notices to property owners to the Board. The notices were in order.

Mr. Morrison stated that they presently keep about 200 animals, maximum, even though they were allowed to have 250 under their original Special Use Permit. These animals are cats and dogs and an occasional guinea pig or bird.

Mr. Covington stated that there had been no complaints on this operation.

There was no one to speak in favor or in opposition to this application.

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R E S O L U T I O N

In application S-122-76 by Colvin Run Pet-Otel, Inc. under Section 30-7.2.8.1.1 of the Zoning Ordinance to permit continued operation of boarding kennel, 10127 Colvin Run Road, 12-4((1))30, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 13, 1976.

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

- 1. That the owner of the subject property is Lee Michelitch. The applicant is the lessee.
- 2. That the present zoning is RE-1 and C-G.
- 3. That the area of the lot is 5.279 acres.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to this granting SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. A maximum of 250 animals will be permitted.
- 7. This permit is granted for three (3) years with the Zoning Administrator being empowered to grant three (3) additional one year periods for a total of six years.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

11:20 - WOODLAWN STABLES, INC. appl. under Sect. 30-7.2.8.1.2 of the Zoning a.m. Ordinance to permit continued operation of riding stable with new structure, 8907 Richmond Hwy., 109-2((1))2, (54± acres), Mt. Vernon District, (RE-1), S-123-76.

Mr. Smith stated for the record that this application is not a continued operation, but a new application. The prior Special Use Permit expired in 1973.

Mr. Covington confirmed this.

Mr. Donald Cheatham, attorney for the application with offices at 201 North

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Washington Street, Alexandria, submitted notices to property owners to the Board. The notices were in order.

Mr. Cheatham stated that the plats before the Board show all the existing buildings as they are now in place. A building permit for the new riding ring was acquired about two months ago. He explained the problems they had had with the confusion as to whether or not a building permit would be required.

Mr. Covington stated that all structures larger than 8' x 10' require a building permit.

The Board asked the applicant to get the building permit number in order that this could be checked.

Mr. Cheatham stated that the applicant has leased this property for a five year term from 1975 until 1980. A copy of the lease is in the file. This property will be used for boarding horses, riding school, polo field, and a commercial tack shop.

Messrs. Smith and Barnes stated that they were both on the Board at the time the original Special Use Permit was granted and there was no permission given to sell tack.

Mr. Covington stated that the applicant was given a violation notice and told to shut down.

Mr. Cheatham stated that they have about 60 horses. These are both boarders and horses owned by the applicant. There are about 40 boarders and about 20 applicant owned horses.

Mr. Clarence Lucas, manager of Woodlawn Stables, testified that there are about 60 stalls in the barn in which to house these horses. He stated that no stalls have been added since the original Special Use Permit was granted.

In answer to Mr. Smith's question, Mr. Lucas stated that they are operating the stable now. He stated that he did not supervise the selling of the equipment, nor have anything to do with it.

Mr. Cheatham explained that the tack shop is a separate corporation under the name of Black Fox. The Black Fox operates a tack shop in Alexandria. They have a contingent lease on having a tack shop on this property. He submitted a copy of the lease for the tack shop corporation.

Mr. Cheatham stated that the polo fields and the people who play polo there have formed a non-profit corporation of their own. The polo facility will be operated by Woodlawn Stables, Inc. however. Woodlawn Stables, Inc. will have control over the polo fields.

Mr. Lucas came forward and discussed the plat with Mr. Barnes.

Mr. Cheatham, in answer to Mr. Smith's questions, stated that the polo season is from May to October. They have two matches a week, one on Friday night and one on Sunday afternoon.

Mr. Cheatham stated that they also would like to have horse shows. He stated that they would like to have about four to six shows per year.

Mr. Smith stated that they would be permitted to have horse shows in connection with the school, but not open shows. There could be separate shows with special permission from the Zoning Administrator as long as they are sponsored by a non-profit organization and meet the usual requirements for those special shows.

Mr. Neil Fisher, attorney and representative of the Woodlawn Stables, Inc. and the majority stockholder of the corporation, testified before the Board. He stated that this corporation was formed in April, 1975. He stated that he was not involved in the corporation at that time. This past November, the corporation was going bankrupt and he then stepped in and took over control and tried to get the corporation back to a solvent corporation. At that time, the corporation was running a riding school and leasing the tack shop. He stated that he had assumed the tack shop had a permit, because there was a permit of some type on the wall. He stated that it has turned into a bag of worms. He stated that he received communication from Mr. Knowlton and Mr.

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Covington. It was determined that there was not a permit to run a school or a tack shop. He stated that his council, Mr. Hazel, sent a letter to Mr. Knowlton stating that they would close down until they could get the necessary permits. During December they started construction on an indoor riding arena. It is a new pole building. On advice from the architect, Mr. Walt Mitchell, they did not immediately get a building permit for the riding ring. It was Mr. Mitchell's opinion that as long as it was a residential farm building, a building permit would not be necessary. They subsequently had a meeting with Mr. Knowlton about this and a building permit was secured. The operation for the riding school was shut down entirely. On advice of counsel, they did continue to board horses.

Mr. Covington stated that no Special Use Permit is needed for boarding horses.

Mr. Fisher stated that the riding school has now been reestablished pending the outcome of this hearing. This was also done on advice of counsel, Mr. Hazel. For the past 30 days, they have been taking registration and have given minimal lessons.

Mr. Smith stated that this is in violation of the Zoning Ordinance.

Mr. Fisher stated that the number of the building permit is 7603B0522. It was issued on May 3rd, 1976.

In answer to Mr. Durrer's question, Mr. Fisher stated that their intent for the use of this property is,

- (1) to operate a boarding facility, which they are currently doing,
- (2) to operate a commercial riding school,
- (3) to have a polo playing field,
- (4) to have horse shows and to apply for special permission to have horse shows other than for the riding school students,
- (5) to buy and sell horses, and
- (6) to allow the corporation of Black Fox Saddlery to operate a tack shop out of space in their building. This will be a commercial tack shop.

Mr. Durrer inquired of the Chairman if this Board has the authority to allow the tack shop to be operated there.

Mr. Smith stated that he did not think it was appropriate because of the national historic area that this property is in. He stated that there are a lot of independent businessmen who have this type of business and people can purchase equipment from them.

Mr. Swetnam agreed.

Mr. Covington stated that he had had no real problems with this use, only complaints from other stables that have complied with the Ordinance.

Mr. Barnes stated that, regarding the horse shows, he felt these would be allowed as long as they are for the students. The other special horse shows must be sponsored by a non-profit group such as the Lions Club, etc.

Mr. Fisher stated that that also was his understanding and he concurred with this.

Mr. Durrer inquired that if they are allowed to have horse shows, if the parking is adequate.

Mr. Fisher stated that the parking is adequate. They have 57 acres there.

Mr. Don Holfish from the Woodlawn Polo Club spoke in support of this application. He stated that the polo club has been there for eighteen years. Without this property to use for their club, they would not have a place to meet. He stated that they have two Bicentennial events coming up of importance. It will be the Americans against the British. This will be for the benefit of the National Trust for Historic Preservation.

Mrs. Kollet, Stirrup Lane, representing the Mount Vernon Council of Citizens Associations presented the Board with a resolution by that Association in support of this application.

Roy Jones, president of the Black Fox that is proposing to operate a tack shop from this property, spoke in support. He stated that it is a small 10' x 20' room and would serve as a pro-shop, similar to pro shops in country clubs and tennis facilities. The shop would have emergency horse care

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products. It will not sell clothing. He stated that they are not presently operating at this location. They are stocking the shop now in the hope that this will be approved.

Margaret Becker, a nearby neighbor of this facility, spoke for herself and eight of her neighbors. She submitted a signed statement from the neighbors requesting that a public address system not be used for teaching of riding or in the arena area for polo games.

Mr. Durrer stated that he felt this would be taken care of under the new Noise Ordinance. He stated that he did not know how polo games could be held without the use of a public address system.

Mr. Smith stated that all noise would have to be confined to the site.

Mr. Swetnam stated that he had sympathy for Mrs. Becker and her neighbors since he lives near Frying Pan Park that has three horse shows every Saturday. It has three rings and three separate address systems, each trying to get louder than the other. He suggested that the County monitor the system.

Mr. Smith stated that the cost for this would have to be borne by the applicant.

Mr. George Smith, administrator of Woodlawn Plantation and employed by the National Trust for Historic Preservation, stated that he would be happy to answer any questions the Board might have regarding the lease. He stated that Mr. Updike's lease was terminated in 1973. This lease has many more restrictions. The Board had no questions.

There was no opposition to the application.

In answer to Mr. DiGiulian's question, Mr. Fisher stated that the hours of operation would be from 7:00 a.m. to 8:00 p.m. except for Friday night's polo game which is from 9:00 p.m. until 10:00 p.m. during the season.

Mr. DiGiulian inquired about the proposed signs.

Mr. Smith stated that no signs would be allowed, except during the polo games.

Mr. Smith stated for the record that this case has gone before the Architectural Review Board. The Board of Zoning Appeals is in receipt of correspondence from that Board stating that the building, as it is in place, is in compliance with the basic intent of the Architectural Review Board.

R E S O L U T I O N

In application S-123-76 by Woodlawn Stables, Inc. under Section 30-7.2.8.1.2 of the Zoning Ordinance to permit operation of riding stable with new structure 8907 Richmond Highway, 109-2((1))2, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 13, 1976.

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

1. That the owner of the subject property is National Trust for Historic Preservation in United States. The applicant is the lessee.
2. That the present zoning is RE-1.
3. That the area of the lot is 56.7 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That the property is subject to pro rata share for off-site drainage.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable

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without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.

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

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. This Special Use Permit is for the operation of a riding school, boarding facility, polo field and horse shows for the riding school only are permitted.

7. Noise from the public address system will not extend beyond the area of this property.

8. The hours of operation shall be from 7:00 a.m. to 8:00 p.m. seven (7) days a week except Friday nights during polo season when the hours shall extend until 10:00 p.m.

9. This Special Use Permit is granted for a period of three (3) years.

10. No signs are permitted.

Mr. Swetnam seconded the motion.

For clarification, Mr. Barnes inquired if the applicant could come in and request that the Zoning Administrator grant a special permission type of permit for an occasional horse show other than those connected with the riding school as long as the applicant complied with the usual requirements for that type horse show.

Mr. DiGiulian stated that he did not mean his motion to preclude that.

Mr. Swetnam stated that that is something that can be done by right.

Mr. Jones from Black Fox inquired of the Board why the motion had not included the tack shop.

Mr. DiGiulian stated that the intent of his motion was that a tack shop would not be permitted.

Mr. Swetnam stated that he did not feel a tack shop should be a part of this application.

Mr. Covington stated that tack shops are not permitted as a separate operation in a residential zone.

Mr. Jones inquired if it would be permitted if it had been applied for by the applicant.

Mr. Smith stated that the Board has far exceeded the time limit allotted for this application.

Mr. Durrer called for the question.

The motion to grant in part passed 5 to 0, all members present and voting.

Mr. Jones again inquired why the Board denied the tack shop.

Mr. Smith stated that that was the decision of the Board to deny the tack shop. The application has been granted as Mr. DiGiulian read it for a period of three years. At the end of that time, or several months prior to the end of that time, it will be necessary to reapply to this Board and come back for another public hearing.

11:40 - STEPHEN WEICKER, MILLER appl. under Sect. 30-6.6 of Ord. to permit a.m. construction of house closer to center line of ingress-egress easement than allowed by the Zoning Ord. (45' from center line, 75' required), 1081 Cedrus Lane, 19-2((1))pt. 31 & 50, Peacock Station, Lot 26, (85,534 sq. ft.), Dranesville District, (RE-2), V-124-76.

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Mr. Miller submitted notices to property owners to the Board. The notices were in order.

Mr. Miller stated that he had owned the property since March 1976. In answer to Mr. Durrer's question, he stated that he did not know that this variance would be required until the plans were well into the permit stage. It does not come out during the survey of the property at the time of purchase. The drive does exist now. It is 12' wide and serves the five acre lots behind his property.

Mr. Miller stated that he would not be able to use his property to construct a house if this variance is not granted. He stated that he will live in the proposed house.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. Swetnam moved that the Board adopt the following resolution:

WHEREAS, application V-124-76 by Stephen Weicker Miller under Section 30-6.6 of the Zoning Ordinance to permit construction of house within 45' of center line of ingress-egress easement (75' required by Ord.), 1081 Cedrus Lane, 19-2((1))part 31 and 50, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 13, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 85,534 square feet.
4. That the Board finds that the applicant's property is exceptionally irregular in shape, including narrow or shallow and has exceptional topographic problems.

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

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

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

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

Mr. DiGiulian seconded the motion.

The motion passed 5 to 0, all members present and voting.

Page 315, July 13, 1976 -- The Board recessed for lunch at 1:05 p.m. and returned at 2:15 p.m. to take up the 12:00 Noon application.
12:00 - THE CHURCH IN FALLS CHURCH appl. under Sect. 30-7.2.6.1.11 of the Noon Zoning Ord. to permit construction of church, 2231 West Great Falls Street, 40-4((1))48, (4.9335 acres), Dranesville District, (R-10), S-125-76.

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Mr. Elton Karr, 20005 North Vermont Street, Arlington, Virginia, represented the applicant. He submitted notices to the property owners to the Board. The notices were in order.

Mr. Karr stated that this is a new church as far as Virginia is concerned. The congregation is now meeting as a church in the District of Columbia. However, more than two-thirds of the congregation live in Virginia at the present time. The church address is 4103 Connecticut Avenue. It has been established for three years. The proposed location is more central to its congregation. This church is non-denominational. The only church that is existing is the one in Washington as far as this organization is concerned. This church is not connected with any other group or church. This church has fellowship with other churches.

Mr. Karr stated that the architecture will be modern. The building will be two stories, in part. The seating capacity will be approximately 250. The Sunday morning services will be held around 9:30 a.m. until 12:00 Noon. The evening services will be held from 7:00 p.m. until 9:00 p.m. There will be approximately three meetings during the week from 7:30 until 9:30 p.m. These will be Christian meetings for Christian believers to be helped to go on with knowing the Lord's work better. In that sense, these meetings are educational. The meetings are for the church members, but friends are encouraged to come. This property is under contract to purchase. There is a 1-1/2 story house on the property at the present time which will remain for some time. It is in the life estate of the land owner, Mr. Otis Printz's, mother. She will continue to live there until her death. At that time, the building will probably be removed and a more modern structure constructed.

In answer to Mr. Smith's question, Mr. Karr stated that he is the leader of this church group. He stated that he was ordained by the Southern Baptist Convention, but he is no longer with the Baptist faith. He stated that the membership of the present Church in Washington is 130. He stated that they would begin construction on the new church just as soon as the paperwork is completed with the County and as soon as they obtain financing.

In answer to Mr. Durrer's question, Mr. Karr stated that the church does not own the property where it is presently having services.

In answer to Mr. Durrer's question, Mr. Karr stated that the majority of the membership of the church lives in Virginia, there are a few families living in Washington, D. C. and one family living in Maryland.

Mr. Leonard Wilson, 2220 Casemont Drive, stated that he was not speaking in favor or in opposition, but wished to inquire about the meaning of the 'recreational area' indicated on the plat before the Board.

Mr. Karr stated that that term only means that there would possibly be some children playing in that area, particularly during Sunday morning meetings. The teachers sometimes take the children outside. In addition, there might be some Sunday afternoon picnics there by members of the congregation. It is a nice wooded area and they wish to keep it that way. There will be no recreational equipment placed there.

Mr. Smith stated that this would require specific approval of this Board, should the church decide to place equipment any place on the property.

Mr. Wilson inquired if this group has any connection with the group known as the Rev. Moon's organization.

Mr. Karr stated that he is not familiar with that organization except from what he reads in the newspapers, but this church group is absolutely not connected in any way with that group. He stated that this church group strongly repudiates Rev. Moon's activities.

Mr. Karr stated that there is another church in Falls Church with the same name as this proposed church.

Mr. Smith stated that that would be a private, civil, legal, matter and not within the jurisdiction of this Board.

Mrs. DuVall, 2222 Casemont Drive, spoke regarding the recreational area and

her desire to see this wooded area kept as it is. She stated that she is concerned about having a recreation area and picnic area that close to her residence. She stated that she wanted that area to be left residential.

Mr. Smith explained to her that this application is not a rezoning. The property stays residential. He stated that if the community would like to have the recreation area fenced to protect their properties, then the Board would consider making that a condition of the granting. However, since the area is to be left in its natural state, it would seem to be more desirable not to have it fenced. If there comes a time when it becomes a nuisance, then the Board could reconsider the Special Use Permit and require fencing at that time.

Mrs. DuVall stated that she had no desire to request fencing at this time.

There was no one else to speak regarding this application.

R E S O L U T I O N

In application S-125-76 by The Church of Falls Church under Sect. 30-7.2.6.1.1 of the Zoning Ordinance to permit construction of church, 2231 West Great Falls Street, 40-4((1))48, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 13, 1976.

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

1. That the owner of the property is Otis B. and Mildred Printz.
2. That the present zoning is R-10.
3. That the area of the lot is 4.9335 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum seating capacity is 250, with 63 parking spaces.
7. The hours of operation are from 9:00 a.m. to 12 Noon and 6:00 p.m. to 9:00 p.m. on Sundays and three evenings per week from 7:30 p.m. to 9:30 p.m. not excluding any other normal church activities.

Mr. Barnes seconded the motion. The motion passed unanimously (5 to 0).

(amended to IMMANUEL CHRISTIAN SCHOOL, INC.)
12:20 - IMMANUEL BAPTIST CHURCH/appl. under Sect. 30-7.2.6.1.3.2 of the Zoning Ord. to permit operation of school of general education in existing church, 155 students maximum 8:30 a.m. to 3:30 p.m., weekdays, 7210 Braddock Road, 71-3((8))12 & 13, (3.4328 acres), Annandale District, (RE-1), S-149-76, OTH.

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Mr. Miller, administrator for the school board, submitted notices to property owners to the Board. The notices were in order.

Mr. Miller stated that this school will be kindergarten through third grade. The age group will be from 4 through 10. The hours of operation will be from 8:00 a.m. until 3:30 p.m. five days a week, Monday through Friday. This school will be run by the church, but through a separate corporation that was just formed. The church membership is the owner of the corporation.

The Board, by motion of Mr. Swetnam, seconded by Mr. DiGiulian, amended the application to read Immanuel Christian School, Inc.

Mr. Miller presented a copy of the corporation papers and a copy of the lease agreement between the corporation and the church. The lease agreement was not signed.

The Board was in receipt of a letter from Mr. and Mrs. Amos Cornell, 7209 Wilburdale Drive, Annandale, stating that when the church was being constructed a few years ago, the pastor made a verbal agreement to put a screen between the church property and the adjoining lots. This was to be either a board or a plant screen. The letter stated that, to date, no effective screen exists. They asked the Board to consider this screening at this time.

Mr. Miller stated that the church had put in some evergreen trees in accordance with County requirements. Those trees are not very large, but they are alive.

Mr. Smith stated that landscaping and screening would be required in accordance with whatever the County staff might feel would be appropriate, particularly for the play area.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-149-76 by Immanuel Christian School, Inc. under Section 30-7.2.6.1.3.2 of the Zoning Ordinance to permit operation of school of general education in existing church, 7210 Braddock Road, 71-3((8))12 & 13, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 13, 1976.

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

1. That the owner of the property is Immanuel Baptist Church.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.4328 acres.
4. That compliance with the Site Plan Ordinance is required.
5. The property is subject to pro rata share for off-site drainage.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind,

changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering changes) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. There shall be a maximum of 155 students, ages 4 through 10.

7. The hours of operation shall be from 8:30 a.m. to 3:30 p.m., weekdays.

8. This application is granted for a period of three years with the Zoning Administrator being empowered to grant three (3) one year extensions upon presentation of a new lease and request for extension at least 30 days prior to date of expiration.

9. All busses or vans used to transport children to and from school shall be painted, lettered and have the proper lights all in conformity with the State Code requirements for school busses.

10. Landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.

Mr. Swetnam seconded the motion.

The motion passed unanimously (5 to 0).

July 13, 1976

AFTER AGENDA ITEM:

1. OUT OF TURN HEARING REQUEST -- SPRINGFIELD GOLF AND COUNTRY CLUB, INC.
The Club wishes to construct a tennis club house in between the existing tennis courts. This house will be the office for the tennis pro and will have bathroom facilities. This is very much needed as soon as possible.

Mr. Swetnam moved that the Board grant the request and schedule the out of turn hearing for August 31, 1976 at 12:40 p.m.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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JULY 13, 1976 - AFTER AGENDA ITEM

2. OUT OF TURN HEARING REQUEST -- MARTIN L. AND DOROTHA L. ADEM, V-170-76.

Mr. Bernard Fagelson, attorney for the applicant stated that originally the County staff felt that this variance would not be necessary and this subdivision of these two lots could be done by the County through other departments of the County. Based on the suggestions of the County staff, the applicant cooperated with the County. However, after a great deal of deliberations, it was decided that a variance from this Board would be necessary. The applicant, in the meantime, had made certain other commitments which has made time of an essence. Therefore, it is important to have this case heard as soon as possible, he stated.

Mr. Dufferin moved that this request be granted and the case scheduled for 2:15 p.m. on August 31, 1976.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEM: McLEAN BIBLE CHURCH, S-151-73, Granted September 12, 1973. No. 3.

The church requested that they be allowed to add a small utility building, 20' x 22' on the side of the property that is next to I-495 (Beltway). The building would set back the proper distance from the property line in accordance with the Zoning Ordinance. The purpose of this building is to house lawn care and maintenance equipment.

Mr. Swetnam moved the request be granted for permission to build the utility building as described as long as the building is compatible with the existing structure insofar as possible.

Mr. DiGiulian seconded the motion.

The motion passed unanimously (5 to 0).

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JULY 13, 1976

AFTER AGENDA ITEM: HAYFIELD ANIMAL HOSPITAL, S-192-75, Granted October 22, 1975. No. 4.

The Board was in receipt of a request from Mr. Wilson Kirby, engineer with the firm of William O. McIntosh and Associates, requesting that the Board approve the revised plan for the animal hospital. He stated that the differences appear to be minor in nature. They are:

- (1) Horizontal change of the building location in the amount of approximately three feet.
- (2) An increase of the total building area of about three hundred (300) square feet.

He submitted a revised site plan for the Board to compare with the original plan that was approved October 22, 1975.

Mr. Kirby appeared before the Board. He introduced Mr. Walter Page, architect with offices in Alexandria, Virginia and whose address is 4411 Colbrook Court, to explain to the Board the reason it was necessary to make these changes. He stated that there was a severe grade problem at the front door of this proposed building location. It was a dangerous situation. They adjusted the entrance back into the building. That took a considerable amount of space in the interior of the building. There was more room needed for the treatment area. When the negotiations began with the owner in July and this plan submitted in August, the plan had been no more than 1/8 inch.

Mr. Swetnam stated that he could understand, if he was only designing at 1/8 inch, how these changes became necessary. He moved that the new plans be accepted as substitutes for those that were originally submitted and approved with the initial application that was granted October 22, 1975.

Mr. DiGiulian seconded the motion. The motion passed unanimously.

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The meeting adjourned at 3:10 p.m.

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BY Jane C. Kelsey
Jane C. Kelsey, Clerk of the Board
of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board of Zoning Appeals on July 20, 1976

APPROVED: September 7, 1976
DATE

Submitted to the Bd. of Supervisors, Planning Commission and other Depts. on _____.

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A Special Meeting of the Board of Zoning Appeals was Held in the Board Room of the Massey Building on Friday, July 16, 1976. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes, Tyler Swetnam and John DiGiulian. All members present.

The meeting was opened with a prayer by staff member, Harvey Mitchell.

10:00 - RIDGE DEVELOPMENT CORP. & EDWARD R. CARR & ASSOC., INC. appl. under a.m. Section 30-6.6.5.4 of the Zoning Ord. to permit garage to remain closer to side property line than allowed by Ord. (6.8', total of 15.7', 8' total of 20' required), 12030 Stuart Ridge Drive, (8,400 sq. ft.), Dranesville District, (R-12.5C), V-126-76.

Mr. Jack Dorsey, Vice-President in charge of construction, submitted notices to property owners to the Board. The notices were in order.

Mr. Dorsey stated that the reason this mistake happened was because in this zone, a carport can extend 5' into the required setback area. The sales department sold a house with an enclosed garage. The construction crew enclosed what was shown on the plans as a carport, therefore, extending 5' into the required setback. This error was not picked up until the carport was already enclosed. They have built 188 houses in this subdivision and this has happened in two cases. They have now developed a plan showing the houses that can and cannot have garages and showing the carports where the buyer can and cannot exercise the option of having the carport enclosed. They will see that this schedule is posted in the sales office and the sales people instructed to check that plan so that this mistake does not happen again.

The Board agreed that this is a good plan and asked for a copy of it, so that others might also use it.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

WHEREAS, application no. V-126-76 by Ridge Development Corporation and Edward R. Carr & Associates, Inc. under Section 30-6.6.5.4 of the Fairfax County Zoning Ordinance to permit a garage to remain closer to side property line than allowed by the Ord. (6.8' total of 15.7', 8' total of 20' required), 12030 Stuart Ridge Drive, tax map 11-3((3))158, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 16, 1976.

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

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

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

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

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

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

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Barnes had not yet arrived.

10:20 - JAMES & EMMA HILTON appl. under Sec. 30-6.6 of Ord. to permit subd. a.m. of lot with one lot having less than required frontage, (102' of frontage, 150' required), 2325 Cedar Lane, 39-3((9))16, (2.3711 acres), Providence District, (RE-1), V-127-76.

Mr. Hilton was represented by Mr. William Murphy, 123 Clarke Street, N.E., Vienna, Virginia. Mr. Murphy submitted notices to property owners to the Board. The notices were in order.

Mr. Murphy stated that the reason for this request is because of the exceptionally irregular shape and configuration of the lot in comparison with adjoining lots. The existing lot is much larger than any other adjoining lots. Each proposed new lot contains more than one acre. When the applicant purchased the property in 1958, they had intended to record a subdivision plan at that time, but failed to do so. This variance would not have been necessary in 1958. The strict application of the zoning ordinance requiring 150' of frontage would result in a treatment of this lot that is different from the other lots, he stated.

The Board members discussed with Mr. Murphy the possibility of moving the line over 10' or 15', in order to grant only a minimum variance.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. DiGiulian made the following motion:
WHEREAS, application no. V-127-76 by James and Emma Hilton under Sect. 30-6.6 of the Zoning Ordinance to permit subdivision of lot with one lot having less than required frontage, 2325 Cedar Lane, 39-3((9))16, County of Fairfax, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 16, 1976.

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 2.3711 acres.
4. The Board finds that the applicant's property is exceptionally irregular in shape.

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

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

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

1. This is granted for 112' of frontage.
2. This approval is granted for the location indicated in the plats (with the line moved over toward the existing house 10') included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Swetnam seconded the motion. *

The motion passed unanimously.

*Mr. Swetnam had offered an amendment to the motion granting the 112' frontage with a condition that they were granting this 112' frontage providing that the septic lines are missed by 10'. He stated that he would like this wording added in order to let that line remain fluid.

Mr. Smith stated that it was not possible to grant that type of variance. The Board has to be specific. If it is not possible to move the line over 10', then the applicant could come back to this Board, without additional fees, etc. and the Board could grant the 102' at that time.

Mr. Swetnam stated that he didn't want the applicant to have to go through the entire process again and also did not want the applicant to have to pay an additional fee. The scale used for the plats is very small.

Mr. Barnes seconded Mr. Swetnam's amendment.

The amendment failed 3 to 2 with Messrs. Smith, Durrer and DiGiulian voting No.

The main motion passed unanimously.

10:40 - ARTHUR & JOYCE HISH appl. under Sect. 30-6.6 of the Zoning Ord. to
a.m. permit construction of 6' fence within required front setback area,
(30' off front property line required), 4142 Minton Drive, 58-3((12))
66, (13,965 sq. ft.), Annandale District, (R-17C), V-129-76.

Ralph Louk, attorney for the applicant, submitted notices to property owners to
the Board. The notices were in order.

Mr. Louk stated that the lot in question is a corner lot that is on a hillside.
He asked the Board to look at the pictures the applicant had submitted. He
stated that the pictures will show that the fence will be no higher than the
ground as one approaches the intersection. Lot 67's driveway is on the other
side of that house, therefore, there will be no problem with site distance.
Approaching that intersection from the main street, there is also no problem
with site distance because of the existing topography.

Mr. Louk submitted a rendering showing how the wooden fence would look.
He stated that this fence is needed because of a stone retaining wall that is
in the back yard of that house. That stone retaining wall is about 4' high.
A 4' fence would not be high enough to keep the children from climbing over.
That retaining wall is dangerous and this fence will provide a safety aspect.

Mr. Smith stated that the reason for the 4' high requirement on fences is
to keep 6' fences out of the front yard.

Mr. Louk stated that the area where this fence is proposed could not possible
be considered a front yard.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

Mr. Durrer moved that the Board adopt the following resolution:

WHEREAS, application V-129-76 by Arthur and Joyce Hish under Section 30-6.6 of
the Zoning Ordinance to permit construction of 6' fence within required front
setback area, 4142 Minton Drive, 58-3((12))66, County of Fairfax, has been
properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board
held on July 16, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17C.
3. That the area of the lot is 13,965 sq. ft.
4. That the Board finds that the applicant's property is a corner lot and
has exceptional topographic problems, and that the fence will not present a
site distance problem.

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

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

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

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

Mr. Barnes seconded the motion. The motion passed 4 to 0. Mr. Smith abstained.

Page 323, July 16, 1976

11:00 - CHESAPEAKE & POTOMAC TELEPHONE CO. OF VA. appl. under Sect. 30-7.2.2
a.m. .1.4 of the Ordinance to permit addition to existing dial center and
relocation of parking lot, 6316 Grovedale Drive, 81-3((5))9, (1.9997
acres), Lee District, (CN & RE-1), S-130-76.

11:00 - CHESAPEAKE & POTOMAC TELEPHONE CO. OF VA. appl. under Sect. 30-6.6
a.m. to permit addition closer to zoning boundary line (same location as
above), V-147-76

Mr. Mitchell, Associate Planner from Zoning Enforcement, stated that the Planning Commission had approved this addition for the location, character and extent in accordance with the requirements under the State Code, Section 15.1-456. Therefore, this application is properly before this Board.

Mr. William Donnelly, attorney with the firm of McCandlish, Lillard, Church and Best, 4069 Chain Bridge Road, Fairfax, represented the applicant before the Board. He submitted notices to property owners to the Board. The notices were in order.

Mr. Donnelly stated that the telephone company is applying for a Special Use Permit to permit an addition to the existing dial center on Grovedale Drive. This addition will be of brick construction, compatible with the existing building. The parking will be moved to the rear of the building in the residential zone. The property where the addition is proposed is zoned C-N. The variance is necessary because the building, as extended, would not have the required distance from the zoning boundary line. The Ordinance requires a 25' setback from a commercial building to a residential zoning boundary line. This is an unusual situation because no variance would be needed if the entire lot was zoned RE-1, or if the entire lot was zoned C-N. The building is setback ample distance from all property lines.

Mr. Donnelly stated that the Planning Commission did approve this request and also recommended that this Board approve the request for this addition and also for the parking. The original building was constructed in 1965.

Mr. Smith inquired of Mr. Mitchell if the Zoning Administrator had ruled that this request does not need a Special Permit from the Board of Supervisors for the parking for a commercial use on residential land.

Mr. Mitchell stated that that was correct. In this case the applicant could have applied to the Board of Supervisors for commercial parking on residentially zoned land, or for a Special Use Permit for the total use, part of which is on residential land. The applicant chose the latter. Parking is a part of the use.

Mr. Traylor from C & P gave a little more details concerning the use to the Board. He stated that the proposed addition is necessary to house equipment to provide service in the area of Fairfax County already served by the existing communications center. They anticipate that the proposed addition will provide adequate space to serve this area until 1994. It will be the same height as the existing structure and constructed of the same materials. At present 6 employees are assigned to the building. They anticipate that by 1994 a maximum of 9 people will be assigned to the building. The building abuts commercially zoned property on three sides. A thick screen of evergreens, which will be preserved, screens the portion of the site which will be developed from the residential development which abuts the rear of the property. The existing site is the logical place for the new equipment to be installed since it is ancillary to and supportive of the existing equipment.

Mr. Traylor stated that the proposed use will produce no noise, no smoke, no odor or air pollutants, no radioactivity, and will discharge no solid or liquid waste other than those handled by the sanitary sewer system. It will cause no interference with electronic equipment.

Mr. Smith read the Planning Commission's recommendation to the Board for approval of this request, which included a condition that any necessary landscaping and screening be installed and maintained to the satisfaction of the Director of Environmental Management.

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R E S O L U T I O N

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Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, application V-147-76 by C & P Telephone Company of Va. under Sect. 30-6.6 of the Zoning Ord. to permit construction of addition within 14.72' from zoning boundary line (25' required), 6316 Grovedale Dr., 81-3((5))9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 16, 1976.

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

1. That the owner of the property is the applicant.
2. The present zoning is CN & RE-1.
3. That the area of the lot is 1.9997 acres.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing buildings, the building is all on C-N and the parking is on RE-1 with a zoning boundary line through the middle.
5. This variance is necessary for efficient service for the facility.

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

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

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

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

Mr. Durrer seconded the motion.

The motion passed unanimously.

RESOLUTION -- SPECIAL USE PERMIT

In application S-130-76 by C & P Telephone Company of Va. under Sect. 30-7.2.2.1.4 of the Zoning Ordinance to permit addition to existing dial center and relocation of parking lot, 6316 Grovedale Drive, 81-3((5))9, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous property owners and nearby property owners, and a public hearing by the Board held on July 16, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is CN & RE-1.
3. That the area of the lot is 1.9997 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That the location proposed is necessary for the rendering of efficient service by such facility in accordance with Section 30-7.2.2.4 of the Zoning Ordinance.
6. That the Planning Commission has approved this location in accordance with Section 15.1-456 of the State Code, and recommended approval of the Special Use Permit and variance by this Board.

AND, WHEREAS, the Board has reached the following conclusions of law:
That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. That the addition shall be architecturally compatible with the existing structure.
7. Landscaping and screening shall be provided and(maintained) to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion. The motion passed 5 to 0.

Mr. Durrer after Mr. Barnes second and after the suggestion of Mr. Mitchell that the word "maintained" be included in item No. 7, moved that this Board make the word "maintained" as part of the resolution granting this Special Use Permit.

Mr. Barnes seconded the motion. The motion passed 4 to 1 with Mr. Swetnam voting No. Mr. Swetnam stated that C & P always maintains their grounds and this word was not necessary.

Mr. Donnally also submitted for the recorp a map showing the area of the County which is serviced by this facility.

11:20 - CONSTRUCTION GROUP, INC. appl. under Section 30-6.6.5.4 of the a.m. Zoning Ordinance to permit house to remain closer to front property line than allowed by the Ord. (28.8' from front, 30' required), 11170 Tattersall Trail, 47-3(1)pt. parcel 1, Tattersall Sec. 1, lot 34, (20,193 sq. ft.), Centreville District, (RE-IC), V-131-76 AND

Mr. Orlo C. Paciulli, engineer, represented the applicant. He submitted notices to property owners which were in order, by motion of Mr. DiGiulian, seconded by Mr. Durrer and passed unanimously. He stated that Mr. Greenspan, president of the corporation, is present should the Board have questions of him. He stated that this subject lot is an interior lot in the subdivision. It is a new subdivision and the lots have not yet been sold, except for this house which has been sold. The buyer is aware of the problem and has no objections to this request. The reason for the variance request is because of a mistake that was made by either his engineering stake-out or by the builder. The house was staked out from a set of plans that were subsequently changed by the builder. After the stake-out, the builder failed to recognize that it had not been done in accordance with the revised plans. The house is placed at an angle on the lot where only a small portion of the garage is in violation.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. Durrer moved that the Board grant the following resolution:

WHEREAS, application No. V-131-76 by Construction Group, Inc. under Sect. 30-6.6.5.4 of the Fairfax County Zoning Ordinance to permit house to remain closer to front property line than allowed by Ordinance (28.8 from front line), 11170 Tattersall Trail, 47-3((1))pt. parcel 1, Tattersall, Section 1, lot 34, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 16, 1976.

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

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

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

THAT, the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

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

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

Mr. Barnes seconded the motion. The motion passed unanimously.

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11:30 - CONSTRUCTION GROUP, INC. appl. under Section 30-6.6.5.4 of the Zoning Ordinance to permit house to remain closer to front property line than allowed by the Zoning Ordinance (28.9' from front, 30' required), 11179 Tattersall Trail, 47-3((1))pt. parcel 1, Tattersall, Sec. 1, lot 31, (23,086 sq. ft.), Centreville District, (RE-1C), V-132-76.

Mr. Orlo C. Paciulli, engineer, submitted notices to property owners to the Board. The notices were ruled in order by motion of Mr. DiGiulian, seconded by Mr. Durrer and passed unanimously.

Mr. Paciulli stated that the reason for the need for this variance is because of an error that was made. The topography and unusual soils conditions forced the houses as far forward as possible. During the construction stakeout, a set of plans with a depth of the garage which was subsequently changed was used, resulting in the extension of the garage into the front building restriction area. This condition was not recognized during foundation layout by the superintendent until the third structure was started. The encroachment is for a minimal width and due to the topography, entails no effect either visually or otherwise on the health and welfare of the public.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, application No. V-132-76 by Construction Group, Inc. under Section 30-6.6.5.4 of the Zoning Ordinance to permit house to remain within 28.9' from front property line (30' required), 11179 Tattersall Trail, 46-4((6))31, Tattersall, Section 1, lot 31, County of Fairfax, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 16, 1976.

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

1. That the owner of the property is the applicant.

2. That the present zoning is RE-1cluster.
3. That the area of the lot is 23,086 sq. ft.
4. That the Board finds that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.

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

That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

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

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

Mr. Barnes seconded the motion.

The motion passed unanimously.

11:40 - CALVARY HILL BAPTIST CHURCH appl. under Sect. 30-7.2.6.1.11 of the a.m. Zoning Ordinance to permit construction of church addition and additional parking, 9301 Little River Turnpike, 58-4((1))parcel 38, (5.925 acres), Annandale District, (RE-1), S-133-76.

11:40 - CALVARY HILL BAPTIST CHURCH appl. under Sect. 30-6.6 of Ord. to permit a.m. waiver of requirement for dustless surface for parking area, V-148-76.

Mr. Orlo C. Paciulli, engineer with offices at 307 Maple Avenue, West, Vienna, Virginia, represented the applicant. He submitted notices to property owners to the Board. The notices were in order.

Mr. Paciulli stated that this church has been in existence for about 13 years and has been a good neighbor in the community. This application brings this church under Special Use Permit. This request is for a small addition to the back of the existing facility and in conjunction therewith the parking lot will be expanded to hold 32 additional cars. The present requirement for parking is 81. There are 101 spaces existing. This addition will give the church 135 parking spaces which will be more than ample space. This use will create no adverse impact on the neighborhood. The parking lot will be of crushed stone. This stone will permit a greater absorption of water and less runoff. No dust will be created with the use of the stone. The church plans to pave this lot sometime in the future. The present lot is paved. This church is planning future expansion and when that is done, the parking lot will be paved.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

In application S-133-76 by Calvary Hill Baptist Church under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of church addition and additional parking, 9301 Little River Turnpike, 58-4((1))38, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 16, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.925 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Permit is obtained.
5. The resolution pertaining to the granting of this Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The seating capacity is 405.
8. The number of parking spaces shall be 135.
9. The architecture shall be compatible with the existing structure.
10. The hours of operation shall be the hours of normal church services.

Mr. Swetnam seconded the motion. The motion passed unanimously.

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11:40 - CALVARY HILL BAPTIST CHURCH, V-148-76.
 a.m.

Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, application No. V-148-76 by Calvary Hill Baptist Church under Sect. 30-6.6 of the Zoning Ordinance to permit waiver of requirement for dustless surface for parking area, 9301 Little River Turnpike, 58-4((1))38, County of Fairfax, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 16, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.925 acres.
4. That the Board finds that physical conditions of the land exist on the subject property whereby asphaltting would cause additional runoff and would be a detriment to the neighborhood.

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

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

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

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

Mr. Swetnam seconded the motion. The motion passed unanimously.

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12:00 - THE TIMBERS ASSOC., a nonstock corp., appl. under Sect. 30-7.2.6.1.1 P.M. of the Zoning Ord. to permit renewal of SUP S-146-74, for construction of community recreation facility, Hillside Road and Rolling Road, 79-3((17))D, (3.7339 acres), Springfield District, (R-12.5C and RTC-10), S-135-76.

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(Hearing began at 12:12 P.M.)

Mr. William Donnelly, attorney with the firm of McCandlish, Lillard, Church and Best, 4069 Chain Bridge Road, Fairfax, submitted notices to property owners to the Board. The notices were in order.

Mr. Donnelly stated that this Special Use Permit was previously granted September 12, 1973. On November 6, 1974, the applicant was granted an amendment to the original Special Use Permit for the purpose of constructing multi-purpose courts. On November 6, 1975, the Board extended the Special Use Permit for a period of six months at the request of the applicant. On May 6, 1976, the site plan for the project was at the bonding stage, but construction had not commenced, therefore, the Special Use Permit expired. The proposed application for Special Use Permit for construction of a community center is identical to that previously granted. The applicant is now ready to move forward with this project. The applicant has submitted a bond and agreement. A clearing permit has been obtained and the site has been cleared.

Mr. Donnelly stated that the proposed membership is 390 families. Section 1 of The Timbers has been built and contains 74 townhouses. The townhouses are occupied.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

In application S-135-76 by The Timbers Assoc., a non-stock corp., under Sect. 30-7.2.6.1.1 of the Zoning Ordinance to permit renewal of Special Use Permit for construction of community recreation facility, Hillside Road and Rolling Road, 79-3((17))D, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 16, 1976.

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 and RTC-10.
3. That the area of the lot is 3.7339 acres.
4. That compliance with the Site Plan Ordinance is required.

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

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

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

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

of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. All terms and conditions of the previous granting of the Special Use Permit shall remain in effect.

They are: The maximum number of family membership shall be 390 who are residents of The Timbers.

The hours of operation shall be from 9:00 a.m. to 9:00 p.m.

After hours parties are limited to six (6) per year with special prior written permission from the Zoning Administrator.

Landscaping and screening shall be as approved by the Director of Environmental Management.

All loudspeakers and lights for the pool shall be directed to the pool area and confined to said site. No lights for the multi-purpose courts was requested and would require a new application.

The pool shall conform to the requirements of the Health Dept. A 100 foot buffer of existing trees between the pool and the southeasterly property line shall be preserved.

There shall be parking onsite for a minimum of 20 cars, subject to review as the community develops.

100 bicycle spaces shall be provided.

Mr. Durrer seconded the motion.

The motion passed unanimously.

12:20 - DISMAS HOUSE, a corp., appl. under Sect. 30-7.2.6.1.3.2 of the Zoning Ordinance to permit operation of school of general education with dormitory facilities for 6 boys, 7701 Old Telegraph Road, Piney Run Subd., Section 6, 100-1((9))4, (2.36 acres), Lee District, (RE-1), S-158-76, OTH

(Hearing began at 12:21 p.m.)

Mr. Robert Foldenaur, attorney residing in Reston, Virginia and president of Dismas House, submitted notices to property owners to the Board. The notices were in order.

Mr. Smith set the time for the applicant and opposition at 20 minutes each.

Mr. Foldenaur stated that this is a non-profit corporation. The proposed use of these premises are for a school of general education and a therapeutic group home for six neglected adolescent boys.

Father John Adams, 809 Cameron Street, Alexandria, Virginia, testified about the enrollment of the boys to this school. He stated that Dismas House was conceived to try to help meet some of the needs of the youth in this area. He stated that some of the members of this corporation started discussing this idea when he was co-pastor of St. Mary's Catholic Church at Fairfax Station. So many youngsters were not being cared for properly in this area. There are more than 200 children from Fairfax County being placed outside the State. This is costing Fairfax County taxpayers more than \$15,000 per year, per child. This group of interested people got together and formed this non-profit corporation. For the past two years, this idea for this school has been in the planning stage. The Dismas House will take boys on referral from the Welfare Department, not the Court. These children will not be juvenile delinquents. They will be from homes where they have had poor supervision, alcoholic parents, etc. The staff for Dismas House will consist of three house parents, one couple and one other person; a full time social worker; a full time secretary; and a part-time physiologist consultant. The ratio will be one to one.

Father Adams stated that this house is large enough to house these children very adequately and will meet all requirements of the State and County Codes. One of the greatest advantages to this location is the 2-1/2 acres with a swimming pool. The owner of this property owns another 2-1/2 acres on the other side which is vacant. There is a 7-11 store on the other side.

Father Adams stated that some of the neighbors already have some problem

with youths from the Hayfield High School hanging around the old stone quarry nearby and creating some disturbances. This use will not make this problem go away, but it certainly will not contribute to making the problem worse. This problem for the children at Dismas House will be a structured program including study and play. The children will be supervised in this program from the time they get up until they go to bed. Some of the neighbors have volunteered to help in any capacity that they can. The normal length of time that these children will stay at Dismas House will be from two to three years. He stressed that this house would not be used to keep juvenile delinquents and that this is not to be considered a half-way house.

Mr. Durrer inquired if some of these children that are accepted would be accepted if they have used dope. He stated that there is a statement in the file that they would be accepted.

Father Adams stated that they would accept children who have previously used it, but they would not accept them if they had been convicted of using dope. Most of these children will be underprivileged and neglected. He stated that by saying 'underprivileged', he did not mean poor. This will not be a foster home. It will be an educational therapeutic home in the sense that therapy is tied in with the education.

Ms. Boaland, 8607 Nanlee Drive, certified teacher in the State of Virginia, spoke regarding the educational part of Dismas House. She stated that she will work with the children on a volunteer basis, 40 hours a week if necessary. She will be teaching them math. She stated that she has been a substitute in the Fairfax County School System.

Ms. Herby, 2210 Laurel Ridge Road, resident of Fairfax County for 22 years, registered nurse holding a master's degree from George Washington University in counseling, worked seven years with the public health service and four and one-half years at Lorton, spoke to the Board. She stated that she will be working with these boys and their families. She stated that other than the classroom educational program, the boys will assist in household repairs of a minor nature, yard maintenance, etc. The boys will have individual counseling weekly, or more as needed, and group counseling on a daily basis in order to work out living problems within the house. This counseling would not be possible if the boys were sent out of state.

Sid Steele, 8405 Porter Lane, Fairfax County employee who works in the evening hours with a community association which was organized and is similar to this, he stated, spoke with the Board concerning the home that they have for this purpose. They, however, do not have an educational program within the house and the boys attend the local schools in his neighborhood. The home that their organization operates did not have to have a Special Use Permit from this Board because of the limited number and because they did not have a requirement for the special education. They do have volunteer tutors to work with the boys in the areas where the boys are having problems at school.

Mr. Smith stated that foster homes do not require a Special Use Permit as long as it is just a home, not a school.

Mr. Steele stated that their foster home has been very successful and has not disturbed the neighborhood. The neighbors have been very cooperative in helping with the home. He stated that the occupants of their home are chosen from the Department of Social Services. They get a monthly payment for each boy from the Department of Social Services to help offset the costs of running this home.

Mr. John Heller, 7703 Grovener Court, Fairfax County, past president of the civic association and swim club association, spoke to the Board in support of this application.

Joan Acane, 11005 Roma Street, Fairfax County, stated that she was speaking for 160 people, twenty-five of whom live in Fairfax County, who support this proposed corporation with financial contributions. They are working to support this non-profit corporation because they are concerned with young people and their problems.

Holly Gillicutti, 5911 Vane Drive, Alexandria, resident of Hayfield Farms, stated that she is a neighbor and she had no objections to this use. She stated that the supervisors of these boys would probably be better than in a lot of the home around there. She stated that a number of her neighbors and other people in the community have volunteered to help with this school and home.

The Board recessed for lunch at 1:05 p.m. and returned at 2:22 p.m. to hear the opposition to this application.

Mr. Bruce Burgess, 5802 Broadmoor Street, Alexandria, Fairfax County, Vice-President of the Hayfield Farms Civic Association, spoke to the Board stating that his association chooses to not take a stand on this application at this time, but wishes the Board to defer the case in order that the directors of the association can call a full meeting of the homeowners in order to get a clearer view of how they feel about this application. He stated that at the moment the community seems to be divided on this issue. There are also questions the community would like answered. The association would like to have a representative present at the community meeting, if the Board will defer this case.

Mrs. McGuire, 7702 Old Telegraph Road, across from the Trainor property, submitted a statement in opposition to this application. Her main points of objection were a fear that this use would increase traffic on an already crowded street, that there is not sufficient parking facilities on the site, and the problems that might arise from having these youths in the neighborhood.

Mrs. Wolfe, also across the street from the Trainor residence at 7701 Old Telegraph Road, submitted a letter in opposition to this application. Her main points of objection were the problems that the neighborhood has had already with problem teenagers, the insufficient parking on site, and the entire project and all it stands for, she stated.

Mrs. Janet Koca, 6660 Piney Run Drive, another long time resident of Fairfax County, spoke about the problems involved with keeping foster children.

Mrs. Hartman, 6073 Piney Run Drive, who has lived in Fairfax County 21 years, questioned various sections of the brochure that had been submitted for the file. She stated that the brochure indicates that the boys will be using the local public schools. She voiced her fears concerning security for this facility. She called the Board's attention to the conditions under which the boys would be accepted, according to the brochure. Mrs. Hartman stated that the roadway now passing the property narrows to a width of 16-1/2 feet, has no gutters, curbing, or sidewalks and creates a safety hazard. She stated that the roadway is now overloaded with traffic and is extremely hazardous. He questioned the adequacy of the septic system and the parking facilities. He submitted a statement of objection signed by seven different property owners on Piney Run Drive.

Mr. James Sparaso, 3220 Glen Carlyn Road, spoke in rebuttal to the opposition. He stated that he is a member of the ministry of the Fairfax County jail and is very familiar with some of the problems of boys who are not given proper guidance. This home is not to be a prison. These boys who will be accepted do not need that type atmosphere, he stated. As far as the fear that these boys will attend the local schools, there is a minimum stay for high school students of six months and a maximum of three years. When the green program sheet that is in the file was written six months ago, it was written at the request of Social Services for another purpose. The purpose of this school is to work with the individual child to get him up to grade level in order that he might return to any school that he chooses. He stated that as to Mrs. McGuire's objection regarding the increase in traffic, the traffic will not be any greater than it would if this building was used as a single family home for a family with lots of children. This house is large enough for a family with twelve children. There is ample parking on site. This house sits on 2-1/2 acres of land with a pool. As to the complaint about the septic field's adequacy, the applicant plans to hook up to public sewer.

Mr. Durrer stated that due to the fact that this Board allowed the applicant to come in for this hearing on an out-of-turn basis, that this Board should defer this case to allow the people in the area to find out some additional information about this facility and have a meeting of the citizens. He stated that he did not realize that the applicant was not required to notify the people across the street and this concerns him. He stated that he was sure that the property was posted properly, but he felt the applicant has pushed this case, in his opinion, so that the majority of the citizens would not find out about it. If this has been in the planning stage for two years the applicants should have come in earlier and started preparations for this hearing. They have come in within one month's time and had this hearing. He moved that the Board defer this case until September 21, 1976 at 10:20 a.m.

Mr. Barnes seconded the motion. He stated that he was seconding the motion because this matter should be discussed more thoroughly and the applicant should meet with the citizens of the area and explain these things to them.

Mr. Smith stated that this will give the civic association time to have their meeting, pass a formal resolution, advise the applicant of this meeting and have a representative in attendance, and give the applicant time to answer the civic association's position. A copy of this should be presented to the Board

There will be no additional testimony taken unless the Board has questions of either side. The Board will have the positions of both sides in writing. There will be 20 minutes allotted to this deferred case. The decision will be made in public whenever the decision is made, Mr. Smith stated.

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12:30 - WADE N. HANSBOROUGH appl. under Section 30-6.6 of the Ord. to permit construction of house within 10' of both side property lines, (12' required), Churchill Road, Beverly Manor Subd., 30-2((4))7, 8 & 13, (11,077.77 sq. ft.), Dranesville District, (R-12.5), V-160-76, OTH.

Mr. Clarence E. Reed, Jr., 1101 Pine Hill Road, represented the applicant. He submitted notices to property owners to the Board. The notices were in order.

Mr. Reed stated that this area has been developed just as he is proposing in this application since 1926. He stated that by putting these three lots together, he would get a much better design. This area will be the entrance to approximately 60 more building sites that are the subject of a rezoning to RT-10. The existing lots 7, 8 and 13 are substandard lots that were created prior to the existing Zoning Ordinance and are under what is called the "grandfather clause". He stated that the citizens in the area want single family houses at this location, rather than townhouses.

Mr. DiGiulian stated that when he combines these lots he has^a 11,077.77 sq. ft. lot.

Mr. Smith stated that he felt this would give the owner the reasonable use of the land.

There was no one to speak in favor of this application.

Messrs. John Smigel, Jr., lot 3, 6878 Churchill Road,^{and} Gerald K. Dahmen, lot 2, 6884 Churchill Road, spokeⁱⁿ opposition to this application.

Mr. Swetnam inquired if this actually needs a variance.

Mr. Smith stated that it does, because Mr. Hansborough owns the property on both sides of the subject property and he could resubdivide, an administrative variance could not be granted. These are substandard lots and he could construct on them as long as he was able to meet the setback requirements. If he only owned one lot, he could build, but he owns the adjacent property. Actually, the applicant is trying to get four houses instead of three.

Mrs. Jenkins, 6885 Melrose Drive, Beverly Manor, spoke regarding the dangerous intersection nearby these proposed houses, and how it would be dangerous for the people who purchase these houses to get in and out.

Mr. Reed stated that the state will require the developer to cut down the hill, which will actually help the dangerous situation that already exists on this road. These proposed houses will not make the situation worse than it already is. The proposed houses will be more attractive to the neighborhood than would the type house that could be constructed by right on these long narrow lots. He submitted photographs to the Board showing the type house he proposed to construct.

In answer to Mr. DiGiulian's question about how many variances would be needed for these lots, 1 through 13, Mr. Reed answered, two lots will need variances.

Page 334, July 16, 1976

Mr. DiGiulian made the following motion:

R E S O L U T I O N

WHEREAS, application V-160-76 by Wade N. Hansborough under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of house within 10' of both side property lines on property located at Churchill Road, Beverly Manor Subdivision, 30-2((4))7, 8 & 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 16, 1976.

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 11,077.77 sq. ft.
4. The Board finds that the applicant's property is
 - (a) exceptionally irregular in shape, including narrow or shallow.

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

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

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

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

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained. He stated that he felt this could have been done without a variance.

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12:30 - WADE N. HANSBOROUGH appl. under Section 30-6.6 of Ord. to permit construction of a house within 10' of both side property lines, (12' from side required), Churchill Road, Beverly Manor Subd., 30-2((4)) 5, 6, (7,500 sq. ft.), Dranesville District, (R-12.5), V-156-76, OTH.

Mr. Clarence E. Reed, Jr., 1101 Pine Hill Road, represented the applicant before the Board. He submitted notices to property owners to the Board. The notices were in order.

Mr. Reed stated that this general area of Beverly Manor has been developed just as the applicant proposes to develop this area. This development started in 1926 before a Zoning Ordinance existed. By placing these two small narrow lots together, a better design can be obtained. This area will be the entrance to approximately 60 more building sites which are the subject of a rezoning request for RT-10. The existing lots, 5 and 6, are substandard lots that were created prior to the Zoning Ordinance and are under what is called the 'grandfather clause'. The citizens in the area prefer these single family homes to townhouses.

Mr. DiGiulian stated that when these two lots are combined, he has 7,500 sq. ft. which is somewhat less than R-12.5 cluster requirement of 8,400 sq. ft. The proposed setback would meet the cluster setback requirement.

Mr. Smith stated that if this type of request is going to be made on a large scale, he would object. The courts have decided that this Board has no authority to grant multiple variances.

Mr. Reed stated that the only alternative would be to construct two houses that are 12' wide and place them longways on the lot.

Mr. Smith stated that if he placed three lots together, rather than two, he would not need a variance.

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

Messrs. Smigel, Jr. and Gerald Kahmen spoke in opposition to the application. Their main points of opposition were that the average size lots in the area are 24,000 square feet and they felt that this would affect the property values of their properties adversely.

Mr. Reed stated that the only alternative is to turn the houses side to side on the lot and make long narrow houses. He stated that he felt this would create a more adverse impact on the surrounding property than a conventional colonial house sitting straight on the lot would.
*(see below)

R E S O L U T I O N

Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, Application V-156-76 by Wade N. Hansborough under Section 30-6.6 of the Zoning Ordinance to permit construction of house within 10' of both side property lines, Churchill Road, Beverly Manor Subdivision, 30-2((4))5 & 6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 16, 1976.

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 7,500 sq. ft.
4. The Board finds that the applicant's property is
 - (a) exceptionally irregular in shape, including narrow or shallow.

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

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

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

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

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

* Mr. Gerald Dahmen requested that the Board defer this case for six weeks in order for him to obtain counsel.

Mr. Swetnam moved the request be denied.

Mr. Barnes made a substitute motion that this case be deferred until Sept. 14, 1976 to allow the homeowners contiguous with this location to obtain legal counsel.

Mr. Durrer seconded the motion to defer. He asked how long the homeowners had known about this hearing.

Mr. Dahmen stated that they had known about it for several weeks, but had not obtained counsel because they had hoped to obtain additional information which they had requested from the applicant's attorney and then proceed. The applicant's attorney was not able to provide them with that information because he was out-of-town. Then, the attorney they had hoped to retain was out-of-town, therefore, they still did not have an attorney.

Mr. Durrer declined to second the motion and withdrew his second. There was no other second. The motion died.

Mr. DiGiulian's motion to grant is as above stated.

Page 336, July 16, 1976

DEFERRED CASE: JAMES THOMPSON, V-102-76. Deferred from 6/22/76 for applicant to get file in order and to get proper plats. Full hearing.

The two property owners that were most affected had been notified of the new time. The letters of notification were in the file.

This application is for a variance to permit construction of a dwelling within 15.2' of the side property line (20' required) and 38.2' from front property line, (50' required), on property located at 3221 Highland Lane, 59-1((2))44, (48,723 sq. ft.), Providence District, RE-1 zoning.

Mr. Shea represented the applicant. There were also letters in the file from two property owners, Mr. Clement Wall and Mr. Meyers. Mr. Wall and Mr. Meyers were concerned that the house would stick out in front of the other houses along that block. Mr. Wall also complained about the problems that exist as to the drainage and how he is afraid that the construction of this house at this location will complicate the drainage problems and make them worse.

Mr. Shea stated that he would make it a part of the deed that runs with the property that there could be no construction of any kind behind the flood plain limit.

Mr. Meyer, 3223 Highland Lane, wrote that there are a number of trees on his lot close to that lot line. He stated that as he understood the law, he is liable for any damage that those trees might cause to Mr. Thompson's proposed house. The allowing of the house to be moved closer than presently allowed would seem to increase his potential liability exposure, thus he felt it unwise to concur with the side setback variance request. As far as the front setback variance request, he stated that he would concur with that only if steps could be taken by landscaping or architecture that would hide the fact that the house is too close to the road.

Mr. Smith stated that he agreed that Mr. Meyers has a point about the trees.

Mr. Swetnam stated that the applicant has justification for a variance.

Mr. Smith stated that this house is larger than the other houses in the area. He asked Mr. Shea if he could cut the house down in length at all.

Mr. Shea stated that he had cut the porch off the house. The Board of Zoning Appeals originally granted Mr. Thompson a variance to construct this type house, but without the front porch. Therefore, the plans before the Board do not show the porch. He stated that that variance was granted in 1968, but Mr. Thompson had not constructed that house. He stated that the house could come no closer to the flood plain limit than as it is shown on the plats

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-102-76 by James Thompson under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of house within 15.2' of side property line (20' required) and within 38.2' of front property line (50' required), 3221 Highland Lane, 59-1((2))44, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board called on June 22, 1976 and deferred to July 16, 1976 for corrected information.

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 48,723 square feet.
4. That the Board finds that the applicant's property is near the flood plain which consumes the majority of the lot.

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

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

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

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. This granting does not exempt the applicant from any other State and County regulation.

Mr. DiGiulian seconded the motion. The motion passed 4 to 0. Mr. Smith abstained because he stated that he felt the applicant could have cut the house and the variance request down considerably.

JULY 16, 1976
AFTER AGENDA ITEM:

1. PINE CREST SWIM & TENNIS CLUB, INC. (Deferred for a full hearing from June 22, 1976 in order for the applicant to get the necessary corporate papers and for the rezoning of the land to take place in order for the setbacks shown on the plats to be correct.

The applicant informed the staff by phone that all this has been done. The applicant wishes to have an earlier deferral hearing date than August 31.

The Board ruled that this would not be possible since the Board set this specific date at the time of the public hearing and all of the parties involved were told at that time that the new hearing would be scheduled for August 31, 1976.

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JULY 16, 1976 - AFTER AGENDA ITEM
2. CONSTANCE H. BABB, -

Mr. Smith read a letter from Ms. Babb requesting that the Board allow her to have children in the school from age 2 through 9 in order to keep some after-school children.

The Board ruled that this request should be granted.

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JULY 16, 1976 - AFTER AGENDA ITEM
3. APPROVAL OF MINUTES.

Mr. Swetnam moved that the Board of Zoning Appeals' minutes for June 15 and June 22, 1976 be approved with minor corrections. He also included the minutes for July 6, 1976.
Mr. DiGiulian seconded the motion.

The motion passed unanimously.

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JULY 16, 1976 - AFTER AGENDA ITEM
4. CHRISTIAN ASSEMBLY --

The Board was in receipt of a letter requesting approval of revised plats. The original approval was for a church with 750 seats. The revised proposal is for a church with 400 seats, expandable to 600 seats. There is also shown on the plats:
(1) an amphitheater shown and marked 'temporary';
(2) a playfield, phase one;
(3) parking spaces reduced from 200 to 132 under the first phase;
(4) the old plat showed future access to the unimproved Bell Lane. The new plats show a private drive on Bell Lane.
(5) the old plat shows 7.0095 acres, the new plat 4.0089 acres.

Mr. Swetnam moved that the new plats be approved with these revisions.
Mr. DiGiulian seconded the motion.
The motion passed unanimously.

Mr. Smith suggested that an amendment be added, that if any equipment for the playing field is planned for the future, that this will first have to be approved by the Board. Mr. Swetnam and Mr. DiGiulian accepted that and the motion passed unanimously.

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JULY 16, 1976 - AFTER AGENDA ITEM

5. GREENBRIAR POOL CLUB, INC., S-870-68. On July 6, the Board granted this club permission to have a lifesaving course given from 9:00 p.m. to 11:00 p.m. July 12 through July 23. However, by the time they received our letter saying that it was o.k., they ran out of time and since they did not have permission, they cancelled the scheduled course. They wish to reschedule it for August 9 through August 20, 1976.

Mr. DiGiulian moved that the request be granted.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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The Board meeting adjourned at 4:45 p.m.

Jane C. Kelsey
By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN
BOARD OF ZONING APPEALS

Submitted to the Board of Zoning Appeals on August 16, 1976.

APPROVED: September 7, 1976
DATE

Submitted to the Board of Supervisors, Planning Commission, County Attorney and County Executive on Sept. 1976.

The Regular Meeting of the Board of Zoning Appeals
 Was Held in the Board Room of the Massey Building
 on Tuesday, July 20, 1976. Members Present:
 Daniel Smith, Chairman; William Durrer, Vice-Chairman;
 Tyler Swetnam; George Barnes; and John DiGiulian.

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The meeting was opened with a prayer by Mr. Barnes.

and KINDER CARE LEARNING CENTERS, INC. (as amended 7/20/76)
 10:00 - CHILD CARE PROPERTIES, INC./appl. under Section 30-7.2.6.1.3 of the
 a.m. Ordinance to permit construction and operation of day care center,
 120 students, 7 A.M. to 6 P.M., weekdays, Wolftrap Road, approximately
 600' west of intersection with Gallows Road, 39-4((1))part of lot 1,
 (34,500 sq. ft.), Providence District, (RE-1), S-128-76.

Mr. Richard Hobson, attorney for the applicant, submitted notices to property owners to the Board. The notices were in order.

Mr. Hobson stated that the subject property is immediately across the street from the Joyce Kilmer Intermediate School; adjoins the YWCA building on the east; the property on the west is vacant. Nearby to the east on Wolftrap Road and Gallows Road is the Dunn Loring Fire Station. There are no single family residences of any kind immediately adjacent to the subject property, he stated. The applicant proposes to construct on this 34,500 sq. ft. site, a one story building with fifteen parking spaces. This school will operate between 7:00 a.m. and 6:00 p.m. 120 students are requested. The staff will consist of one cook, no attendants and 10 staff teachers. The Health Dept. has approved the building plans. A letter of that approval is in the file.

Mr. Hobson stated that the applicant has developed 140 child care centers in this country by lease arrangement with Kinder Care Learning Corp., which will operate this center. This facility will provide day care and nursery services at a price a working mother can pay, he stated. The design is attractive. This is not a franchise operation. He submitted a copy of the lease arrangement between Child Care Properties and Kinder Care Learning Centers, Inc.

At Mr. Smith's suggestion, Mr. Hobson requested the Board amend the application to include Kinder Care Learning Corporation.

Mr. Barnes so moved, Mr. DiGiulian seconded the motion and the motion passed unanimously. Mr. Smith stated that a Certificate of Good Standing would be necessary for Kinder Care also. Mr. Hobson gave the Board statistics relating to the need for this facility in this area and in Fairfax County and the United States.

The question arose as to whether or not the YWCA site that is already under Special Use Permit included the subject property. The site plan department furnished the Board with a copy of the site plan which was approved. That site plan did not include the applicant's property. However, the Board of Zoning's appeals plat that was in the file on which approval of the YWCA site was based, did show the applicant's property as being a part of the YWCA Special Use Permit property.

Mr. Hobson stated that he felt the Board, by approving this property, could amend the Special Use Permit property for the YWCA by deleting the applicant's property from the YWCA property.

Mr. Smith brought up the question on the size of the subject property for a day care center and nursery for 120 children. He stated that the 'play area' as indicated on the plat is only that portion of land which is in the setback area between the building and the property line, 32' on the YWCA Building side and 26' on the vacant lot side. He stated that this applicant has had three applications before this Board and all the sites were very small, just as this one is, particularly considering the number of children that is to be served here. The building is 94.33' x 56.83' with 15 parking spaces. This certainly leaves very little play area, he stated.

Mr. Hobson stated that the applicant is going to have little children here. The size and area of the lot meets both state and county standards for play area for this number of students.

Mr. Smith asked if additional property could be purchased in order to increase the play area.

Mr. Hobson stated that he supposed it could be, if the YWCA was willing to sell.

Nancy Jacobs, 11700 Pine Tree Drive, Fairfax County, Regional Director for Kinder Care Learning Centers, Inc. representing this area and all of Virginia, spoke to the Board regarding the outside play area. She stated that all of the classrooms do not go outside at one time. Each teacher takes her class out for thirty minutes in the morning, or less time depending on the number of children in the center. The state requirement for play area is 7500 square feet per child and 13000 square feet would be more than adequate for the children. 13,000 square feet is the actual play area for this center. These child care centers are in 17 different states and it has been found to be more than adequate. The parents are happy and the children are happy.

Mr. Smith stated that the County requires a 10 acre site for a 600 student school. This play area is in the setback area and is entirely too crowded, he stated.

Ms. Jacobs stated that the ages of the children are from 2 through 4 years and some 5 year olds. There is a kindergarten program, but Fairfax County has a public kindergarten, so most children will go to that that are old enough.

Mrs. Newport, president of the board for the YWCA, stated that she did not realize that the entire parcel of land the YWCA owns was under Special Use Permit. The building and the parking lot were separated on the site plan that was approved and she did not realize the plat that this Board approved was different. She stated that the reason the YWCA purchased this large amount of land originally, 10.93 acres, was because they could not purchase only a portion of it, they had to purchase all of it. The YWCA could like to sell all of the excess land except where the building and the parking lot are situated.

Mrs. Newport read a statement into the record from the YWCA in support of this application.

Doris Ryber, 1158 Swinks Mill Road, McLean, member of the Board of the Fairfax County YWCA, stated that the building and the parking lot is on 3.61 acres of land. She stated that there is a pending contract on the remainder of the vacant land on the other side of the proposed child care center. Therefore, they are not free to offer any more land for sale to the applicant. There are similar contingencies to the pending contract as was in the contract with Child Care Properties, Inc.

Mr. Steve Petersen, certified traffic expert before the Fairfax County Circuit Court, testified as an expert witness in this case on the traffic impact this use would have to the surrounding area. He gave his certifications to the Board. He stated that the proposed child care facility will have one small bus which would accommodate up to 15 students or 10 percent of the enrollment. The remaining 90 percent would be either driven to or from school in a vehicle or would walk. The bulk of the children enrolled in this facility are proposed to be drawn from a 1-1/2 mile radius. He submitted a statement to the Board to be included in the record with more specifics as to the traffic that this facility would generate.

In summary, he stated that in his professional judgment this application meets the standards set forth in Section 30-7.1.1 of the Zoning Ordinance regarding traffic and safety related thereto. There are no close residences.

Mr. Hobson submitted several photographs of how the building would look after completion. He stated that he could submit a signed copy of the lease between the joint applicants.

Mr. DiGiulian stated that after looking at the plats before the Board, it shows that they have 75' left in the back after cutting this subject piece out. He stated that this is very unusual.

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R E S O L U T I O N

and Kinder Care Learning Centers, Inc.

In application No. S-128-76 by Child Care Properties, Inc./under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit the construction and operation of a day care center, Wolftrap and Gallows Roads, 39-4((1))part of lot 1, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 20, 1976.

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is Young Womens Christian Association.
- 2. That the present zoning is RE-1.
- 3. That the area of the lot is 34,500 sq. ft.
- 4. This use is under Site Plan control.

AND, WHEREAS, the Board has reached the following conclusions of law:

- 1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. This permit is for 120 students, maximum.
- 7. The hours of operation shall be from 7:00 a.m. to 6:00 p.m., Monday through Friday.
- 8. This use is granted subject to the deletion of this parcel from the existing use permit, S-65-72 granted to the YWCA.
- 9. All busses and other vehicles used for transporting children shall comply and meet the State Board of Education's regulations as far as color and lighting are concerned.

The motion passed 4 to 1. Mr. Smith voted No because he stated that he felt the applicant needed more land area for this large number of children. Nos. 8 and 9 were amendments to Mr. Swetnam's resolution which passed on Mr. DiGiulian's second

Page 342, July 20, 1976

10:20 - RICH-LAB ENTERPRISES, INC. & BELLEAU WOOD INC. appl. under Section 30-6.6 of the Zoning Ordinance to permit construction of dwelling closer to front property line than allowed by the Ord., (34' from front property line, 40' required), 4312 Pickett Road, 69-1((3))37, (10,530 sq. ft.), Annandale District, (R-17C), V-136-76.

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(Hearing began at 11:10 a.m.)

Mr. Richard Labbe, 322 Sherwood Drive, Vienna, Virginia, submitted notices to property owners. The notices were in order.

Mr. Labbe gave the main justification for the need for the variance as the colonial pipeline easement that is to the rear and side of the lot which prevents the owner from having the reasonable use of the lot. Without this variance, no house could be constructed on this lot.

Mr. Smith stated that this is the most restrictive lot he has even seen. He stated that he was sure this lot was intended to be an outlot. He stated that he would like to see the site plan for Old Creek Estates.

Mr. Labbe stated that they have the approval of the Park Authority. The Park Authority will move the easement to the right hand side of the lot.

Mr. Swetnam stated that the Park Authority easement would then traverse the right-of-way of the pipe line.

There was no one to speak in favor.

Mr. Hyle, 4314 Pickett Road, contiguous property owner, spoke in opposition to this variance request. He stated that when he purchased his property it was with the understanding that the subject lot was too small to have a house built on it and that it would never have a house built on it. If this house is constructed, it will be only 9' from the front of his house and it would be almost totally in front of the house on the other side. This would completely ruin the views from both houses. This certainly would adversely affect the aesthetics of the neighborhood. There is also a safety factor involved. Even from his house, he stated that he gets jolts from the pipeline. The proposed house would be even closer to the pipeline and the jolts would be more severe.

In answer to Mr. Smith's question, Mr. Labbe stated that this property is under contract to purchase from Rich-Lab Enterprises. It is still owned by Belleau Woods, Inc.

In rebuttal, Mr. Labbe stated that the proposed house will not be of an inferior quality. It will cost around \$100,000.

In answer to Mr. Durrer's question, Mr. Labbe stated that the other houses in the neighborhood are larger than the proposed house.

Mr. Durrer moved to deny the application.

There was no second, therefore, the motion died for lack of a second.

Mr. Smith stated that he agreed with the resolution, that no hardship has been shown here by the applicant, Rich-Lab.

Mr. Barnes moved to defer this case until the Board finds out whether or not this is an outlot and finds out whether or not the applicant could relocate this house.

Mr. DiGiulian seconded the motion.

Mr. Smith stated that the staff should get a copy of the subdivision plan of Old Creek Estates and the applicant should present a letter from Belleau Woods authorizing Mr. Labbe to act on Belleau's behalf.

The motion to defer passed 4 to 1. Mr. Durrer voted No.

The Board set the deferral date for September 7, 1976.

10:40 - MR. & MRS. PEDRO TABORGA appl. under Sect. 30-6.6 of Ord. to permit enclosure of porch closer to side property line than allowed by Ord. (16.4' from side, 20' required), 7413 Churchill Road, 21-3((10))51, (21,960 sq. ft.), Dranesville District, (RE-0.5), V-137-76.

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Mr. Lansburgh, III, 3838 Wilson Blvd., represented Mr. Taborga who was out of the country. Mrs. Taborga was present.

Mr. Lansburgh presented notices of this hearing to the property owners. The notices to the nearby property owners were in order. He also presented a petition signed by four nearby neighbors which stated that they had no objection to this variance request.

The main justification for this variance was that the topography of the property was such that construction at any other location was not feasible. The house was constructed far in excess of the 40' setback requirement from the road. This left no space in the rear yard to construct an addition. They only wish to enclose the screen porch that already exists. They plan to make no additions other than that. The Taborga's have lived on this property for three years and plan to continue to reside there.

There was no one to speak in favor or in opposition to this application.

RESOLUTION

WHEREAS, Application No. V-137-76 by Mr. and Mrs. Pedro Taborga under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit enclosure of porch closer to side property line than allowed by the Zoning Ordinance (16.4' from side property line), 7413 Churchill Road, 21-3((10))51, County of Fairfax, has been property filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 20, 1976.

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is RE-0.5.
- 3. That the area of the lot is 21,960 sq. ft.
- 4. The Board finds that the applicant's property has
 - (a) an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
- 3. The construction is to be compatible with the existing structure.

Mr. Swetnam seconded the motion.

The motion passed unanimously. All members were present.

11:00 - CENTRAL FAIRFAX SERVICES FOR RETARDED PERSONS, INC., S-138-76.

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The staff had received a telephone call earlier requesting that the Board allow them to withdraw this application since the inspectors had told them that this building could not be used for this purpose.

Mr. Swetnam moved that the request be granted pending receipt of a formal letter setting forth their request.

Mr. Barnes seconded the motion. The motion passed unanimously.

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11:20 - SHERMAN CONSTRUCTION CO. & WILSON C. SHERMAN AND LEE C. SHERMAN appl. under Section 30-2.2.2, C-G District, Col. 2, #2 of the Zoning Ord. to permit change of ownership on S-53-76 for private storage lockers, west side of Ravensworth Road, 200' south of Little River Turnpike, 71-1((1))20, (1.76 acres), Annandale Dist., (CG), S-139-76.

Mr. Donald Stevens, P. O. Box 547, 4084 University Drive, Fairfax, attorney for the applicant, presented to the Board notices of this hearing that had been given to the contiguous and nearby property owners. The notices were in order.

Mr. Stevens stated that the previous holder of the Special Use Permit, Brookhills Limited Partnership has entered into a contract to sell the subject property to Sherman Construction Company and Wilson C. and Lee C. Sherman, owners of the company. Otherwise, there is no change in the previously granted Special Use Permit. The plan will remain the same. Sherman Construction Company has a site plan pending in Environmental Management now. This is the same plan as approved by the Board in the original permit.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

In application S-139-76 by Sherman Construction Company and Wilson C. Sherman and Lee C. Sherman under Section 30-2.2.2, C-G District, Col. 2, #2 of the Zoning Ordinance to permit change of ownership on S-53-76 for private storage lockers, west side of Ravensworth Road, 200' south of Little River Turnpike, 71-1((1))20, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on July 20, 1976.

WHEREAS, the Board has made the following findings of fact:

1. The owner of the subject property is Richard T. Wright, Trustee. The applicant is the contract purchaser.
2. The present zoning is C-G.
3. The area of the lot is 1.76 acres.
4. This use is under Site Plan Control.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the

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plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The hours of operation are from 7:00 a.m. to 9:00 p.m.; seven days per week.

7. All necessary landscaping and/or screening shall be provided to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion.

The motion passed unanimously.

11:30 - JOHN D. & DIANE L. PELLEGRIN appl. under Sect. 30-6.6 of the Zoning Ord. to permit construction of addition closer to front property line than allowed by Ord., (38.4' from front, 40' required), 6703 Bracken Court, 89-2((5))(3)46, (15,152 sq. ft.), Springfield Dist., (R-12.5), V-140-76.

(Hearing began at 12:00 Noon.)

Mr. Pellegrin submitted his notices to property owners. The notices were in order.

Mr. Pellegrin's main justification was the exceptionally irregular shape of the lot, which is pie shaped. He stated that this variance request is the minimum to alleviate the hardship and give him the reasonable use of his land. This addition will be in keeping with the aesthetics of the neighborhood. It will be all brick construction in the front. He stated that he had spoken with all the neighbors. He submitted thirteen letters indicating that they had no objection.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. DiGiulian made the following motion:
WHEREAS, Application V-140-76 by John D. and Diane L. Pellegrin under Sect. 30-6.6 of the Fairfax County Zoning Ord. to permit construction of addition 38.4' from front property line, 6703 Bracken Court, 89-2((5))(3)46, County of Fairfax, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 20, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 15,152 sq. ft.
4. That the Board finds that the applicant's property has:
 - (a) exceptional topographic problems,
 - (b) an unusual condition in the location of the existing buildings on the subject property.

WHEREAS, the Board has reached the following conclusions of law:

THAT, the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. The architecture is to be compatible with the existing structure.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

11:40 - GERALD T. RUDOLPH appl. under Sect. 30-6.6 of Ord. to permit enclosing of carport and construction of addition closer to side property line than allowed by Ord., (3.2' total of 14.2', 8' total of 20' required), 8012 West Point Drive, 98-2((6))148, (11,243 sq. ft.), Springfield District, (R-12.5C), V-141-76.

(Hearing began at 12:05 P.M.)

Mr. Rudolph submitted notices of the hearing to property owners. The notices were in order.

Mr. Rudolph's main justification was the angle the house was constructed on the lot and that the lot is a corner lot and subject to two front setbacks. The builder set the house back a greater distance from the front property line than was required. As a result, the carport cannot be enclosed without encroaching on the required setback. He stated that he also wished to put an addition on the carport for a storage area. He stated that he has owned the property for four years.

Mr. Harvey Mitchell from the Zoning staff stated that the Board has had two prior applications for variances in this neighborhood. He stated that previously at the Board's request he had visited this neighborhood and counted the number of carports and the number of enclosed garages. There were more garages than carports.

There was no one to speak in favor of this application.

Mr. Robert Kinsel, Lot 147, 801 West Point Drive, contiguous property owner, spoke in opposition to the addition Mr. Rudolph proposed to construct. He stated that he had no objection to the enclosure of the carport, but he did object to the addition. He submitted two photos of the area between the two houses. He stated that the addition would be only 14' from his house.

Mr. Rudolph stated that he believed Mr. Kinsel's primary objection is the aesthetics of the extension based on the photograph of a similar addition that has been constructed up the street. He stated that he did not intend to make his addition a shed-like addition such as that addition up the street is. He stated that he does not have the drawings yet. He stated that he would be willing to let the neighbors approve his design.

Mr. Swetnam stated that there is a sketch in the file showing how the proposed addition will look and that addition is also shed-like.

Mr. Rudolph stated that that is one idea.

Mr. Swetnam stated that what is in the file is what the Board has to go on.

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R E S O L U T I O N

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Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, Application V-141-76 by Gerald T. Rudolph under Section 30-6.6 of the Zoning Ordinance to permit enclosure of carport (and construction of addition *~~denied~~) closer to side property line than allowed by the Ordinance, (within 6' of side property line), 8012 West Point Drive, 98-2((6))148, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 20, 1976.

WHEREAS, the Board has made the following findings of fact;

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 C.
3. That the area of the lot is 11,243 sq. ft.
4. That the Board finds that the applicant's property
 - (a) has an unusual condition in the location of the existing building on the subject property.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted in part with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
- *3. This is for enclosure of the existing carport only (NO ADDITION) with a setback of 6' to the side property line.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

12:00 - DOROTHY B. McCORMICK appl. under Sect. 30-6.6 of the Ord. to permit use of existing structure as single family dwelling closer to side property line than allowed by Ord., (11.9' from side, 20' required), 1027 Langley Hill Drive, 22-3((1))44, (1 acre), Dranesville Dist., RE-1, V-143-76.

The Board was in receipt of a letter from John H. Aylor, attorney for the applicant, requesting the Board defer this case for an indefinite time since Mrs. McCormick has entered into a contract with the contiguous property owner for the purchase of a piece of property that would eliminate the necessity of granting this variance. In the event settlement takes place thereby eliminating the violation of the setback requirements, Mrs. McCormick would then request that the application be withdrawn.

He also submitted return receipts of the letter notifying the adjoining property owners and other located in the vicinity of the hearing.

The notices were in order.

Mr. Durrer moved that this case be deferred until October 19, 1976.

Dr. Edward Mampe, 1010 Langley Hill Drive, stated that October 19 would be a convenient deferral date.

Mr. Barnes seconded Mr. Durrer's motion. The motion passed unanimously.

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12:10 - LORD OF LIFE LUTHERAN CHURCH PRESCHOOL appl. under Section 30-7.2.6.1. of the Ord. to permit increase in hours of operation from 8:30 A.M. to 3:30 P.M., 5114 Twinbrook Road, 69-3((1))17, (3.268 acres), Springfield District, (RE-1), S-162-76, OTH

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(Hearing began at 12:35 P.M.)

Mr. William Garrett, 4917 Wheatstone Drive, submitted return receipts of the letter he had sent to nearby and contiguous property owners of this hearing. The notices were in order.

Mr. Garrett stated that this school has been in operation since 1973 under Special Use Permit S-55-73. The only requested change is to increase the hours until 3:30 in the afternoon. Although there may be 30 children attending at one time, car pools are the mode of transportation and there are no more than 10 to 12 cars arriving and departing from the school during opening and closing hours.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

In application S-162-76 by Lord of Life Lutheran Church Preschool under Sect. 30-7.2.6.1.3 of the Zoning Ordinance to permit increase in hours of operation from 8:30 a.m. to 3:30 p.m., 5114 Twinbrook Road, 69-3((1))17, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 20, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.268 acres.
4. That compliance with Site Plan Ord. is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year unless construction or operation has started or unless renewed by action of this Board prior to expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 8:30 A.M. to 3:30 P.M., 5 days a

week (maximum of 24 pupils at any one time) with all other provisions of S-55-73 to be complied with.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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12:20 - RIDGE DEVELOPMENT CORP. & EDW. R. CARR & ASSOC., INC. appl. under Sect. 30-6.5.5.4 of the Ord. to permit garage to remain closer to side property line than allowed by Ord., (6' total of 16.1', 8' total of 20' required), 12050 Cheviot Drive, 11-3((3))34, (10,329 sq. ft.), Dranesville District, (R-12.5C), V-166-76, OTH.

(Hearing began at 12:45 P.M.)

Mr. Don Rupard from Springfield Engineering represented the applicants. Notices to property owners were in order.

with a single carport
Mr. Rupard stated that the house was sited on the lot and subsequently the sales people sold the house with a garage. The carport was enclosed and the house sold.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, Application V-166-76 by Ridge Development Corp. and Edward R. Carr and Assoc., Inc. under Section 30-6.6.5.4 of the Fairfax County Zoning Ord. to permit garage to remain closer to the side property line than allowed by the Ord., (6' total of 16.1', 8' total of 20' required), 12050 Cheviot Drive, 11-3((3))34, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 20, 1976.

WHEREAS, the Board has made the following findings of fact:

- 1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. DiGiulian seconded the motion.

The motion passed 5 to 0. All members present and voting.

12:30 - BEN THOMPSON, JR. appl. under Sect. 30-6.6 of Ord. to permit construction of addition to house 2' from accessory structure, 12' required, 2828 Bolling Road, 50-2((6))419, V-163-76, OTH.

Mr. Thompson did not have notices to property owners to submit to the Board.

Mr. Durrer moved that this case be deferred until September for proper notices. (There was no one else in the room interested in this case.)

Mr. Barnes seconded the motion and the motion passed unanimously.

DEFERRED CASE:

2:00 - FOX MILL WOODS SWIM CLUB, INC. appl. under Sect. 30-7.2.6.1.1 of the Ord. to permit construction and operation of recreation facility, Black Fir Court, Fox Mill Woods, parcel F, 26-3((1))pt. parcel 6, (5.116 acres), Centreville District, (RE-0.5), S-106-76. Deferred from 6-22-76 for proper notices.

Mr. James L. Milner, 11811 Riders Lane, Fox Mill Woods Subd., represented the applicant. Notices to property owners were submitted to the Board and were in order.

Mr. Milner stated that this is a non-profit corporation chartered entirely to provide recreation for their community of 237 homes. At the present time, there are no recreation facilities available to the residents of the community. This plan is for a swimming pool and recreation facility for their community and for the members of the adjacent areas that might choose to join. They propose to have a 250 family membership. They also propose to have four tennis courts, a wading pool and bath house. They will provide 12 parking spaces. They conceive this facility as being a walk-to facility. It is centrally located within the community.

The Board discussed the amount of parking proposed and felt that it was not adequate.

Mr. Milner stated that they had hoped to leave the existing trees around the perimeter of the pool for screening. They would provide additional parking if it proves to be needed.

Mr. Smith stated that there could be no parking off-site.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, Application S-106-76 by Fox Mill Woods Swim Club, Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit construction and operation of recreation facility on property located at Black Fir Court, Fox Mill Woods, Parcel F, 26-3((1))Part parcel 6, County of Fairfax, has been filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on July 20, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is REO.5.
3. That the area of the lot is 5.116 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of the Board. It shall be the duty of the Permittee to apply to this Board for

such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.

7. The number of family memberships shall not exceed 300.

8. There shall be a minimum of 30 parking spaces provided.

9. The hours of operation for the pool shall be from 10 A.M. to 9 P.M.

The hours of operation for the tennis courts shall be from 8 A.M. to 9 P.M.

10. Any after hours parties shall be limited to six (6) per year with prior written permission for each party being obtained from the Zoning Administrator.

11. A walkway is to be provided from Black Fir Court to the facility.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

AFTER AGENDA ITEMS:

COMMENDATION FOR MRS. HAZEL SHEAR

Mr. Durrer stated that he thought it would be appropriate to commend Mrs. Hazel Shear who was secretary to Mr. Carlton Massey, the former County Executive, for many years and is not secretary in the office of the County Executive, for her long tenure with the County and recognizing her for her loyal and faithful service to the County.

Mr. Smith stated that he felt this would be appropriate. Mrs. Shear has always been very cooperative with this Board.

Mr. Durrer moved that the Board of Zoning Appeals recognize Mrs. Hazel Shear for her loyal and faithful service to the County for the past thirty years. He recommended that a letter be sent to Mrs. Shear indicating such, over the Chairman's signature.

Mr. Barnes stated that he would be happy to second that motion.

Mr. Swetnam agreed and stated that he would be happy to vote Aye on this motion passed

The other Board members also agreed and the vote was ununanimously with all members present and voting.

Mr. Smith stated that the Board of Zoning Appeals has had a good working relationship with Mrs. Shear over a long period of years and she has been very helpful to Mrs. Kelsey and the other clerks of this Board during the period that he has been on this Board which has been over fifteen years.

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INTERPRETATION OF THE ZONING ORDINANCE RELATING TO GROUP VI, OFFICES FOR GENERAL PRACTICE OF MEDICINE, SECTION 30-7.2.6.1.10 (b) "Not to exceed two physicians, plus two employees for each physician shall be permitted."

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It was the Board's decision that this means that there will be no more than two practicing physicians and that they will be the same two at all times, not an alternating group and shall not be two one day and two different doctors another day.

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The meeting adjourned at 2:55 P.M.

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Jane C. Kelsey
by Jane C. Kelsey, Clerk of
the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: Sept. 7, 1976
DATE

Submitted to the Board of Zoning Appeals on August 26, 1976.

Submitted to the Bd. of Supervisors, Planning Commission and other Depts. on Sept 1976.

The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on Tuesday, August 31, 1976. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam; and John DiGiulian.

The meeting was opened with a prayer by Mr. Barnes.

A.M.

10:00 - ERNEST E. & SIBYL LOWEN appl. under Sect. 30-6.6 of Ord. to permit construction of addition closer to side property line than allowed by Ord., (13.4' from side, 20' required), 3909 Mill Creek Drive, 59-4((2))57, (26,130 sq. ft.), Providence District, (RE-0.5), V-144-76.

Mr. Lowen presented notices to the Board. The notices were in order.

Mr. Lowen's main justification for this variance was the house that exists on the lot was constructed at an angle on the lot. This causes a corner of the proposed addition to protrude into the setback area. The closest corner of the garage would be 13.4' from the side property line and the farthest corner would be 17.0' from that property line. The addition is to be a garage. The outside dimensions would be 25'x25'. However, one foot of inside space is lost because of the protrusion of the flue chimney. Another foot is lost due to the wall construction material.

Mr. Barnes stated that Mr. Lowen had been granted a variance in 1969 to enclose a screened porch on the other side of the house.

The Board discussed the size of garage that would be needed to house two automobiles.

Mr. DiGiulian stated that the average two car garage in this area is probably 22 foot.

Mr. Smith stated that he felt 22 feet is more than adequate. 20 feet would be satisfactory to meet the minimum requirement of the ordinance.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N (GRANTED IN PART)

Mr. Swetnam made the following motion:

WHEREAS, Application V-144-76 by Ernest E. and Sibyl Lowen under Section 30-6.6 of the Zoning Ordinance to permit construction of additon closer to side property line than allowed by Ordinance (13.4' from side, 20' required) 3909 Mill Creek Drive, 59-4((2))57, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements,

WHEREAS, following proper notice to the public and a public hearing by the Board held on August 31, 1976.

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is RE-0.5.
- 3. That the area of the lot is 26,130 sq. ft.
- 4. That the Board finds that the applicant's property is exceptionally irregular in shape.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED IN PART with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
- 3. The required setback shall be 14.4' from the nearest property line. This is for a 5'6" variance.

Mr. DiGiulian seconded the motion. The motion passed 4 to 0. Mr. Smith abstained.

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10:20 - NORMAN J. BACON appl. under Sec. 30-7.2.6.1.14 of Ord. to permit home professional accountant's office, 8301 Upper Spring Lane, 59-3((11)32, (32,248 sq. ft.), Annandale District, (R-17), S-145-76.

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(Hearing began at 10:30 a.m.)

Mr. Bacon presented his notices to property owners of this hearing to the Board. The notices were in order.

Mr. Bacon stated that he proposes to operate an accountant's office from his home. The proposed hours of operation would be from 9:00 a.m. to 5:00 p.m. During income tax season, he might have some evening hours and weekend hours. Very few clients would come by his office. He would pick up and deliver the finished work. There would be no employees initially, but later if work load demands, he might hire someone part-time. He had owned the house since June, 1974.

Mr. Robert J. Ryan, 8249 Branch Road, Annandale, spoke in opposition to the application. He presented a petition in opposition from several nearby and adjacent property owners. The opposition was based on the fear that the traffic would be increased. The house faces Duncan Drive which is a very narrow street. There are no other commercial enterprises in Chestnut Hill and the neighbors would like to keep it that way. Neither do they want to see a commercial sign in the yard. Mr. J. L. DiGiuseppe, contiguous property owner, also sent a letter of objection to the granting of this permit. Mr. Smith and Mr. Barnes stated that no sign would be permitted.

Mr. Covington reminded the Board that if no sign was to be permitted, then the Board's motion to grant, if they wish to grant, would have to contain that condition. Otherwise, a sign would be permitted in accordance with the sign ordinance.

The staff report from Preliminary Engineering stated that the proposed parking spaces shown are not adequate since parking space #1 is not 'convenient' to a street as required by Section 30-3.10.5 of the Zoning Ordinance.

Mr. Swetnam moved that this case be deferred until September 7, 1976 in order that the applicant can address the parking problem. The neighbors would have 10 minutes in which to state their views regarding this parking arrangement. Mr. DiGiulian seconded the motion.

The motion passed 3 to 2. Messrs. Smith and Durrer voted No.

The case was set for September 7, 1976 at 2:15 p.m.

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10:40 - JOSEPH A. HYMAN appl. under Sect. 30-7.2.6.1.14 of the Zoning Ord. to permit home professional psychologist's office, 11504 Drop Forge Lane, Hunters Woods Subd., 26-4((2)90, (23,570 sq. ft.), Centreville District, (RPC), S-150-76.

Dr. Hyman presented his notices to property owners of this hearing to the Board. The notices were in order.

Dr. Hyman stated that he wishes to have his office for clinical child psychology in his home. He stated that he would work with children and adolescents along with their parents, some families and some individual adults. Sessions last 50 minutes and will average 5 sessions per day, Monday through Friday. He will have no assistants or employees. This will create a minimal traffic impact upon their cul-de-sac street with an average of 5 visits per day. The practice will be limited to 25 clients spread over five days. The hours of operation will be from 8:30 a.m. until 9:00 p.m.

The Board questioned the parking and stated that all parking must be on site. In addition, the parking must be in accordance with the stipulations of the Group 6 under which Dr. Hyman has applied.

Mr. Covington explained that that stipulation says that there can be no parking within the front setback, nor within 25' of any other property line. This is an RPC zone with no setbacks. Therefore, the parking cannot be within 25' of any property line.

Dr. Hyman stated that this request is for a temporary office. He stated that he is in the process of building a small professional building in Reston in which he will have his practice. Hopefully, that building will be finished by the middle of December and he would sign a contract with Gulf Reston.

Joanne Brownsword, living in Reston, president of the Reston Community Association submitted a statement from that association stating that the board of directors upon the recommendation of its Planning and Zoning Committee, voted not to oppose this request. In making this recommendation, the Board of RCA relied on representations by Dr. Hyman that he would have no assistants or employees and that he would be seeing only individuals; no large groups. They also understood that this would not be a permanent thing, but of limited duration.

In answer to Mr. Smith's question, Ms. Brownsword stated that none of the immediate neighbors were involved with this decision.

Mr. Blance, 11510 Drop Forge Lane, who lives at the end of the cul-de-sac expressed his concern about the increase in traffic that this use would cause.

Mr. Jackson, 11502 Drop Forge Lane, contiguous property owner, expressed his concern for the length of time the permit might be granted for this use. He also expressed concern that group sessions might be had there which would create parking and traffic problems.

Dr. Hyman stated that he had had no group therapy sessions.

In answer to Mr. Smith's question, Mr. Jackson stated that there had been some parking on the street with this use.

Dr. Hyman stated that he was not aware that he could not allow his patients to park on the street and he also was not aware until just six weeks ago that he could not have this office in his home by right. He stated that the only complaint that he knew of about the parking on the street was by Mr. Altmar, across the street from his property.

R E S O L U T I O N

In application S-150-76 by Joseph A. Hyman under Section 30-7.2.6.1.14 of the Ordinance to permit home professional psychologist office, 11504 Drop Forge Lane, Hunters Woods Subdivision, 26-4((2))90, County of Fairfax, Mr. DiGiullian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on August 31, 1976.

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is RPC.
- 3. That the area of the lot is 23,570 sq. ft.
- 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the application is granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these

additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit shall not be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. There shall be no signs permitted on the property.

7. The hours of operation shall be from 8:30 a.m. to 9:00 p.m., Monday through Friday.

8. There shall be no employees.

9. There shall be a minimum of two (2) parking spaces provided with the location subject to the approval of the Zoning Administrator.

10. No group sessions are permitted.

11. This Special Use Permit is for a period of One (1) year.

Mr. Swetnam seconded the motion. The motion passed 3 to 2. Messrs. Smith and Durrer voted No.

Mr. Smith stated that the applicant would not be able to get a Non-Residential Use Permit until he complys with the parking requirement of the ordinance and this resolution.

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10:50 - MERRIFIELD MONTESSORI PRESCHOOL, a corp., appl. under Section 30-7.2.6.1.3 of the Ordinance to permit operation of a Montessori preschool, 30 students, 5 days a week, 9 A.M. to 3 P.M., 2361 Hunter Mill Road, 37-2(1)26A, (2.161 acres), Centreville District, (RE-2), S-175-76, OTH.

(Hearing began at 11:15 a.m.)

Mrs. Judith Diederick, 9229 Talisman Drive, Vienna, Virginia presented to the Board the notices to property owners surrounding the subject property of this hearing. The notices were in order.

Mrs. Diederick explained that she planned to have a Montessori school in this existing church. This school has operated previously in the Merrifield Apartments and then for a year on Gallows Road. The ages and hours are as in the caption.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

In application S-175-76 by Merrifield Montessori Preschool under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit operation of Montessori Preschool, 2361 Hunter Mill Road, 37-2(1)26A, County of Fairfax, Mr. Swetnam moved that the Board adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice and a public hearing by the Board held on August 31, 1976, the Board made the following findings of fact:

1. That the owners of the property are Trustees of the U. M. Church of the Good Shepherd.
2. That the present zoning is RE-2.
3. That the area of the lot is 2.161 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section

30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This Permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of children shall be 30.

7. The hours of operation shall be 9:30 to 2:30, Monday through Friday.

8. This is granted for three (3) years if the lease is extended, with the Zoning Adm. empowered to grant 3 additional one year periods.

Mr. DiGiulian seconded the motion. The motion passed unanimously.

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11:10 - MR. & MRS. JAMES STROMAYER, V-152-76.

Mr. Stromayer did not present proof of notification to property owners surrounding his property of this hearing by certified mail. Therefore, the Board could not hear the case.

The case was rescheduled for 12:20 p.m., September 21, 1976. He accepted this as adequate notification in order to get the earliest possible date. The case will not have to be readvertised since it was deferred to a specific date and time.

Mr. Durrer stated that it is unfortunate that he has to go through all this process when he only needs a six inch variance.

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August 31, 1976

11:30 - RALPH & LOIS BLANCHARD appl. under Sect. 30-6.6.5.4 of Ord. to permit 6' fence to remain in front setback area, (50' off front property line required), 2747 Clarks Landing Drive, 36-4((13))62, (30,479 sq. ft.), Centreville District, (RE-1C), V-153-76.

(Hearing began at 11:37 a.m.)

Mr. Blanchard presented proper notification of this hearing to nearby property owners. The notices were in order.

Mr. Blanchard explained the reason he made this mistake. He stated that the County requires a 4' fence around the pool area. So, he put the fence around the pool. This did not require a building permit. He did not know he had made a mistake in doing this until he was notified by the Zoning Inspector and issued a violation notice. By then, the pool and the fence were in place.

Mr. Smith questioned the Zoning Administrator as to whether or not this could legally be heard under Section 30-6.6.5.4 (mistake section) if the applicant had not previously received a building permit.

Mr. Covington stated that that section of the Code has in it the word 'or'. That means that the Board can grant this type variance if it was the result of an error in the location of the building subsequent to the issuance of a

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BLANCHARD (continued)

building permit, or that non-compliance was no fault of the applicant.

The Board discussed the requirement for certified plats in this case.

Mr. Smith stated that the plats should not have been accepted as adequate plats when the pool still says "proposed".

Mr. Covington stated that the Zoning Inspector inspected the property and found the pool in place as it was proposed on the plats. The only violation that was found was for the fence.

The Board determined that there was no sight distance problem. There was no one to speak in favor or in opposition to this application.

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R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-153-76 by Ralph and Lois Blanchard under Section 30-6.6.5.4 of the Fairfax County Zoning Ordinance to permit 6' fence to remain in front setback area, 2747 Clark's Landing Drive, 36-4((13))62, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on August 31, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the Board has found that non-compliance was no fault of the applicant.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is Granted with the following limitations:

That this approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained. He stated that he could not vote for the resolution when the applicant did not have certified plats that is required for every other application. He stated that he was also concerned with the sight distance from the pipestem.

11:50 - ROBERT B. LOVELESS appl. under Section 30-6.6 of Ord. to permit construction of accessory building in front of main building and closer to center line of road than allowed by Ord., (45' from center line, 75' required), 10400 Hunter View Road, 27-4((3))0, (4.0749 acres), Centreville District, (RE-2), V-154-76.

(Hearing began at 11:55)

Mr. Loveless presented notices to the Board. They were in order.

Mr. Loveless stated that he has a corner lot and has two ^{front} setbacks. One is from Hunter Mill Road and the other Hunter View Road, which is a private road. The lot has severe topographic problems. He explained this in detail to the Board. He stated that this is the only place on the lot where he can add this accessory building.

There was no one to speak in favor or in opposition to this application.

In answer to Mr. DiGiulian's question, Mr. Loveless stated that this Hunter View Road is a private gravel road maintained by the owners along that road. The only people who would view this building are the people driving along that road. There are eight people who live on that road. They could not be present, but they did make the statement that they had no objection to this request, Mr. Loveless stated. The property line ^{is} in the center line of that road. The proposed structure will be a garage, 16' x 24'.

RESOLUTION

Mr. Swetnam made the following motion:

WHEREAS, Application No. V-154-76 by Robert B. Loveless under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of accessory building in front of main building and closer to center line of road than allowed by the Ordinance, 10400 Hunter View Road, 27-4((3))G, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on August 31, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 4.0749 acres.
4. That the Board finds that the applicant's property has exceptional topographic problems.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

12:00 - JOAN H. K. SCHWARTZ appl. under Sect. 30-7.2.6.1.3.4 of Ord. to permit Noon operation of school of special education (arts and crafts), 7013 Duncraig Court, 21-4((17))7, (42,335 sq. ft.), Dranesville District, (RE-0.5), S-155-76.

Mr. Schwartz represented the applicant. He submitted notices to property owners of this hearing to this Board. The notices were in order.

Mr. Schwartz stated that they wish to continue to operate as they have since 1966. In 1966, they were at another location. This is for an arts and crafts school. Mrs. Schwartz also creates art works in the needlework field such as wall hangings, furniture decorating, wearing apparel and in some cases religious articles. After she has made them, they are delivered to that person or that church and sold.

The Board discussed with the Zoning Administrator whether or not the selling of these articles that Mrs. Schwartz makes would be permitted.

Mr. Covington stated that not long ago he had someone come in who wished to have an art studio in his home which involved welding. It could be a cabinet maker who felt his cabinet was a work of art. The Board has previously permitted a Permittee to sell school supplies to the students, but not sell products to the general public either from the premises or away. Mr. Schwartz stated that his wife would be happy to adjust their operation to whatever the Board feels is appropriate.

Mr. Smith stated that it is his feeling that it is a commercial activity when someone manufactures an item for sale to various organizations or church.

Mr. Durrer stated that the description of the type of operation this is proposed to be says, 'creation and sale of finished work'. He stated that in his opinion if they are going to sell art work to anyone other than the

students, it should not be granted.

Mr. Schwartz stated that the mainstay of their operation is the school. They only have 4 to 6 students. The classes last about 2 1/2 hours each at the time he observed them. If they have 6 students, that means that there will be four cars on the premises. He stated that he felt there is adequate parking.

Mr. Durrer called his attention to Preliminary Engineering's comments that the size of the proposed parking spaces and travel aisles should comply with minimum standards as set forth in the Zoning Ordinance.

Mrs. McFarland spoke in favor of this application. She mistakenly thought she had a Special Use Permit for this same type operation. However, it was determined that she had an occupancy permit for a arts and crafts studio, the same as Mrs. Schwartz had had at the previous location.

Mr. Smith stated that this was not something the Board could discuss. The Board is considering only the case that is before it today. However, he stated that she did not have a Special Use Permit from this Board.

Mrs. Chambers, 12 Lawton Street, also testified that she had a similar type permit to do dressmaking and design in her home.

Mr. Covington stated that that use is permitted by right. A seamstress is a home occupation.

The following speakers spoke in opposition: Andrew Kilcar, 7003 Duncraig Court, five houses away from the subject property; Mrs. Moorhead, 7012 Duncraig Court, directly across the street; William Hollinger, Jr., 7015 Duncraig Court; another gentleman who lives at 7011 Duncraig Court, and is contiguous with the subject property; Mr. Wooten, 7007 Duncraig Court, who submitted letters from other neighbors, Christel Towbel, 7014 Duncraig Court; Victone CuUyeng, 7010 Duncraig Court and Jane Wetmore, 6951 Kylakin Court. The speakers main objection was the problem that they have been having with traffic in and out of the site since this operation started. They disagreed with Mr. Schwartz that there were only four cars connected with this use on the property at any one time. The speakers testified that cars were parked all over the cul-de-sac from this use. They also felt that this use would endanger the residential character of the existing neighborhood which is now completely residential.

Mr. Schwartz in rebuttal stated that some of the parking that has been on the street has been blamed on their school. However, that is not so. The students have parked on the street on occasions, but it is infrequent. He stated that the social residential aspect of this piece of property is much greater and generates more traffic than the proposed use for a school. However, he stated that he is willing to work with the neighbors to be sure that none of their clients and students park in the cul-de-sac.

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R E S O L U T I O N

In application S-155-76 by Joan H. K. Schwartz under Section 30-7.2.6.1.3.4 of the Zoning Ordinance to permit professional office - instructor in arts and crafts in home, 7013 Duncraig Court, 21-4((17))7, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals on August 31, 1976, the Board of Zoning Appeals made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 42,335 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has not presented testimony indicating compliance with

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Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion.

The motion passed 4 to 1. Mr. Swetnam voted No.

The Board recessed at 1:00 p.m. for lunch and returned at 2:00 p.m. to continued with the Regular Agenda Items.

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12:20 - PINE CREST SWIM AND TENNIS CLUB, INC. appl. under Sect. 30-7.2.6.1.1 of the Zoning Ordinance to permit construction of recreation facility, (pool, 3 tennis courts with lights, 1 multi-purpose court), south side of Pine Crest Road approximately 150' west of Fox Mill Road, 25((1))part parcel 78, (4.26077 acres), Centreville District, (R-17), S-99-76. (Deferred from 6-22-76 for corporation papers and rezoning hearing on the subject land and full hearing.)

Mr. Hanna, 12617 Magna Carta Road, Herndon, Virginia, represented the applicant before the Board. Notices have been submitted previously at the time of the original scheduled hearing.

Mr. Hanna stated that they have submitted to the staff revised drawings showing the relocation of the multi-purpose court away from the adjoining houses with the proper setbacks from all structures according to the R-17 zone. The Board of Supervisors on June 28, 1976 rezoned this parcel of land to the R-17 category. This club proposes a membership of 500 families. They propose to have eighty (80) parking spaces. This pool is centrally located and they feel that eighty parking spaces will be more than adequate. However, if they find that it is not adequate, they will put in additional parking spaces. They have plenty of land for that. The multi-purpose court will be used for dodge ball or possibly a backboard for batting the tennis ball around or for basketball.

The Board was concerned about the number of parking spaces and whether or not it would be sufficient for this number of families, particularly since this is a single family area.

Mr. Hanna stated that they had done a survey and found that only twenty-five percent would be driving to and from this facility. In addition, there is an overflow area for large events such as swim metes. He indicated to the Board where this area is.

Mr. Knowlis, 12821 Kettering Drive, President of the Fox Mill Estates Homes Association, spoke in support of this application. He stated that the association feels that this is a sufficient and adequate plan to meet the needs of the community. They also feel that the parking facility is sufficient and adequate.

There was no opposition to this application.

RESOLUTION

In application S-99-76 by PineGrest Swim and Tennis Club, Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit construction of recreation facility (pool, 3 tennis courts with lights and 1 multi-purpose court without lights, south side Pine Crest Road approximately 150' west of Fox Mill Road, 25((1))part 78, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on August 31, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is Reston West Development Company.
2. That the present zoning is R-17 Cluster.
3. That the area of the lot is 4.26077 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family memberships shall be 500.
7. The hours of operation shall be
 - (a) pool - 11:00 a.m. to 9:00 p.m., Monday through Thursday.
11:00 a.m. to 9:30 p.m., Friday through Sunday and holidays.
 - (b) tennis courts - 7:00 a.m. to 10:30 p.m., seven days per week.
8. All lighting shall be confined to the property.
9. The minimum number of onsite parking spaces shall be 80.
10. Landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
11. Any after hours parties shall be limited to Six (6) per year and shall require written permission prior to the party from the Zoning Administrator.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Durrer was not in the room.

 12:40 - SPRINGFIELD GOLF AND COUNTRY CLUB appl. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit construction of tennis club house and to bring all of the recreation facility into conformance with the Zoning Ordinance, 8301 Keene Mill Road, 89-2((1))9, (157.637 acres) Springfield District, (R-12.5 and C-N), S-182-76, OTH.

(Hearing began at 2:20 p.m.)

Mr. Roy Gravette represented the applicant. He presented notices to the property owners which were in order. He submitted new plans to the Board to conform with the Staff's suggestion in the memo he received Monday of this week. He stated that the membership for this existing club is limited to 700 family members. 500 Class A and 200 Class B.

Mr. McMann, manager of the club, stated that the hours of operation for the pool is 12 Noon to 8:00 p.m. and for the tennis courts is 8:00 a.m. to 10:00 p.m., seven days a week. This club house will make the tennis courts facility more attractive to the members. This is the only change in the facility. There was no one to speak in favor or in opposition.

RESOLUTION

In application S-182-76 by Springfield Golf and Country Club under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit construction of tennis club house and to bring all of existing recreational facility into conformance with the Zoning Ordinance and under Special Use Permit, 8301 Keene Mill Road, 89-2(1)9, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on August 31, 1976.

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is Springfield Golf and Country Club, Inc.
- 2. That the present zoning is R-12.5 and C-N.
- 3. That the area of the lot is 157.637 acres.
- 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The maximum number of family memberships shall be 700.
- 7. The hours of operation shall be from 8:00 a.m. to 10:00 p.m. for tennis and 12:00 Noon to 8:00 p.m. for swimming.
- 8. Any after hours parties for the swimming pool shall be limited to Six (6) per year and shall required advance written approval from the Zoning Administrator.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

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2:15 - MARTIN L. & DOROTHA L. ADEM appl. under Section 30-6.6 of Ordinance to permit subdivision of lot into two with each lot having less width at the building setback line than required by Ord., (Lot 26A-1 - 110.57' and Lot 26A-2 - 20.13'; 100' required), 4808 Robertson Blvd., 110-3((2))26A, (1.3702 acres), Mt. Vernon District, (RE-0.5), V-170-76, OTH.

(Hearing began at 2:35 p.m.)

Mr. Bernard Fagelson, attorney for the applicant, with offices at 124-126 South Royal Street, Alexandria, submitted notices to property owners of this hearing to the Board. The notices were in order.

Mr. Fagelson stated that this request is made to resubdivide Lot 26A, Mount Vernon Park Subdivision, into two lots because they believe that the RE-0.5 zoning of the area justifies two lots in view of the fact that the total acreage of the existing lot is almost 1.4 acres. After subdivision both of the proposed lots will be well in excess of the RE-0.5 requirements. About a year ago the County of Fairfax filed a condemnation suit against the property and the owners for a sanitary sewer easement. During the discussions with the County officials regarding the condemnation, it was determined that this was such a desirable area in which to live that it was to the benefit of the County and the owners of the property to make available an additional building site from the present Lot 26A. Portions of the existing Lot 26A are in flood plain, but both of the proposed lots have more than sufficient square footage out of the flood plain for existing residents and new residents. The shape of the parcel of land is very odd. Both the topography and the odd shape of the lot has lead the applicants to believe that a variance should be granted for the development of this property.

Mr. James E. Stillwell, 4329 Mount Vernon Memorial Highway, Lot 1B of Mount Vernon Park Subdivision, adjoining property owner to the rear of the Adems, spoke in opposition because of the severe drainage problems that already exist on the property and on his property. It was his feeling that construction on this lot would adversely affect his property and cause a greater flooding problem in this area.

Mr. Anderson, 4304 Robinson Blvd., representing himself and the Mount Vernon Citizens Association's Planning and Zoning Committee, inquired where the access to the new lot would be. He also was concerned about the drainage problems that this new construction might cause.

Mr. Stillwell, Mr. Anderson, and Mr. Fagelson came forward to the podium to explain where each property was located and where the drainage ditch that the County is now constructing is in relation to each property.

Mr. Anderson stated that he was relieved that the driveway was going on ^{the} west side of the property rather than on the side next to him. However, he was still concerned about the drainage problems that exist in that area and also the drainage ditch and other things that is ruining their area. The drainage ditch will not solve all the drainage problems. It should go out to Route 235 and it stops barely beyond the Lamp property on the other side of the subject property of the Adems, he stated.

Mr. Smith stated that the drainage problem is an engineering problem on the builder's part. This question should be addressed to the Public Works Dept. That question is not up to this Board to either prohibit building because of the drainage or to allow building in this area in spite of the drainage. The only question before this Board is whether or not to allow the applicant to subdivide his property with less width at the building setback line in order for the applicant to have reasonable use of his land. This is the normal method of subdividing a lot with less width than is required under the Ordinance. The question regarding whether or not the County will actually allow construction on this new lot would be up to Public Works.

Mr. DiGiulian stated that under the subdivision ordinance the builder would be required to build the house someplace where it would not be in the flood plain and where it would not change the natural drainage through the lot.

Mr. Swetnam stated that that house may never be constructed when the builder finds out how much it will cost to pipe that ditch all the way through that right-of-way. There is no way in the world a private individual can build a pipe to take care of 100 year storms. The only thing the builder can do is keep the building out of the flood plain.

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There was no one else to speak regarding this application.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application V-170-76 by Martin and Dorothea Adem under Section 30-6.6 of the Zoning Ordinance to permit the subdivision of lot into two, one lot having less than required width at building setback line (20.13', 100' required), 4804 Robertson Blvd., 110-3((2))26A, County of Fairfax, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on August 31, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 1.3702 acres.
4. That the Board finds that the applicant's property is exceptionally odd in shape and has exceptional topographic problems.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Durrer stated that he too is concerned with the flooding situation in this general area, but what the Board has to be concerned with is whether or not to allow access through a pipestem drive to the rear lot.

Mr. Barnes seconded the motion.

The motion passed unanimously.

AFTER AGENDA ITEM -- AUGUST 31, 1976

1. LUCK QUARRIES, QUARRY OPERATION, CENTREVILLE, VIRGINIA

Mr. Royce Spence, attorney for the Permittee, with offices at 311 Park Avenue, Falls Church, explained to the Board that because of a large number of contracts from the Virginia Department of Highways to do road repair and road construction, the unexpected demand for crushed stone has surpassed the ability of Luck Quarries to supply the specialized stone required within the hours of operation that the Board granted. He asked the Board to allow a temporary change in the present hours of operation for just a small portion of the crushing operation. The stone utilized in asphalt, which is known as VDH#8 is produced by the last portion of the crushing operation. This last portion of the crushing plant is the most isolated portion of the crushing plant with relation to the roads and homes in the area. The operation will consist of two employees, one crusher and one truck, which will make approximately two trips per hour to the stock pile which would be located approximately 100 to 200 feet from the plant. The expanded hours requested are from 5 A.M. to 9 P.M., Monday through Friday, and 7 A.M. to 12 Noon on Saturday. There are no Sunday operations. This operation will not be audible beyond the property line and will not create any problem for the neighbors. He asked that these temporary hours continue until December 15, 1976. Asphalt work is seasonal in nature and must be done primarily during the warmer months of the year.

After a brief discussion, Mr. Covington, Assistant Zoning Administrator, suggested that the Board give Luck 30 days and if there are no complaints, the Board could extend this extension of hours through December 15 as requested.

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LUCK QUARRY (continued)

Mr. Smith felt that if the State is in that dire need for crushed stone, the Board should have something in writing from them to justify this change without a public hearing.

Mr. Spence stated that the closest dwelling was probably 2 or 3 thousand feet from this operation. This was in answer to Mr. Durrer's inquiry.

Mr. Durrer stated that he agreed with the Zoning Administrator. He moved that the Board grant this request for this change in the hours of operation for a period of 30 days. If there are no complaints, the applicant could reappear and request further extension.

These hours would be: 5 A.M. TO 9 P.M., weekdays, 7 A.M. TO 12:00 Noon on Saturdays. Closed Sundays.

Mr. Barnes seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No. He felt that there should be a public hearing for this type change.

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AFTER AGENDA ITEM -- AUGUST 31, 1976

2. CHARITY BAPTIST CHURCH, S-140-75; Granted September 4, 1975.
Request for extension of Special Use Permit.

In a letter addressed to the Board, Mr. Russell Jenkins, architect, requested an extension to this permit. He stated in his letter that the architectural building plans are complete and ready to file with the building department as soon as the Site Plan is approved. He stated that they have made every effort to comply with the dates of the Use Permit but county approvals are beyond their control.

Mr. Swetnam moved that the request for extension be granted and that the permit be extended for a period of 180 days from September 4, 1976.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

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AFTER AGENDA ITEM -- AUGUST 31, 1976

3. BURKE STATION SQUARE SWIMMING POOL, S-38-74, Granted May 15, 1974.
PLAT REVISION ON ALTERNATE PLANTING, approved September 11, 1974.

Mr. Simon from Guardian Construction who constructed the townhouses at Burke Station Square appeared before the Board. He stated that when the company constructed Section 4, they had constructed a screening fence 8 feet in height along the back of the townhouses to screen the townhouses from a vacant field that was used, at that time, for a baseball field. It was rather unsightly and they felt a screening fence would be appropriate. The screening fence has been erected for four years now. That fence is on the property line between the townhouse common area and the swimming pool site that is also for the residents of the townhouses. The individual townhouse owners have now erected a fence around their backyards. Therefore there are two fences with about a five foot alley between them at one point. The plantings according to the planting plan that the Board approved is in and has been approved by the County arborist. At the Board hearing on this case, the Board approved the plan but suggested that they meet with the residents to work out the details to everyone's satisfaction. This was done and the engineering firm of Dewberry, Nealon and Davis submitted a revised site plan showing the deletion of the standard screening fence which would be about 10' in toward the swimming pool from the existing fence. Now, some of the neighboring property owners have objected to this change. If this fence is constructed there will be three fences with an alley in between each of them. The pool association has agreed that the deletion of this number 3 fence would save them a lot of money and would be satisfactory since there is an already existing fence. The fence no. 2 that is on the property line belongs to the Burke Station Homeowners Association. The engineer inadvertently left this third fence on the plan that the Board approved. They would like the Board to remove that third fence requirement.

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Mr. Harry C. Bruhsefer, 5842 Banning Place, Burke, Virginia, directly adjacent to the existing fence (his lot backs up to the common property on which the existing fence surrounding the pool is placed), spoke in objection to the proposal from Guardian Construction. He stated that he is first owner of this house. He stated that he had reviewed the plans that were originally proposed for this project and had found that there was supposed to be 12' of space between his rear property line and the fence that would surround the swimming pool. There is only four or five feet of space. There is no room behind his fence to plant shrubbery, or even to get large articles of furniture through that alley and into his house. He stated that he had submitted a petition from other property owners whose property lies along this existing fence. He stated that he purchased his property in May, 1975.

Mr. Durrer stated that 5' is not large enough for that alley.

Mr. Swetnam stated that that fence was there at the time the Board originally heard this case in 1974, then Mr. Bruhsefer constructed his fence later. That caused the alley.

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Mr. David Oliver, resident of the Burke Station townhouse development, original owner of the property who had owned it for five years, member of the Board of the swim club, stated that the swim club has no right to move the existing fence because the swim club does not own the fence or the property that the fence is on. That property owner is the Burke Station Homeowners Association. For the swim club to remove the fence would be improper since it is not the swim club's fence.

Mr. Smith stated that the Permittee would have to conform to the original granting of this Board. Any changes that are made would have to be made at a public hearing.

Mr. DiGiulian stated that he felt this was an honest oversight.

Mr. Durrer moved that the Board require the swimming club to follow the plans submitted on the original application. He suggested that before a formal application is made for the removal of the fence, that there be a get together with the homeowners association.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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The Board was in receipt of a memo from Oscar Hendrickson, Preliminary Engineering Branch Chief dated August 31, 1976, which stated:

"We have field inspected the subject site and found 2 fences now exist on Burke Station Square, Section 4, between a row of townhouses and the swimming pool. When screening is required by ordinance, Sec. 30-3.5.3.6 states the fence will be set back from the lot line so the planting faces the use benefiting from the screening. We realize in this case 3 fences would then be constructed (one behind the townhouses, one between boundary of the pool and townhouse lots and one inset 12' within the pool site). We would recommend that the existing fence constructed with Section 4 located on the open space between the pool boundary and the private lots be relocated to 12' within the pool with Section 4 located on the open space between the pool boundary and the private lots be relocated to 12' within the pool site to conform with the plan shown to the Board of Zoning Appeals and screen standards."

Mr. Phil Garman, engineer from the office of Preliminary Engineering confirmed this memo as their recommendation.

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4. OAKTON LIMITED PARTNERSHIP & POTOMAC OIL, S-205-71; Granted February 23, 1972.

The Board was in receipt of a memo from Gilbert R. Knowlton, Zoning Administrator, which stated:

"On February 23, 1972, the Board of Zoning Appeals granted a Special Use Permit for a gasoline service station in the Oakton Shopping Center. Although the Oakton Shopping Center is a collection of stores basically on one piece of land, a boundary was proposed around the gasoline station for special use permit purposes.

There is now proposed an auto accessory store in the center which will be located within the special permit boundary, but on the property with the rest of the center. The request is to so amend the 1972 special permit so as to permit that addition to the shopping center. The original plans as submitted with the special use permit application and the plans of the proposed addition are both available for the Board's review."

Supervisor, Centreville District,
The Board reviewed the revised plans and read the letter from Mrs. Pennino, stating that she had no objection to this revision. Mr. DiGiulian stated that this is very similar to the case where the Board allowed a veterinarian to place an office building on special use permit property as long as he complied with the parking requirements.

Mr. Smith stated that this will affect the parking spaces. All the parking spaces in front of that service station is already used by the station. In addition, the surrounding property owners were told that there would not be anything else there. Even the developer came in and said, 'this service station is the last building to be constructed there.'

Mr. Durrer asked if the deletion of the land area in order to allow the auto accessory store would require a public hearing.

Mr. Smith stated that it would. This case was very controversial. The Board of Supervisors took the Board of Zoning Appeals to court on it. In the past, the Board has never deleted any land area from a special use permit property without a public hearing. This has been a policy of the Board. This is a major change. This would not only be removing a large amount of land area, but also removing some of the parking that the service station uses.

Mr. Durrer moved that the request for this auto accessory store on the property under Special Use Permit for the gasoline service station be denied.

Mr. Swetnam seconded the motion.

The motion passed unanimously with all members present and voting. Mr. Smith requested that in the future an agent of the person requesting the // change be present to answer questions the Board might have.

5. VINCENT G. & SOK HUI CUNNING, S-154-71, granted August 3, 1971

This was granted with the Zoning Administrator being empowered to grant extensions. However, upon inspection there were more than two customers on the premises at one time. Therefore, the Permittee is in violation and the Zoning Administrator cannot issue the permit.

The Board read a memo from John Furneisen, Zoning Inspector, dated July 30, 1976, to Gilbert R. Knowlton, Zoning Administrator, stating that there were three patrons in the shop when he inspected it. The Special Use Permit allows only two.

This would be the last extension Mrs. Cunning could be granted and would expire August 3, 1977.

Mr. Smith stated that he felt she should be notified that her Use Permit has expired since the Zoning Administrator cannot extend it because of the violation.

Mr. Swetnam disagreed because of the great leniency the Board has given Mr. Cox with his riding stable.

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MENTIONED

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REQUEST

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Mr. Smith explained that this is a case where the Zoning Administrator cannot extend without the Board's permission. The Permittee is in violation.

Mr. Durrer stated that he agreed, that the Board should tell the Permittee that since they are in violation the Zoning Administrator cannot issue the extension. Therefore, the Special Use Permit has expired. The Permittee should be instructed to make a new application which would be the only remedy available to them.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEM -- AUGUST 31, 1976

6. PARKLAWN RECREATION ASSOCIATION, INC., S-88-76, Granted June 8, 1976.

The Board read a letter from Don Stevens, attorney for the applicant, with offices at 4084 University Drive, Fairfax. His letter stated that the low bid for the improvements Parklawn had planned far exceeded the estimated cost and the budget. Parklawn then worked with the low bidder and found another way to accommodate their need to build a new swimming pool and additional tennis courts, within the budget. He attached to his letter four copies of the revised site plan depicting the arrangement which resulted in this reduced cost. The two changes were:

1. The new swimming pool complex, providing for a future new bathhouse adjacent to the existing pool has been removed. The new pool will be constructed in the location of the existing pool. The existing bathhouse will be refurbished.
2. The two new tennis courts have been reoriented in the same location as was previously granted, but end to end, to reduce the need for grading and to reduce the intrusion into the flood plain of Holmes Run.

The site plan has been reviewed by the Department of Environmental Management, and is ready for approval. There are no other changes. The scope of the facilities as now proposed is less than previously proposed.

Mr. DiGiulian after reviewing the plats stated that the only difference he could see in the new plats from the previously approved plats other than as listed by Mr. Stevens is there are only 67 parking spaces and 87 had been proposed. However, they have decreased the number of pools proposed which would probably decrease the need for the additional spaces.

Mr. Covington stated that this facility is down in a ravine away from occupied residences.

Mr. Durrer moved that the amended plans be approved as submitted.

Mr. DiGiulian seconded the motion.

The resolution passed unanimously with all members present and voting.

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AFTER AGENDA ITEM -- AUGUST 31, 1976

7. MICHAEL D. ROSEN, D.V.M., S-212-76, Request for an out-of-turn hearing for September 28, 1976.

Dr. Rosen requested an early hearing because he is presently filling in for other doctors while they go on vacation during the summer, but come September he will be out of a job.

The Board granted the out-of-turn hearing for September 28, 1976.

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8. MICRO SYSTEMS COMPANY, INC., S-114-73 - Change in approved plans.

The Board was in receipt of a copy of the new plats and a memo from Mr. Knowlton, Zoning Administrator. The memo stated that these plans had to be approved for the changes by this Board, the Board of Supervisors and Architectural Review Board.

The Board deferred decision on this until after the other boards had had an opportunity to review the plans and made their decision.

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AFTER AGENDA ITEM -- AUGUST 31, 1976

9. PHILLIPS, HARRY & LOUISE, V-76-76; Granted June 1, 1976.

Mr. Covington explained to the Board that the Board had granted a variance to Mr. and Mrs. Phillips for a garage addition on the side of their house at 6255 Park Road. One of the conditions of that granting was that the addition be compatible to the architectural style of the existing house. The existing house has brick on the front and sides and aluminum siding on the rear and on the eaves. The garage addition has now been constructed by Mr. Phillips and he used aluminum siding on the side facing the Mr. Louis Gasper, 6253 Park Road. Mr. Gasper objects to this and feels that he is not complying with the Board's condition in granting this variance. He questions this to the extent that he has hired an attorney. One of the Zoning Inspectors, Mr. Leigh, has inspected the property and has a report for the Board.

Mr. Douglas Leigh, Zoning Inspector, stated that he inspected the property on the 26th of August for a second time. The first inspection was August 5 after the first complaint. There was no violation at either time because the aluminum siding was not up. He inspected the property again on August 27 and August 30. The aluminum siding was then installed. He submitted photographs to the Board showing the house as it presently exists.

The Board then reviewed the photographs Mr. Leigh submitted and those submitted with the original application.

Mr. Swetnam stated that there is aluminum siding on the original house.

Mr. Leigh stated that there are three houses that have been built and sold and they have aluminum siding. Those are the photographs that have been submitted, he stated.

Mr. Swetnam stated that it was the intent of his motion to allow the applicant to use aluminum siding. He stated that it was his intent that the applicant would use brick cheeks on the front.

Mr. Durrer stated that he would accept that.

Mr. Smith stated that he felt it should be brick up to the eaves. The man had a brick wall previously, he stated, and he has the right to expect a brick wall for the addition.

Mr. Lenn Koneczny stated that he had had a number of conversations with Mr. Phillips, the property owner. He stated that Mr. Phillips had presented him with a letter saying that the next door neighbor did not want brick.

Mr. Smith asked to see the letter and stated that there was nothing in the letter that says that Mr. Gasper doesn't want brick. Mr. Gasper in his letter states that he objects to the noise that reverberates from a brick wall.

Mr. DiGiulian asked Mr. Phillips if he had presented the Board with a plan for the addition.

Mr. Phillips stated that he had.

Mr. Durrer stated that if the Board was going to have to be this precise, it would have to have more information. He stated that he did not remember seeing a plan showing how this addition would look or the materials to be used.

Mr. DiGiulian stated that a plan is now in the file that shows aluminum siding across the side. He stated that if that plan was submitted to the Board at the hearing, or was in the file at the time of the hearing, then the Board members saw it.

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 PHILLIPS (continued)

Mr. Smith read a letter from the attorney for Mr. Gasper.
 Mr. Swetnam stated that the objection of the next door neighbor doesn't bother him and the threat of a suit doesn't bother him. He called for the question.

The vote was 3 to 2 with Mr. Smith and Mr. Durrer voting No.

Mr. Durrer stated that he has no argument with what was approved. The reason he voted against it was because he did not feel that what has been constructed is compatible and that was the question.

The Board discussed the wording of the minutes of the meeting. They made no changes.

// BOARD MATTERS -- AUGUST 31, 1976

INFORMATION TO THE BOARD MEMBERS

Mr. Durrer stated that he had not seen detailed plans of how this addition was to be constructed. He stated that the Board is going to have to have more information on these cases and advance information on the After Agenda Items.

Mr. Covington stated that he had been informed by Mr. Knowlton that the budget provided for One staff member for this Board. Unfortunately the load gets higher and the staff gets smaller.

Mr. Durrer stated that if it gets to a point where the Board cannot vote intelligently because of lack of information from the staff, then it is time to make this Board's position known to someone.

Mr. Covington stated that that particular plan could have gotten in the file in any number of ways to supplement what previously existing. He stated that he was not saying that that happened, but that it could happen.

The Board discussed various ways to improve the method by which the Board receives the information on these cases. They agreed that it would be a good idea to have plans, even hand drawn ones, of the way the applicant proposes to construct an addition and the materials that he plans to use. Then at the time it comes before the Board, the Board members individually should initial the plan to show that he has seen it. If it is granted, the Chairman will sign the plat that accompanies the application and the plan also.

AFTER AGENDA ITEMS:

Mr. Durrer requested that the staff provide the Board members prior to the meeting, perhaps in the package that is sent to the Board on Friday, with a copy of the After Agenda Items and their accompanying letters of request or whatever the problem is.

The Board agreed that this would be very helpful.

Mr. Covington agreed that this would be done.

MEETINGS WITH THE ZONING ADMINISTRATOR

Mr. Knowlton appeared before the Board and in response to the Chairman's inquiry, stated that he would make himself available at any time during the Board's meeting day to discuss with the Board matters concerning the Zoning Ordinance, the proposed new Zoning Ordinance, the new County Plan, or any other subject that the Board might feel would be helpful to it.

The Board agreed that it would meet for one hour after each meeting with Mr. Knowlton to discuss these matters.

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POLICIES OF THE BOARD

Mr. DiGiulian requested that the Board members be provided with a copy of the Policies of the Board that he keeps hearing about. He stated that he did not have a copy of all of these policies, such as is mentioned from time to time. If they are not formal policies, the Board should then consider them and determine whether or not it wishes to have them as policies. If they have not been adopted, then they should not be policies.

The Clerk agreed to try to find them. However, there is no file per se on this subject.

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POLICY

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10. LANCE GILBERT, SPECIAL USE PERMIT FOR SCHOOL, S-75-73, 3035 Cedar Lane.

Mr. Gilbert in a letter to the Board dated August 26, 1976 requested the Board reword the condition of the Special Use Permit relating to the number of children that he would be permitted at this property for this school.

He stated that the student enrollment is actually a function of the water flow of their septic field. Their sewage disposal system cannot exceed 700 gallons per day and the Health Department's report was the basis for the 30 children limitation for 4 hours or more, i.e. $10^4 \times 5$ and $30 \times 5 = 670$ gallons, which is under the 700 gallon limitation.

The following combinations would also be within the water flow limitations:
 70 children 4 hrs or less x 5 gal & 70 children more than 4 hrs x 5 gal = 700 gal
 80 children 4 hrs or less x 5 gal & 60 children more than 4 hrs x 5 gal = 700 gal
 90 children 4 hrs or less x 5 gal & 50 children more than 4 hrs x 5 gal = 700 gal

or any combination so long that the enrollment does not exceed 10^4 children and the water flow does not exceed 700 gallons.

He stated that the Health Department has told him that this approach is acceptable to them. Bruen Chapel Church in which this school is housed plans to hook onto public sewer this following September, and the water flow would no longer be a problem.

The Board's decision was that this combination of figures would be acceptable as long as he does not exceed the maximum as given in the letter.

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AFTER AGENDA ITEM -- AUGUST 31, 1976

11. DOROTHY B. McCORMICK, V-143-76 - At the request of the applicant the Board deferred this case until October 19, 1976, to see if a contract to purchase could be consummated in order that a variance would not be necessary.

The Board was in receipt of a letter from John Aylor, attorney for the applicant, stated that the contract to purchase could not be consummated because of a problem with the title to the land that Mrs. McCormick planned to buy. Therefore, the applicant would like to have her case heard and if possible before the October 19 date.

Mr. Smith stated that the Board had deferred this case to a date certain. There was no one present at the time that case was called.

Mr. Durrer stated that if the Board deferred the case to a time certain, that time probably should not be changed unless there are some extenuating circumstances.

Mr. Swetnam stated that in view of the very heavy schedule the Board has between now and October 19, he felt it would be appropriate to leave this case scheduled for October 19.

The other Board members agreed.

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FUTURE MEETING DATES

The Board reviewed and approved the following meeting dates that the Clerk had proposed: SEPTEMBER 7, 14, 17, 21 and 28 (already advertised)
 OCTOBER 13, 19 and 26 (already scheduled and ready for advertisement)
 NOVEMBER 9, 16 and 30 (skip November 2, election day & November 23 Thanksgiving)
 DECEMBER 7, 14 and 21 (skip December 21, Christmas week)
 JANUARY 4, 11 and 18 (skip January 25)
 FEBRUARY 8, 16 and 23. (skip February 1)

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- 12. SYDENSTRICKER SCHOOL (granted to Lore K. Araujo), S-745-67 granted November 28, 1969.

The Board was in receipt of a memo from Mr. Knowlton, Zoning Administrator, dated August 10, 1976. He stated that one of the conditions of the use permit was that Mr. and Mrs. Araugo dedicate a forty foot right-of-way along Sydenstricker Road. Mr. John J. Pendergast, attorney for the Araugo's has sent several letters to the Zoning Office and to Mr. Hendrickson of Preliminary Engineering regarding this subject. To date, this 40 foot right-of-way has not been dedicated and he, therefore, requested a show-cause hearing for failure to comply with the special use permit.

The Board discussed this and Mr. DiGiulian moved that for failure to comply with the conditions set forth in the Special Use Permit granting this use, they do not have a Special Use Permit and the action the Board took November 28, 1969 be rescinded.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

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The Board adjourned at 4:25 P.M.

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Jane C. Kelsey
BY Jane C. Kelsey, Clerk to
the Board of Zoning Appeals

Daniel Smith

DANIEL SMITH, CHAIRMAN

APPROVED September 28, 1976
DATE

Submitted to Board of Zoning
Appeals on Sept 7, 1976

Submitted to other Boards and
Depts. Nov. 2, 1976

The Regular Meeting of the Board of Zoning Appeals Met in the Board Room of the Massey Building on Tuesday, September 7, 1976, at 10:00 a.m. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian; and Member Absent: Tyler Swetnam.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - MELVIN L. RIDER appl. under Sec. 30-7.2.10.6.4 of Ord. to permit U-Haul rental trucks on gasoline station property, 6701 Franconia Road, S-159-76.

Mr. Rider, 7121 Terry Lane, owner of the Springfield Phillips 66 gasoline station in question, stated that he did not have proper notices. He requested a thirty day deferral.

The Board discussed this case to determine if there was any additional information that would be necessary in order to hear this case.

It was the Board's decision to defer this case until October 13 (Wednesday), 1976 and requested the applicant to furnish a letter from the oil company giving him permission to use the land for this purpose.

Mr. Smith stated that after looking at the plats, he did not feel the applicant has space enough to operate a service station much less to have U-Haul trucks.

Mr. Rider stated that he has had U-Haul trucks there for some time. The Zoning Inspectors has told him that he must have this hearing, however, and get permission from this Board. He is under a violation notice, he stated.

Mr. Covington stated that he would extend the violation notice until this Board can hear the case since there are no safety hazards involved.

There was no other person in the room interested in this application.

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10:20 - COLUMBIA BAPTIST CHURCH AT BREN MAR appl. under Sec. 30-7.2.6.1.11 of the Ord. to permit trailer to be located on property for Sunday School classrooms, 6200 Indian Run Parkway, S-157-76.

Rev. James A. Dawkins, III, minister of administration for the church, whose address is 2851 Hunter Road, Fairfax, submitted notices of this hearing to adjoining property owners to the Board. The notices were in order.

Rev. Dawkins stated that he understood that this application if approved would bring the entire church operation under Special Use Permit. He stated that this was not required at the time the church was constructed. He stated that this trailer to be used as classrooms will not add any additional traffic in and out of the church. It will only make some additional room for the members that they already have. They presently have 55 members. The church's seating capacity is 100. They have 30 parking spaces. He stated that he did not know how long they planned to use the trailer, as it would depend on the growth of the church. It might be from one to five years.

Mr. Covington, in answer to Mr. Smith's question, stated that the Board usually grants these permits for two to three years. The site plan waiver is two years, but can be extended upon request.

Rev. Dawkins, in answer to Mr. Smith's question, stated that this trailer has been inspected by the County inspectors and they will make the necessary changes that the inspectors request. The classroom will accommodate no more than twenty adults. This is for Sunday School classrooms only.

There was no one present to speak in favor or in opposition to this application.

Rev. Dawkins stated that this trailer is sitting on the property at the present time. It has been there for about a year. They received permission to put it there from the County Executive, Mr. Wilson.

Mr. Covington explained that this is permissible when it is only being stored on the property

RESOLUTION

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In application S-157-76 by Columbia Baptist Church at Bren Mar under Sec. 30-7.2.6.1.11 of the Zoning Ordinance to permit trailer to be located on property for Sunday School classrooms, 6200 Indian Run Parkway, 81-1((1))9B, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on September 7, 1976.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

- 1. That the owner of the property is Trs. of Columbia Baptist Church of Falls Church.
- 2. That the present zoning is R-10.
- 3. That the area of the lot is 5 acres.
- 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. The seating capacity of the church is 100.
- 7. Thirty parking spaces are required.
- 8. The use of the trailer as classrooms is granted for a period of two years.
- 9. The trailer can be used for twenty-five (25) adults.

Mr. Barnes seconded the motion.

Mr. Smith stated that it should be noted that a portion of the existing parking spaces are nonconforming as to setback.

The motion to grant passed 4 to 0. Mr. Swetnam was absent.

10:40 - POTOMAC TRIANGLE MEDICAL ASSOCIATES, LTD. appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit change of ownership for office of general practice of medicine, 6345 South Kings Hwy., 83-3((5))(1)A, (23,777 sq. ft.), Lee Dist., (R-17), S-161-76. 376

The Hearing began at 10:45 a.m.

Mr. Richard Vogel, attorney for the applicant, submitted notices to the Board. The notices were in order. He also submitted a petition signed by thirty property owners in the immediate vicinity stating that they have no objection to this application. He also submitted a letter from one of the neighbors requesting that this application be granted.

These were accepted for the record.

Mr. Vogel stated that Dr. Alex Yadao would be practicing medicine at this location. He is purchasing the property from Dr. Austin.

Dr. Yadao testified that he does not intend to live on this property. This application is for an office for the general practice of medicine as was granted to Dr. Austin eighteen years ago. This building has been used as an office only. No one lives in the building. He stated that both he and his wife would operate out of this building. They have no plans for anyone to live in the building. He has a general practice of medicine and also does surgery in the hospitals nearby. The proposed operation would be from 9:00 a.m. to 3:00 p.m., Monday through Friday, and from 9:00 a.m. to 12:00 Noon on Saturday. Estimated number of patients per day would be 24.

Mrs. Fraley, 4719 Dolphin Lane, Alexandria, testified that she had been a patient of the former user of this building and holder of the Special Use Permit, Dr. Austin, for years. She stated that she had followed Dr. Austin's practice and does know that she did practice in this building. She did not live in the building. The building was constructed as a medical office for Dr. Austin and she practiced medicine there for 18 years. Dr. Austin has now moved to Minnesota. She stated that she is now Dr. Yadao's secretary.

There was no one else to speak regarding this application, either for or against.

R E S O L U T I O N

In application S-161-76 by Potomac Triangle Medical Associates, Ltd. application under Section 30-7.2.6.1.10 of the Zoning Ordinance to permit change of ownership for office of general practice of medicine, 6345 South Kings Hwy., 83-3((5))1A, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on September 7, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is Drs. Alex P. and Nilda Yadao.
2. That the present zoning is R-17.
3. That the area of the lot is 23,777 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the

plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The hours of operation are: 9 A.M. to 3 P.M., Monday through Friday, and 9 A.M. to 12 Noon on Saturday.

7. The number of employees shall be two (2) doctors and four (4) employees.

8. The number of parking spaces shall be twelve (12).

Mr. Barnes seconded the motion.

The motion passed unanimously, 4 to 0. Mr. Swetnam was absent.

10:50 - BAO T. NGUYEN appl. under Sect. 30-6.6 of Ord. to permit construction of garage closer to side property line than allowed by Ord., (7' from side, 12' required), 7000 Girard Street, V-164-76.

The hearing began at 11:00 a.m.

Mr. Nguyen submitted notices to the Board. The notices were ruled in order by the Board.

Mr. Nguyen stated that the distance from the property line to the wall of the proposed garage is too close and he does not have the space to construct the garage to park his car inside.

Mr. Smith stated that there are thousands of people in Fairfax County with the same problem. He told Mr. Nguyen that he had to give the Board some information concerning the physical hardship with the land that would prevent him from having the reasonable use of his land.

Mr. Clarence Pooley from Montgomery County, Maryland, the contractor who proposes to construct this garage, testified that the applicant has a topography problem in that the land drops sharply from front to back. In addition, the existing house has a door leading from the basement area out that side of the house which means that room must be left for ingress and egress from that door between the house and the proposed garage. It would be very impractical to develop any other portion of the property. The side of the property where this garage is proposed is the most logical place. There is only 13' between the house and the other property line.

Mr. Covington stated that the applicant could build a carport with no problem.

Mr. Pooley stated that for a carport the applicant would be permitted to have an 18" wall around it. The applicant feels that the enclosure of this area would be more aesthetically pleasing both for his family and his neighbors.

Mr. Durrer stated that from looking at the pictures of this property, the proposed location seems to be the most logical place to construct an addition for a garage.

Mr. Nguyen stated that a similar variance had been granted to one of his neighbors, Dr. White. Most of the houses around his property already have garages.

Mr. Smith inquired if the garage could be cut down and made smaller.

Mr. Pooley stated that they possibly could cut off a foot. He brought the plans forward and discussed this possibility with the Board members.

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Mr. DiGiulian stated that if the applicant could bring the proposed addition back 8' from the side property line, it would be in line with the setback requirements for alternate density for R-12.5 which are 8' and a total of 20'. (There was no one present to speak in favor or in opposition to this application.) Mr. Durrer moved that this case be deferred in order for the applicant to provide the Board with additional information such as, the general condition of the nearby residences, the number of carports and number of garages and more information concerning the variances that the Board might have granted in that area.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

// * The Board was in receipt of a letter from Alan F. and Patty L. White, the contiguous property, stating that they have no objection to this request. Their address is 7012 Girard Street.

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11:00 - FIRST ASSEMBLY OF GOD CHURCH appl. under Sect. 30-7.2.6.1.11 of Ord. to permit construction of new addition to church, 5001 Backlick Road, 71-4((1))21 & 22, (3.54683 acres), Annandale District, (RE-0.5), S-165-76.

The hearing began at 11:20 a.m.

Mr. John Aylor, attorney for the applicant, 4017 Chain Bridge Road, Fairfax, submitted the required notices to the Board. The notices were in order.

Mr. Aylor stated that in 1962, the subject church acquired half of the property indicated on the map before the Board, on which the present church was built. The church did not allow enough room for growth. They now must use offices, hallways and any space available for Sunday School classrooms. In January, 1976, they acquired the remainder of the land shown on the map before the Board, with a total acreage of 3.54 acres. They are asking the Board to approve the new building construction that is proposed. The only change to the existing structure will be the raising of the roof and the change in the configuration of the roof. The building itself will be brick. This addition to the existing church will not change the number of people now coming to the church, but will accommodate the number that are now coming. The applicant feels that they should not have to go through site plan. The seating capacity is 200 and requires 40 parking spaces. The church presently has 48 spaces. The church will request a site plan waiver.

Mr. Smith stated that Preliminary Engineering comments indicate that the applicant should submit a statement with regard to the parking to determine the adequacy of the parking and unless a variance is granted by the Board, the applicant would be required to pave those parking spaces.

Mr. Covington stated that he did not agree that the existing parking spaces would have to be paved.

Mr. Aylor stated that the parking spaces as they are have existed since 1965.

Mr. Smith stated that unless the surface is causing some type of nuisance they would not have to pave the existing parking.

Mr. Smith stated that Preliminary Engineering also requests that the applicant dedicate 8'x25' from the centerline of the existing right of way for the full frontage of the property along Sunset Lane for future road widening, curb, gutter and sidewalk.

The Board members and the applicant's agents, Mr. Aylor and Mr. Jones, discussed this question at length.

Mr. Aylor stated that at some time in the future the church plans to construct a new building and at that time, they would be willing to comply with site plan requirements. However, if they have to give up their land now, they will lose 26 of the existing parking spaces.

Mr. DiGiulian stated that he would suggest that the applicant dedicate, but not do any construction until such time as the road is actually widened.

Mr. Aylor agreed.

Mr. Randel Turner, 5015 Backlick Road, spoke before the Board. He stated that he was neither for or against this application. His property joins the church property. There is a service road on the shopping center side on Backlick Road on both sides. He stated that when he develops his property, a service road will also be required along his frontage. When the church develops the remainder of the property and increases the number of people who will be attending services there, they will also need to have a service road constructed. In addition, there is a severe drainage problem that presently exists. Any construction on the church property affects his property, Mr. Turner stated. He felt that a study should be made prior to any decision of this Board on this case.

Mr. Smith stated that the drainage will be covered under site plan. Even if the site plan department grants a waiver, they will make sure that the applicant has taken care of the drainage problems. Whenever the church constructs buildings that will increase the seating capacity of the church or the attendance of the church, they will be required to comply with all site plan requirements such as the service road, sidewalk, curb and gutter, etc.

Mr. Covington stated that it would be foolish for the church to construct a service drive at this point. It would go nowhere.

There was no one else to speak from the audience with regard to this case.

Mr. Aylor in rebuttal to Mr. Turner's testimony stated that the applicant will not disturb any of the ground next to Mr. Turner except to clean out the brush. In the future, when the church decides to enlarge, they will then have to get into more details concerning drainage, service road, etc.

Mr. Smith suggested to Mr. Turner that he contact Mr. Hendrickson, Chief of Preliminary Engineering Branch for more details concerning drainage problems and construction of the service roads, etc.

BOARD OF ZONING APPEALS - R E S O L U T I O N - SEPTEMBER 7, 1976

In application S-165-76 by First Assembly of God Church under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit a Sunday School building addition to and remodeling of existing church, 5001 Backlick Road, 71-4 ((1))21 & 22, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on September 7, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 3.54683 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the application be granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to otherland.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other

than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The seating capacity of this church is 200.

7. There is a minimum of 40 parking spaces that are provided.

8. The applicant shall dedicate to 25' from the centerline of the existing right-of-way for the full frontage of the property along Sunset Lane for future road widening, curb, gutter and sidewalk at the time the road is widened.

Mr. Barnes seconded the motion.

The motion passed unanimously 4 to 0. Mr. Swetnam was absent.

SEPTEMBER 7, 1976

11:20 - JOHN T. DEBELL & PAUL E. BENGSTON appl. under Section 30-6.6 of Ord. to permit enclosure of porch closer to front property line than allowed by Ord., (30.1' from front, 50' required), 13924 Braddock Road, 54-4(1)35, (.5442 acres), Springfield District, (C-G), V-167-76.

The hearing began at 11:47 a.m.

Lee Fifer, attorney for the applicants with offices at 4084 University Drive, Fairfax, Virginia, submitted the required notices to the Board. The notices were in order.

Mr. Fifer stated that the applicants are requesting a variance of 19.9' from the front property line to allow enclosure of an existing porch to be used as a file room in this non-conforming office building. The roadway that they must setback from is nonexistent. It is not used as a roadway.

Mr. Smith stated that he didn't remember this Board ever granting an addition to a nonconforming building in the part that doesn't meet the setback requirements already.

Mr. Covington stated that he recalled the Board had granted such variances in C-G zones.

Mr. Covington stated that normally in residential zones, the Zoning Office allows an 25 percent setback close to the contiguous units if 25 percent or more of the residences in that block are closer than the required setback. However, on commercial, the Zoning Office requires that the applicant apply to this Board. He read Section 30-4.2.2:

"Any nonconforming use may be extended to occupy any part of a building that was manifestly arranged or designed for such use at the time of the adoption of this chapter, but no such use shall be extended to occupy any land outside such building. Except as provided in subs. 30-4.1, no nonconforming use shall be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this chapter."

Mr. Fifer stated that this is not a nonconforming use, but nonconforming as to setback. The applicant does not meet the front setback requirement. This is an existing porch. The building was originally built for residential use, but now has been zoned C-G. There are a number of reasons why the applicant feels this variance is justified. The primary reason is the existing building development on the adjacent land. This is a corner lot. Therefore, there are two front setbacks. The house was constructed in 1940 and has been in commercial use since 1950. Braddock Road is variable as to width along this area. The existing porch comes 47' from the edge of the existing pavement and 41' from the right of way. Between Routes 29, 211 and 28, there are adjacent

lots ~~improved with~~ structures that are closer than this one. The applicant could not purchase more land at the time of acquisition or now to avoid this variance. The conditions that exist do not apply generally throughout the County. Failure to obtain this variance would deprive the applicant of the reasonable use of this building. The applicant did apply for a building permit and could not get it. This is why this application is before this Board, he stated.

Mr. Fifer stated that the applicant has plans that are in a stage of development to put a new office building on this site. However, this property is presently serviced by a septic field and the applicant cannot build until such time as the County allows connection to public sewer.

Mr. Barnes stated that this variance could be granted on a temporary basis since the applicant plans to construct a new building in the future.

Mr. Fifer stated that this proposal to enclose this porch is consistent with the use made of neighboring properties, will not be injurious to any of the neighboring properties and has caused no complaints to his knowledge. There can be no construction to the rear of the existing building because of the existing septic field. This property has a double front. On the other side there are large trees. There is no air conditioning in this building and the trees add to the cooling of the building. That is also the parking area. He showed the Board a viewgraph indicating the neighboring properties that have structures as close or closer than the present subject building.

Mr. Covington stated that the building next door to the subject building has a retail sales office in it. Hardy Chambliss's law office is across the street. There is a plumber's office down the street.

Mr. Smith stated that he was still concerned about the nonconforming setback status.

Mr. Durrer suggested the Board plow new ground.

Mr. Smith stated that he questioned whether or not this Board has the right to do this.

Mr. Covington stated that he could not think of any other area in the County that would support this variance being granted any more than this property.

There was no one to speak in favor or in opposition to this application.

Mr. DiGiulian asked Mr. Fifer if this porch is enclosed, ^{if} there are still houses or buildings in that one-half mile strip that are closer than this building to the road.

Mr. Fifer confirmed that that was correct.

BOARD OF ZONING APPEALS -- R E S O L U T I O N SEPTEMBER 7, 1976

Mr. DiGiulian made the following motion:

WHEREAS, application V-167-76 by John T. Debell and Paul E. Bengston under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit enclosure of porch closer to front property line than allowed by Ordinance (30.1' from front, 50' required), 13924 Braddock Road, 54-4((1))35, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 7, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is C-G.
3. That the area of the lot is 0.5442 acres.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing building on the subject property, and the adjacent properties.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as mentioned above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and building involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed 3 to 0. Mr. Smith abstained. Mr. Swetnam was absent.

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SEPTEMBER 7, 1976

11:30 - EDWIN F. HEWITT, V-168-76.

(The hearing began at 12:05 p.m.)

Nancy Miller, 9509 Biltmore Drive, Silver Spring, Maryland, representing the applicant, testified before the Board. She did not have proper notices to property owners. Therefore, the Board deferred this case until November 9, 1976.

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SEPTEMBER 7, 1976

11:45 - BEN THOMPSON, JR. appl. under Section 30-6.6 of Ord. to permit construction of addition to house closer to existing accessory structure than allowed by Ord., (2' from accessory structure, 12' required), 2828 Bolling Road, 50-2((6))419, (6,575 sq. ft.), Providence District, (R-10), V-163-76, (Deferred from July 20, 1976 for proper notices).

Mr. Thompson presented the required notices to the Board which were in order. He stated that he proposes to add a 12' x 12' kitchen to the rear of his house and turn the existing kitchen into a dining room. This will leave about a 2' walkway between the two buildings. He stated that he planned to get married and needed the additional space.

In answer to Mr. Smith's question, Mr. Thompson stated that he did not know whether or not the Fire Marshall would allow him to construct this frame addition this close to another frame structure.

Mr. Barnes stated that this is a very small lot.

Mr. Thompson stated that this is an old subdivision. He has lived at this location for 19 years. He stated that he also owns Lot 410 which also has a house on it. He stated that there is no place else on the lot where he can place this addition. If he places it on the other end of the house, he will have the dining room on one end and the kitchen on the other.

Mr. Covington stated that he apparently has some topographic problems too. The pictures indicate some railroad ties being used.

In answer to Mr. Durrer's question, Mr. Thompson stated that the retaining wall is two railroad ties high.

The Board discussed this matter at length and requested that Mr. Thompson cut the addition down to 10' in order to give 4' between the proposed addition and the existing garage.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, application V-163-76 by Ben Thompson, Jr. under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of addition to house closer to existing accessory structure than allowed by Ord., 2828 Bolling Road, 50-2(6)419, County of Fairfax, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 7, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 6,575 sq. ft.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing building on the subject property.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted in part with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. This is an 8' variance. The proposed addition can be 4' from the accessory structure.

The motion was seconded by Mr. Barnes.

The motion passed unanimously 4 to 0. Mr. Swetnam was absent.

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SEPTEMBER 7, 1976

12:00 - WILLIAM C. IDE appl. under Section 30-6.6 of Ord. to permit division of property with one lot having less than required width at building setback line than allowed by Ord., (90' in width, 100' required), 8700 Mt. Vernon Highway, 110-2((13))25A, (17,000 sq. ft.) Mt. Vernon District, (RE-0.5), V-151-76.

(The hearing began at 12:30 p.m.)

Mr. John Wilkins, attorney for the applicant with offices at 10560 Main Street, Fairfax, submitted the required notices to property owners to the Board. The notices were in order.

Mr. Wilkins stated that the justification for this variance is based primarily on the location of the existing house on the property and when this property was subdivided, there was a substantial amount of dedication on the frontage of this property. The strict application of the Ordinance would deprive the owner of the reasonable use of his land. He stated that he was aware of the comments made by the Preliminary Branch. However, he has met with the Chief of that Branch, Oscar Hendrickson, and they have withdrawn most of their comments. The only variance that the applicant is requesting is for less than the required width at the building setback line.

Mr. Mitchell stated that he just wrote the report and incorporated P.E.'s comments on Friday. He was not aware of any change.

Mr. Covington stated that there is no request in this application for less lot area and the Board does not need to consider that.

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Mr. Smith stated that the Board could act on the request before it. There is no official request for anything other than lot width. The Board cannot grant what is not requested, whether or not he needs it.

Mr. Wildns stated that the applicant will proffer that he will not request a second variance.

Mr. Smith stated that there would be no point in coming back if it would change the density category. That would be tantamount to rezoning.

Mr. DiGiulian stated that he did not see why the Board could not act on this request for this variance to less lot width and leave the question of lot area to the owner and Environmental Management.

Mr. Durrer asked for a clarification of the 180 percent rule.

Mr. Covington stated that that means that if a person owns a parcel of land with 180 percent of the required square footage that he has owned for a certain period of time, then that parcel can be divided into two lots. There are other provisions to that section that the applicant has to meet, however. This reduction can be made by the Director of Environmental Management. This is under Section 30-3.4.9 of the Zoning Ordinance.

Mr. Durrer inquired if it is legal for this Board to act on the requested variance to lot width without knowing whether or not the applicant does meet the other requirements.

Mr. Smith answered "Yes".

There was no one to speak in favor or in opposition to this application.

BOARD OF ZONING APPEALS - R E S O L U T I O N -- SEPTEMBER 7, 1976

Mr. DiGiulian made the following motion:

WHEREAS, application V-151-76 by William C. Ide under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit division of property with one lot having less than required width at building setback line than required by Ordinance (90' in width at the building setback line, 100' required), on property located at 8700 Mount Vernon Highway, 110-2((13))25A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 7, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 17,000 sq. ft.
4. That the Board finds that the applicant's property is
 - a. exceptionally irregular in shape, and
 - b. has an unusual condition in the location of the existing building on the subject property.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion. The motion passed 3 to 0. Mr. Smith abstained. Mr. Swetnam was absent.

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DEFERRED CASE:

12:15 - RICH-LAB ENTERPRISES, INC. & BELLEAU WOOD, INC. appl. under Section 30-6.6 of the Ord. to permit construction of dwelling closer to front property line than allowed by Ord., (34' from front, 40' required), 4312 Pickett Road, 69-1((3))37, (10,530 sq.ft.), Annandale Dist., (R-17Cluster), V-136-76 (Deferred from 7-20-76 for copy of subdivision plat to determine whether or not this is an outlot and to determine whether or not the applicant could relocate the house.)

Mr. Richard Labb, 3332 Sherwood Drive, Vienna, representing the applicants, submitted the required notices to the Board which were in order at the previously called hearing on July 20, 1976.

Mr. Mitchell from the Zoning staff stated that he has the microfilm of the subdivision in question which indicates that this is not an outlot, but is a buildable lot. The staff also checked with the Park Authority about the easement and determined that the access on the left hand side of the property is one of several accesses to the park property in the rear. It is not the principal access. Therefore, the setback to a street is not required.

Mr. Durrer inquired if the public uses this access.

Mr. Mitchell stated that it is an access easement to park land.

Mr. Durrer stated that the easement to the park land does come within 3' of the proposed building and is right on the easement line.

Mr. Labb stated that he has gone through the Board of Directors of the Park Authority and did receive the right to move that easement over to the other side.

Mr. Smith inquired as to why the applicant could not meet the setback for the front.

Mr. Labb stated that he could meet the setback with what he considers to be an inferior style house.

Mr. Smith stated that the original plat that was submitted to the Board showed a 32' x 24' house.

Mr. Labb stated that that was prior to receiving permission from the Park Authority to move the easement. He stated that he could now get as close as 8' to the property line on the left and can construct a house that is 36' x 24'. The request for the variance would be 1.8' instead of 6' since there is more room on the left hand side. He stated that this would be a larger house, but the variance request will be smaller.

Mr. Smith stated that the Board could not allow a larger house than originally requested, if the original request could be constructed without a variance. There is no way the Board can justify granting such a request.

BOARD OF ZONING APPEALS

R E S O L U T I O N

SEPTEMBER 7, 1976

Mr. Durrer made the following motion:

WHEREAS, application V-136-76 by Rich-Lab Enterprises under Section 30-6.6 of the Ordinance to permit construction of dwelling closer to front property line than allowed (34', 40' required), 4312 Pickett Road, 69-1((3))37, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 20, 1976 and deferred to September 7, 1976 for additional information.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-17 Cluster.
3. That the area of the lot is 10,530 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law: THAT, the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

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Page 386, September 7, 1976
 RICH-LAB ENTERPRISES, INC. & BELLEAU WOOD, INC. (continued)

NOW, THEREFORE, BE IT RESOLVED, that the subject application is denied.

Mr. Barnes seconded the motion.

The motion passed unanimously 4 to 0. Mr. Swetnam was absent.

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 SEPTEMBER 7, 1976
 2:00 - DODD QUARRY

p.m.

The Board was in receipt of correspondence from the Lynch Construction Corp., P. O. Box 263, Springfield, Virginia 22150, dated March 11, 1976, concerning a quarry operation known as "Dodd Stone Quarry" which they stated was abandoned eight years ago due to the death of Mr. Dodd. The area of 20 acres has never been restored. Fairfax County is holding a bond in the amount of \$16,700 to assure restoration. The letter explained the technicalities regarding the possible restoration of this area and also enclosed a proposed grading plan.

The Board also had correspondence from Donald R. Bowman, Acting Chairman of the Restoration Board, dated July 14, 1976, commenting on the Lynch restoration proposal.

The Board reviewed the "Amended Seed, Lime and Fertilizer Recommendations for the Restoration of Cover on Gravel Pits after the Gravel Extraction is Completed" by Mr. C. S. Coleman, Fairfax County's Soil Scientist, and a letter from Wallace Covington, Assistant Zoning Administrator to Mr. R. M. Lynch, dated August 23, 1976 concerning the Restoration Board's recommendation.

Mr. Wayne Lynch, 6320 Augusta Drive, Springfield, Virginia, testified before the Board regarding the Lynch proposal for restoration. He explained to the Board that over the past two or three years, the Lynch Construction Corp., the owner of the property, has been trying to arrive at a method for getting the land back in a usable shape, hopefully with the restoration money which appears to be available for that purpose. He stated that the proposal which they had submitted in March would provide that they restore the area with ground cover to County specifications after acquiring clean fill to fill up the ravine that is now on the property. They propose to haul in fill as it becomes available over the next few years. They will respond to the County's request that a phasing plan be produced. This plan will indicate that the northern edge of the property will be restored immediately along with the access road that will be installed. This restoration will take four or five years. They hope to be able to recover some of their initial investment as they restore the property. The letter from the Restoration Board states that the reimbursement of the bond money may not be made until the approval of the Restoration Board. This will put their company in a financial bind. This plan is much better than the original Dodd plan. That plan proposed to leave the ravine or deep ditch and their plan proposes to fill that ravine and make it usable land. The ultimate restoration would be a gradual slope from north to south, completely fill the ravine and reroute the water channel, which now doesn't do anything but carry silt onto their other property. Fullerton Road has been completed. They will cut a construction road in from there. The Lynch Corp. gave an easement for that road to be constructed.

In answer to the Board members concern, Mr. Lynch stated that the amount of time taken to fill this ravine and complete this restoration will depend on the availability of clean fill. The Lynch Corp. presently operates a land fill which gets material that can be used at this site. That material will be diverted to this site.

In answer to Mr. Durrer's question, Mr. Lynch stated that his company is paid a fee for being able to dump the fill. The fee is according to the size of the truck load. The estimate to restore this site is \$30,000 and there is \$16,000 available from the County. They do hope to be able to make up part of the difference from this fill.

Mr. Will Smith from the Department of Environmental Management, Assistant Plan Review Branch Chief of Design Review, testified the proposed grading plan is at least as good, or probably better than the original Dodd restoration plan. There are some differences in the amount of top soil to be furnished, but the staff feels that the proposal Mr. Lynch has made is reasonable and the department has no adverse comments to make.

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Page 387, September 7, 1976
DODD QUARRY RESTORATION PROPOSAL (continued)

Mr. Covington stated that Mr. Smith and his office would be supervising this restoration.

In answer to Mr. Smith's, Chairman, question, Mr. W. W. Smith stated that he did not think the County could restore this land for the \$16,000 it has available.

In answer to Mr. Durrer's question, Mr. Covington stated that the time limitation on the Dodd restoration plan was that it be restored as they completed an area. They had about a year to restore it.

Mr. Smith stated that one of the problems with that plan was that there was no plan to fill the ravine.

Mr. Durrer stated that he felt five years is excessive.

Mr. Lynch stated that his company has been trying to find a way to get this land back in shape for four years already.

Mr. Durrer moved that the Board approve the Lynch Construction Corp. proposal for restoration of this property with the understanding that this will start by the spring of 1977 and be completed in four years. If it, for some reason, is not completed in four years, then the Lynch Construction Corp. will be required to come back to this Board and explain why they have not been able to complete this. This is subject to contractual arrangements to be made with the County Attorney, Mr. W. W. Smith and the Restoration Board as to the phasing of this restoration and the reimbursement of the money to be paid by the County.

Mr. Barnes seconded the motion.

Mr. Smith suggested that the points mentioned in Mr. Covington's letter to Mr. Lynch that is in the file should be noted, along with the comments or guidelines by Mr. C. S. Coleman, Fairfax County's Soil Scientist concerning "Amended Seed, Lime and Fertilizer Recommendations for the Restoration of Cover on Gravel Pits after the Gravel Extraction is Completed" dated September 8, 1972.

Mr. DiGiulian stated that in paragraph 5 of Mr. Lynch's letter dated March 11, he stated that they would like to retain the option of using crushed stone or gravel cover for areas of less than five percent flow.

Mr. Lynch stated that there is an area in this acreage that is flat and would not be subject to any erosion. It appears that top soil and seeding would be excessive treatment in that area.

Mr. DiGiulian asked if that could be included in the motion.

Mr. Smith stated that the Board can note that, but the details the Board should let Col. W. W. Smith work out.

Col. Smith agreed.

Mr. Smith stated that he felt the Board mainly wants the area restored as quickly as possible.

The vote on Mr. Durrer's motion with amendments and notations was 4 to 0 with all members that were present. Mr. Swetnam was absent.

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SEPTEMBER 7, 1976

2:15 - NORMAN J. BACON appl. under Sect. 30-7.2.6.1.14 of Ord. to permit p.m. home professional accountant's office, 8301 Upper Spring Lane, S-145-76 (Deferred from 8-31-76 for applicant to revise parking spaces in accordance with Staff's comments -- citizens to be given 10 minutes to respond to new proposal).

Mr. Smith stated that the Board was in receipt of a message from Jack Ash, Zoning Inspector, that Mr. Bacon had called and requested that this case be withdrawn. Mrs. Kelsey had tried to reach Mr. Bacon during the lunch break to request that he be present to personally make this request since there were citizens interested in the case, but was unable to do so. She left a message with his secretary.

A lady from the audience requested the Board withdraw this case with prejudice.

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Mr. DiGiulian moved that the case be withdrawn.

Mr. Durrer seconded the motion.

Mr. Smith stated that usually the Board withdraws the case with prejudice so that the applicant cannot apply again for one year.

Mr. DiGiulian stated that in that case he would withdraw his motion.

Mr. Durrer withdrew his second and Mr. DiGiulian withdrew his motion.

Mr. Barnes moved that the case be withdrawn with prejudice, but his motion died for lack of a second.

Mr. Smith stated that there are citizens that are spending a lot of time here. The applicant did not even appear to request this withdrawal. It is not fair to the citizens to allow this to be withdrawn without prejudice.

Mr. Barnes again moved that the case be withdrawn with prejudice.

Mr. Durrer seconded the motion. The motion passed 3 to 1 with Mr. DiGiulian voting No. Mr. Swetnam was absent.

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REQUEST FOR OUT OF TURN HEARING - HENRY DEVELOPMENT COMPANY, INC.

The applicant requested an out of turn hearing since the construction company or engineer had made an error and the house has been constructed closer to a setback line than allowed by the Ordinance. The house has been sold, but settlement cannot be made until this error is corrected. The applicant is requesting a variance to that setback.

The Board set the hearing date for October 13, 1976, by motion by Mr. Durrer, second by Mr. Barnes and a unanimous vote.

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APPROVAL OF MINUTES

Mr. DiGiulian moved that the minutes for July 13, 16 and 20 be approved as submitted with minor corrections.

Mr. Durrer seconded the motion.

The motion passed unanimously.

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REQUEST FOR
VARIANCES ON MORE THAN ONE LOT IN HARBOR VIEW SUBDIVISION BECAUSE OF SEVERE TOPOGRAPHY PROBLEMS -- Question Whether to Submit One Application or Applications for each lot.

Mr. Fitzgerald requested that the Board hear this as one application. This topography problems exists on several lots along one street in this large subdivision.

It was the Board's decision that he would have to file separate applications on each lot that has a problem topographically that causes the applicant to be unable to use the lot. The Board set the hearing date for November 16, 1976 at 10:00 a.m.

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The Board recessed the meeting for a discussion with Mr. Knowlton. The Board returned at 3:40 p.m. to adjourn the meeting.

By Jane C. Kelsey
Jane C. Kelsey, Clerk to
the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to BZA Sept 17, 1976

APPROVED October 13, 1976
DATE

Submitted to other Boards, Depts.,
and Commissions Nov 2, 1976

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The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on Tuesday, Sept. 14, 1976. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam; and John DiGiulian.

The meeting was opened with a prayer by Mr. Barnes.

10:00 - MERVIN WM. ARPS, JR. appl. under Sect. 30-7.2.6.1.14 of the Zoning Ord a.m. to permit home professional artist studio, 5223 Chowan Ave., 72-3((11) 43, (23,369 sq. ft.), Mason District, (RE-0.5), S-169-76.

Mr. Arps submitted the required notices to property owners of this hearing. The notices were in order, even though Mr. Arps had inadvertently omitted the date of the hearing. A gentleman in the audience testified that he personally had interviewed all the neighbors and they were aware of this hearing today. In addition, the posting had been on the property for some time. He stated that he was in opposition to this application, but was not in opposition to the Board's going ahead with the hearing today. Mr. Arps stated that some of the opposition is based on erroneous information that has circulated throughout the neighborhood.

Mr. Arps read his statement that is in the file outlining what he proposes to do at this location. He also submitted samples of his work to the Board. That work included Rand McNally's Bicentennial issue, The American Legion magazine, a magazine entitled Washington D. C. published by the National Park Service and pages out of the 1975 and 1976 Congressional Calendar. Mr. Arps stated that his work is that of a photo researcher and photo agency. He possesses, takes, and/or researches photographs for use by publishers, educational material producers, government agencies, travel bureaus and/or individuals. Unlike most photographic operations, he stated that he sells the rights to use a photo or color transparency, the original being returned or remaining the property of his agency. He stated that he did not operate a photo studio, per se, in that he does not take photographs of his friends and neighbors. He does not have a darkroom or processing facility. All processing and duplicating is done by Kodak or custom commercial laboratories. His mailing address is Washington D. C. and the mail is delivered by Puralator, a courier service, every day except Saturday. His registered trade name is Roloc and has no listing in any phone or business directories for either Virginia or Washington and there is no sign. The estimated number of clients that visit his home is about 1 - 1/2 to 2 visitors per week, he stated. He has one full-time steno assistant and one part-time research assistant. There are no additions proposed for the house.

The Board members agreed that Mr. Arps did tremendous work. However, they questioned whether this could be called an "art studio" and whether this is a home professional use.

Mr. Durrer inquired of Mr. Arps if he takes all of his own photographs.

Mr. Arps stated that he does take some of them, some his family and friends take and some he purchases from other photo researchers throughout the country.

Mr. Smith stated that Mr. Arps is selling this work commercially. It is a commercial sales establishment whether it be art or whatever it might be. It is a business office in the home with two employees.

Mr. Covington, the Assistant Zoning Administrator, stated that that was his feeling also.

There was no one to speak in favor of this application.

Mr. Ernest Hays, one of the contiguous property owners, spoke in opposition to this application. He stated that he was also asked to speak in opposition on behalf of the Lincolnia Citizens Association by its president. He stated that he originally had complained about the use of this property in question last April. Mr. Beaver, the Zoning Inspector, inspected the property and made the statement that Mr. Arps' business was in violation of the zoning laws of Fairfax County. He gave Mr. Arps 30 days to clear the violation. It has now been five months. Prior to Mr. Arps operating out of this house, he operated a few blocks away at another location in Lincolnia subdivision according to the statement of Mr. Arps' wife, Mr. Hays stated. Mr. Arps has owned this property for about two years. Mr. Hays stated that he was opposed to this use because of the adverse effect it will have on his property values, because of the disturbance that it causes the neighborhood with the delivery trucks coming and going and the 18 wheelers that

make deliveries there.

In rebuttal, Mr. Arps stated that deliveries have been made at the bottom of his driveway. The boxes are brought up to his house on carts or sometimes carried up. This is a delivery by Mountain Pacific and is made twice a year. The delivery truck that comes every day is a mail truck that delivers the mail that comes to the Washington D. C. address. The only time an 18 wheeler has come to the property was when he had a delivery made of one machine which he then carted up and put in his stationwagon and took to Alexandria and shipped right out again. If there was another 18 wheeler, it was when his son and daughter-in-law moved out of their home after being transferred to another area by the Air Force. If the residents of this area have been disturbed in the past, no one has told him about it in the eleven years that he has resided in this subdivision of Lincolnia Park. Most of the opposition has been generated by people talking about the rising taxes that this will cause them, which is erroneous, and about the change in zoning, which is also erroneous. He stated that he could not operate out of a commercial establishment. This work is at his convenience and is only to supplement his retirement pay.

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R E S O L U T I O N

In application S-169-76 by M. W. Arps, Jr. under Sec. 30-7.2.6.1.14 of the Zoning Ordinance to permit a home professional artist studio on property located at 5223 Chowan Avenue, 72-3((11))43, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on September 14, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the bt is 23,369 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the application is denied.

Mr. DiGiulian seconded the motion.

Mr. Swetnam stated that he hated to make this motion, but he had to because he believed that the applicant is not doing what the application requires.

The vote was unanimous to deny with all members present and voting.

10:20 - WOLFTRAP WOODS HOMES ASSOC. appl. under Sect. 30-7.2.6.1.1 of the Ord. to permit construction of 3 tennis courts for community recreation facility, Streamview Lane, 28-2((6))parcel B, (1.63879 ac.) Dranesville District, (RE-0.5C), S-171-76.

Mr. Don Stevens, attorney for the applicant with offices on University Drive, Fairfax, represented the applicant before the Board. He submitted the required notices to property owners of this hearing. The notices were in order.

Mr. Stevens stated that these courts are proposed to be built on the common area owned by the homeowners of this development. The courts are not to be lighted. The plans show eight parking spaces, which they feel are sufficient for three courts. There will be no staff here. There are no other recreation facilities for this development.

The Board members agreed that eight spaces would probably be enough.

Page 391, September 14, 1976

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

In application S-171-76 by Wolftrap Woods Homes Assoc. under Sect. 30-7.2.6.1. of the Zoning Ordinance to permit construction of three (3) tennis courts for community recreation on property located on Streamview Lane, 28-2((6)) part of parcel B, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on September 14, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5 Cluster.
3. That the area of the lot is 1.63879 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 8:00 a.m. to 9:00 p.m.
7. There shall be eight (8) parking spaces provided.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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10:40 - SUZANNA W. BECKMAN appl. under Sect. 30-6.6 of Ord. to permit subd. of lot with one lot having less than required width at bldg. setback line, 701 Utterback Store Road, V-172-76.

Mr. Smith read a letter from the applicant requesting that this case be withdrawn since they are now unable to divide the property because only one place will perk. They can therefore, only provide septic for one lot.

Mr. Durrer moved that the request be granted to allow the applicant to withdraw the application without prejudice.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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10:50 - RITA A. MURRAY appl. under Sect. 30-6.6 of Ord. to permit construction of carport closer to side property line than allowed by Ord., (4' from side, 7' required), 7923 Roswell Drive, 49-2((7))26, (11,276 sq. ft.), Providence Dist., (R-12.5), V-173-76.
(The hearing began at 11:08 a.m.)

Mrs. Murray presented the required notices to property owners of this hearing to the Board. The notices were in order.

Mr. Kenneth Mason, estimator and sales representative for Pride Mark Services, Inc., explained that Mrs. Murray is a widow and has two teenage children. One of the children goes to George Mason University and drives a car. They are always having to shift cars in and out of the driveway when one goes out.

Mr. Smith reminded Mr. Mason that the Board must have a justification in accordance with the Ordinance. The Board cannot grant a variance based on convenience.

Mr. Mason stated that Mrs. Murray has a corner lot which limits the amount of usable space because of the front setback requirements from two streets. It would be inconvenient to place the carport anywhere else. There is also a gas line that comes in on the other side of the house.

Mr. Mason came forward to the podium and explained the way the house is situated on the lot and the problem with putting the carport any place else on the lot.

Mr. Smith stated that the Ordinance was amended to allow a 5' variance automatically for an open carport.

There was no one to speak in favor of the application.

Mr. John Reinerdson, 7921 Roswell Drive, adjacent to the subject property, stated that the problem is that his dwelling is situated askew on the lot. There is a large window in the front, opening into their dining room where her carport would be located. This would be very close to their point of view to their house. They have no objection to a one car carport. He stated that they have discussed with the applicant the alternative of having a two car carport back to back, with one car behind the other running the width of the house instead of lengthwise.

Mrs. Murray stated that if the gas line were indicated on the plats if it would make any difference in the Board's opinion of this case.

Mr. Smith stated that as far as he was concerned, it would not. It would still not interfere with construction on that side, in his opinion. He stated that she also could go 12' behind her house and be able to construct within 4' from the property line.

Mr. Reinerdson stated that he was trying to keep the expenses down.

Mr. Smith stated that expenses is also not a reason to grant a variance under the State Code.

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R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, application V-173-76 by Rita A. Murray under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of carport closer to side property line than allowed by Ord., 7923 Roswell Drive, 49-2((7))26, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 14, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 11,276 sq. ft.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing building on the subject property.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted in part with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. The addition is permitted to be 6' from the side property line. This will permit an 18' carport.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained. Mr. Smith stated that this is actually a 6' variance including the 5' variance already allowed by the Ord.

11:00 - ENGLSIDE INVESTORS, INC. appl. under Sect. 30-6.6 of Ord. to permit construction of addition to restaurant closer to front property line than allowed by Ord., (6' from front, 50' required), 8501 Richmond Hwy., 63(1)9 & 11, (91.5 acres), Springfield Dist., (RE-1), S-176-76.

(Hearing began at 11:35 a.m.)

Mr. Robert J. Madigan, attorney for the applicant with offices at 6417 Loisdale Road, Springfield, submitted the required notices to property owners of this hearing. The notices were in order.

Mr. Madigan submitted photographs of the existing restaurant and a rendering of the proposed addition and how the restaurant would look after the addition is constructed. It would be an entirely new facade. He stated that this restaurant has operated for 40 years. It has a trailer park connected to it. He stated that a site plan waiver has already been obtained for this addition, subject to this variance. The building exists already in the 50' setback area. This addition will extend no further toward the road than the existing building. The applicant proposes to construct curb, gutter and travel lane. The construction of the travel lane is what causes this building to be 6' from the property line. The addition is for the expansion of the kitchen. This will also cause the removal of nine old cottages that are now on the property. He stated that he feels that there is sufficient uniqueness about this case that is reasonable justification for the variance.

Mr. Covington confirmed that the addition would be no closer than the existing building now is.

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Mr. Smith stated that there is an alternate location for this addition.

In answer to Mr. Durrer's question, Mr. Madigan stated that this restaurant will seat approximately 300. If this addition is placed on the back as the Chairman suggested, there will be no room to place the parking and have a travel lane.

Mr. Christopher Frye, the owner of Engleside Restaurant, testified before the Board. He stated that he also manages the restaurant and the restaurant is in great need for a new kitchen. The only way he can operate now is the fact that he has plans in for the new kitchen. He stated that the only reason for this requested addition is because of the kitchen. They do plan to add 6 or 8 inches on the front so they can redo the facade of the building. The restaurant when remodeled will be similar to the Jolly Ox type. It has been in the beer joint category previously.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, application V-174-76 by Engleside Investors, Inc. under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of an addition to an existing restaurant building 6' from front property line (50' required), 8501 Richmond Hwy., 101-3((1))32, County of Fairfax, Mr. Swetnam made the following resolution:

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 14, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 4.25 acres.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No. He stated that he was voting No because he feels there is no justification for this variance under the Ordinance. Mr. Durrer stated that he is voting Yes because under the plan this is the only thing that can be done to this restaurant. This is an improvement.

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11:10 - LARRY LEE ATTIG appl. under Sect. 30-7. 2.8.1.2 of the Ord. to permit operation of riding stable, 16009 Lee Highway, S-176-76.

11:10 - BULL RUN JOINT VENTURE & LARRY LEE ATTIG under Sect. 30-6.6 of Ord. to permit waiver of requirement for dustless surface, 16009 Lee Highway, V-177-76. *as amended

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Mr. Thomas, attorney for the applicant, had not submitted five letters of notification by certified mail to nearby property owners.

Mr. Swetnam moved that the case be rescheduled until October 19, 1976 to allow the applicant a chance to renotify the property owners by certified mail at least 10 days prior to the hearing.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

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11:30 - CENTRAL FAIRFAX SERVICES FOR RETARDED PERSONS, INC. appl. under Sect. 30-7.2.6.1.3.2 of Ord. to permit operation of school of general education, 35 students, weekdays, 9 A.M. to 5 P.M., 2709 Hunter Mill Road, 37-4((1))23, (11.121 acres), Centreville Dist., (RE-1), S-138-76.

Maria Alexander, director of this corporation, submitted notices to property owners which were in order. She stated that this corporation already is operating two locations under Special Use Permit. One is in the Bethlehem Lutheran Church on Little River Turnpike and the other is in the Providence Presbyterian Church on Little River Turnpike. These have been very successful and they constantly have a waiting list. The school is operated twelve months a year, five days a week. The age group is 18 and up. The clients are constantly supervised. They have 1 teacher for every 5 or 6 students. The students are delivered by bus and picked up by bus. They have never had any trouble with any of the students. They do have males on the staff.

Mr. Smith stated that he remembered the first application this corporation had when they proposed to go into the Bethlehem Lutheran Church. There was a lot of opposition at first. However, when they came back with another application for the Providence Presbyterian Church, just down the street from the first, all the previous opposers came out to support the second application. He stated that these people are doing a fine job and a good service to the community.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

In application S-138-76 by Central Fairfax Services for Retarded Persons, Inc. under Section 30-7.2.6.1.3.2 of the Zoning Ordinance to permit operation of school of general education, 2709 Hunter Mill Road, 37-4((1))23, County of Fairfax, 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 in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on September 14, 1976.

- WHEREAS, the Board has made the following findings of fact:
- 1. That the owner of the property is Fairfax Unitarian Church. The applicant is the lessee.
 - 2. That the present zoning is RE-1.
 - 3. That the area of the lot is 11.121 acres.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the application is granted with the following limitations: (over)

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CENTRAL FAIRFAX SERVICES FOR RETARDED PERSONS, INC.

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of students shall be 35, ages 18 and up.
7. The hours of operation shall be from 9 A.M. to 5 P.M. weekdays.
8. This Special Use Permit is granted for a period of One (1) year.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0. All members present and voting.

DEFERRED CASE -- SEPTEMBER 14, 1976

11:45 - BAO T. NGUYEN appl. under Sect. 30-6.6 of the Ord. to permit construction of garage closer to side property line than allowed by Ordinance, 7000 Girard Street, V-164-76. (Def. from 9-7-76 for add. info. from applicant regarding general conditions in area.)

The Board was in receipt of a letter from Nguyen as the Board had requested regarding the number of garages, carports and no garages or carports on his street. For the 20 houses on Girard Street, four have built-in garages, 1 has a carport, 2 have two-car garages constructed under variance (he thought) and 13 houses currently do not have garages.

Mr. Covington stated that the staff has checked and found that there has been only one variance granted to Mr. Alan White, 7012 Girard Street. The other two car garage was constructed 12' behind the house and, therefore, could be constructed within 4' of the property line.

Mr. DiGiulian stated that Mr. Nguyen is asked for a 5' variance.

Mr. Durrer asked if the Board grants one variance in a subdivision, if it then has to grant other requests in that same neighborhood.

Mr. Smith stated that the Board was not aware of the general condition of the area at the time it granted the first variance request. He stated that if the Board continues to grant variances such as this, it will be changing the zoning. The State Code prohibits this.

Mr. Durrer inquired if the Chairman thought the Board would be doing something illegal if it granted this variance.

Mr. Smith stated that he felt it would be illegal since there are similar circumstances in the subdivision. The other variance was not illegal because the Board granted that variance based on the information it had at the time.

Mr. Covington stated that there might be different circumstances on this lot, such as the topography, etc.

The Board checked the minutes for the earlier White hearing where it granted him a variance to permit a garage 4' from the side property line.

After a discussion about that case, Mr. Durrer made the following motion.

R E S O L U T I O N

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Mr. Durrer made the following motion:

WHEREAS, application V-164-76 by Bao T. Nguyen under Sect. 30-6.6 of the Zoning Ordinance to permit construction of one-car garage addition to his residence within 7' of side property line, 7000 Girard Street, 30-4((22))26, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 7, 1976 and deferred to September 14, 1976 for decision only and additional information.

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is R-12.5.
- 3. That the area of the lot is 10,771 sq. ft.
- 4. That the Board finds that the applicant's property is too narrow.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
- 2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No because he stated that he felt there is no justification for this variance.

AFTER AGENDA ITEMS:

SEPTEMBER 14, 1976

REQUEST FOR OUT OF TURN HEARING - RICHARD DIETRICK, VARIANCE REQUEST.

Mr. Dietrick requested an out of turn hearing in order for his pool to be constructed prior to freezing weather. The application is tentatively scheduled for November 9, 1976. Mr. Dietrick would like to be heard some time in October.

The Board discussed their scheduling.

Mr. Durrer moved that the Board grant the out of turn hearing for October 19, 1976.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEM -- SEPTEMBER 14, 1976

MANSION HOUSE YACHT CLUB, Granted September 16, 1975, S-74-75

MANSION HOUSE CLUB, Granted September 16, 1975, Requests for extensions.

The Board considered this request for both applications and Mr. Barnes moved that the request be granted for a 6 month extension from September 16, 1975.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was out of the room.

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AFTER AGENDA ITEM

OUT OF TURN HEARING REQUEST - MAHER, VARIANCE REQUEST.

The Board again discussed their scheduling and this case. The letter had just been hand delivered to Mrs. Kelsey. Therefore, she did not have the file. The Board decided that they already had placed too many cases on October 19. Mr. Durrer moved that this case be set for October 26, 1976. Mr. Barnes seconded the motion and the motion passed unanimously.

// AFTER AGENDA ITEM - SEPTEMBER 14, 1976

SYDENSTRICKER SCHOOL, 7001 Sydenstricker Road, S-745-67. The Board received a memo from the Zoning Administrator dated August 10, 1976 regarding the failure of this school to comply with the conditions imposed by this Board in granting this Special Use Permit. The Zoning Administrator requested this Board to have a show-cause hearing for failure of the applicant to comply with the requirements of the Special Use Permit. The Board then rescinded its action of November 28, 1969 in granting the Special Use Permit. The Zoning Administrator would like the Board to again discuss this matter. The staff has taken no action on the rescission until the Board can reconsider this.

Mr. Knowlton stated that Mr. Ash, the Zoning Inspector, has some information for the Board. He stated that the Board of Supervisors took an action after the Board of Zoning Appeals action to grant this use to waive the site plan. At the time the Board granted this Special Use Permit, dedication could not be required by the site plan office. Therefore, this Board made it a practice to make it a condition of the granting of the Special Use Permit, when the Board felt that dedication was needed, usually in accordance with the site plan department's suggestions. The Board did make that a condition of this Special Use Permit. The applicant has not yet dedicated. The applicant is contending that they do not have to dedicate because of the wording of the Board of Supervisor's waiver of site plan. There is a pending bond. The bond cannot be recovered until the dedication takes place. The applicant has been cited with a violation for this. The school has been in operation since 1969. He recommended that the Board take action in accordance with the suggestions of the County Attorney and in line with the recent court case concerning revocation procedures.

Mr. Ash submitted to the Board a copy of the site plan waiver by the Board of Supervisors and the minutes of the meeting on that case. He also submitted a letter from the attorney for the applicant regarding this question. He stated that this has been carried over for many years. It keeps coming through the Zoning office from time to time and he would like to lay the matter at rest once and for all, so that the applicant either dedicates in accordance with the Board's original condition, or the applicant be released from this condition.

Mr. DiGiulian moved that the Board give the applicant notice of the Board's intent to revoke if good cause is not shown by the applicant why the permit should not be revoked. If the permittee requests a hearing on this question of revocation, he must file a request for such hearing within 10 days of receipt of such notice. This is in the case of Mr. and Mrs. A. M. Araugo, case number S-393-66, granted November, 1967. The permit holder should be apprised of this by certified mail.

Mr. Swetnam seconded the motion.

The motion passed unanimously, 5 to 0.

// The Board recessed for a discussion with Mr. Knowlton and returned to adjourn at 1:15 p.m.

Jane C. Kelsey
By Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to BZA on Sept. 21, 1976

APPROVED October 13, 1976
DATE

Submitted to Bd. of Supervisors, Planning
Commission and other Depts. on Nov. 2, 1976

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A Special Meeting of the Board of Zoning Appeals Was Held on Friday, September 17, 1976. Members Present Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; and Tyler Swetnam. John DiGiulian was absent. The meeting was held in the Board Room of the Massey Building.

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The meeting was opened with a prayer by Mr. Barnes.

(Began at 10:25 a.m.)

10:00 - CAROL ROBINSON appl. under Sec. 30-7.2.6.1.7 of the Zoning Ord. to a.m. permit antique shop in home, 10030 Colvin Run Road, 18-2((1))19, Dranesville District, (~~4.1107~~ 3.011 acres), RE-1, S-196-76. 3.011- as amended

Mr. Smith stated that the Board had just been informed that Mr. DiGiulian would not be present today. He asked if there were any applicants who wished to ask for deferral based on this, since there would be only four Board members present.

No one requested deferral.

Mr. Smith stated that the Board has two cases on antique shops today under Group VI, Community Use. He reviewed with the Board Section 30-7.1.1 of the Zoning Ordinance relating to standards for Special Use Permit uses in residential districts.

Mr. Justus M. Holme, 3995 Chain Bridge Road, Fairfax, attorney for the applicant, submitted the required notices to property owners of this hearing. The notices were in order. He stated that this application for an antique shop is very unique. The property is located across the street from the Colvin Run Mill. The Robinsons purchased the house in Pennsylvania and disassembled it piece by piece and brought it to this property and reassembled it. It is actually almost the same thing that was done to Colvin Mill. The house is large. The intent is to use the first floor for the antiques and the second floor for living quarters. The only things that would be sold would be antiques, 18th and 19th century. They do not plan to do any advertising. Therefore, there would be only a few customers. The shop is proposed to be open five days a week, Wednesday through Sunday from 10:00 a.m. to 8:00 p.m. Mrs. Robinson would be the only employee. This is her bona fide residence. This is a single family home and it does fit into the neighborhood which is single family homes. It also fits into the historic character of the neighborhood because of the history of the house. The Robinsons do not intend to do anything to change the character of the area. The traffic impact will be minimal. The house is completely shielded from the road. One cannot even see the house from the road until you get into the driveway. They do hope to have a small identification sign with their name and the word "antiques". There are letters in the file from two of the adjacent property owners, the Park Authority and from Chairman of the Board of Supervisors, Jack Herrity. The neighbors would like the sign limited. The two neighbors also suggested a stipulation that the permit only be granted for one year. The applicant would prefer at least two years, if possible.

In answer to Mr. Smith's question, Mr. Holme stated that the square footage of the area to be used for antiques is 2200 square feet. The parcel of land involved is 3.011 acres, not 4.110 acres as indicated on the application.

Mr. Smith stated that the record should reflect that change.

Mr. Barnes stated that he viewed the property yesterday and he felt it would be rather hard to get in and out of the driveway and into the parking spaces.

Mr. Holme stated that there are five parking spaces proposed. However, they only expect one or two cars to be there at any one time.

Mr. Barnes stated that that is difficult to tell in advance of operation. After the operation starts, it is too late.

After a brief discussion, Mr. Holme stated that the applicant agrees to the dedication as suggested by Preliminary Engineering.

Mr. Robert E. Rogers, 1154 Robindale Drive, around the corner from the subject property, submitted a petition signed by some of the neighbors requesting that the application be denied because of the traffic problems and the hazardous conditions of the road that services this property and because of the commercial nature of an antique shop. He requested that if the Board cannot deny the application based on the information it has today, that the Board defer the case until an impact study of the traffic in that area can be made.

John Dean, 10020 Colvin Run Road, next door neighbor to the Robinsons, stated that he is concerned about the commercial nature of this establishment in this residential neighborhood. He stated that his concern would be greatly lessened if the Board sees fit to add the conditions as set forth in his letter to the Board which were mentioned earlier. He requested that the sign be limited in area and that the parking area be limited to the existing facility.

Mr. Holme in rebuttal stated that there are property owners that are adjacent who have no objection to this application. They will agree to the proposed stipulations as suggested by the neighbors and Preliminary Engineering.

Mr. Smith noted the letters that were in the file from Mr. and Mrs. West and Mr. Dean. Those letters are not in objection, but are requesting that the stipulations as mentioned earlier be included if this is granted. The Chairman of the Board of Supervisors, Mr. Herrity, addressed a letter to the Board earlier requesting that the Board grant an out of turn hearing for this case. The Board did grant an out of turn hearing in this case.

Mr. Holme stated that he wished to mention that Chairman Herrity's letter actually takes a positive view of this proposal. He stated that the traffic is there already. This use will not make the traffic much greater. The applicant will sell antiques, not junk. All pieces will have to be at least 76 years old.

Mr. Barnes stated that that would be difficult to enforce.

Mr. Holme stated in answer to Mr. Swetnam's question, that the applicant would not be living with the antique furniture that she wishes to sell, but it would be set up in room situations, not stacked up like in a store. The applicant has corrected one statement made earlier. The antiques will be sold predominately on the first floor, but there are a couple of rooms on the second floor that will be used. The total area will not exceed 2200 sq. ft.

Mr. Swetnam made a motion to grant the application with conditions.

Mr. Durrer seconded the motion.

The motion contained a condition limiting the sign to two square feet and the name of the applicant and the word "antique".

Mr. Smith objected to the word "antique" being on the sign.

The vote tied with Messrs. Durrer and Swetnam voting Aye and Messrs. Barnes and Smith voting No.

Mr. Barnes made a substitute motion to defer this case until an impact study of the neighborhood and the traffic conditions could be made.

Mr. Swetnam stated that he would second the motion only to keep the case alive.

Mr. Durrer stated that the limitation that Mr. Swetnam had placed in the motion limiting this permit to one year would give the best study that he knew of.

The motion to defer passed 3 to 1 with Mr. Durrer voting No.

The case was set for 11:00 a.m., November 16, 1976.

// Mr. Barnes stated that his main concern is the Old Mill and the traffic impact. There is no stop sign on Route 7.

Mr. Smith stated that the Board would request the staff to provide a traffic study of the impact this use would have on the already heavily traveled streets along Colvin Run. The Board will accept any additional information from the neighbors regarding this.

Mr. Smith asked if 11:00 a.m. November 16, 1976 was agreeable with the applicant. Mr. Holme stated that it was.

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10:20 - ARTHUR JOHN SELTMAN appl. under Sec. 30-7.2.6.1.7 of the Zoning Ord. a.m. to permit antique shop in home, 6022 Columbia Pike, 61-4((3))(H) part of Lots 4 & 5, Courtland Park Subd., (11,833 sq. ft.), Mason Dist., (R-12.5), S-197-76.

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(The hearing began at 11:12 a.m.)

Mr. Tom Lawson, attorney with offices on Chain Bridge Road in Fairfax, submitted the required notices to property owners of this hearing. The notices were in order.

Mr. Lawson stated that Mr. Seltman lives in Staten Island, New York at the present time. He is the contract purchaser for this property. He wishes to operate a coin collection antique business in his home. He has a masters degree from Cambridge University and is in the process of writing his thesis at the present time at Georgetown University in Washington, D. C. He is particularly interested in artifacts of ancient origin. He has been in Cyprus on archeological digs. He plans to limit his operation from 10 A.M. until 6 P.M. daily on an appointment only basis. This will not be a drop in and browse operation. His operation will be advertised in Journeyman's magazines. The appointments will be limited to one person at a time. Therefore, the traffic impact will be minimal.

Mr. Seltman testified that he does now live in New York and has a business in his home there which is a mail order business. He stated that he does not live here at the present time, but has this subject property under contract to purchase. He stated that he has found that he is now doing most of his business from this area and wishes to move here. He stated that he would like to have a small sign in front of his house with his name and the word "antiquities", in order that people who are interested in collecting antique coins can find him easily. He stated that in addition to collecting coins, he would also be selling antique prints and other antique pieces.

Mr. Lawson submitted a brochure showing the Board the type of coins that Mr. Seltman would have.

Mr. Durrer inquired if Mr. Seltman would only sell what is seen in the brochure. (which was a brochure of coins)

Mr. Lawson stated that that is primarily his business. However, he would sell some prints. He reiterated that there would be no off-the-street customers.

The Board discussed the adequacy of the parking area that was shown in the plats as being to the rear of the house.

Mr. Smith stated that he had viewed the property just yesterday and he could not see how an automobile could get between the existing house and the next door property to get back to the proposed parking lot.

Mr. John Gilbert, 6959 Kyleaking Court, McLean, Virginia, stated that he and his wife just purchased the property next door to the subject property and they have no objection to this application being granted. They do plan to live at the newly purchased home. He stated that he does not know Mr. Seltman and he does not operate an antique shop.

Mrs. Lucille Huddleston, resident of the Courtland Park Subdivision, representing 25 residents of that subdivision spoke in opposition. A petition signed by 25 residents of that subdivision was submitted to the Board. She stated that there is no way that this application can meet the criteria for a use permit. The testimony is that there will be no walk-in customers, yet he wants a sign. This house is located in the middle of the block. It is occupied by a nice young family. There is no sidewalk, or service road in front of the house and the houses are very close. The only entrance and exit is from Columbia Pike which is a hazardous road. This is a commercial venture and it has no place in this subdivision, she stated.

Mrs. Roberts, 3510 Glare Road, spoke in opposition to this application. She stated that Mr. Seltman should go into business in a commercial area.

Mrs. Winifred Clore, president of the local civic association, spoke in opposition

Mr. Smith read verbatim the letters from Mrs. Fasteau, member of the Fairfax County Planning Commission, dated September 17, 1976, outlining the adopted plan for this area, Area I, as it relates to this use and pointing out other areas of contention regarding this use.

Mr. Smith also read a letter from Alan Magazine, Supervisor, Mason District, dated September 13, 1976, requesting deferral of this case until after the Board of Supervisors holds a public hearing on a zoning ordinance amendment to the section of the Code pertaining to "Professional Offices in R Districts" which is on September 20, 1976.

Mr. Mitchell from the Zoning staff told the Board that the proposed amendment is a complete reworking of the home professional office section. The Planning Commission had a hearing on this amendment but did not take a positive action or make a recommendation to the Board on it.

Mr. Durrer stated that he has voted against all but one or two of these type applications, but this one is entirely different. The other applications have been for beauty shops and doctors offices in the home which requires a lot of customers coming and going which does create an impact on a residential street. However, this is a mail order type business and is very low key. There will be no impact in the neighborhood at all.

Mr. Smith stated that going back to the specific requirement of the ordinance, that the residence be the bona fide residence of the applicant. This is not. This applicant is purchasing this property primarily for the purpose of making an antique shop out of it. All traffic going in and out of this property must pass within 1 foot of the contiguous property owner. This certainly would be an impact on the contiguous owner. This is a very heavily traveled street and any additional traffic turning in and out will create an additional hazard. This applicant has no interest in this community. He is purchasing this property for a specific purpose and that is to turn it into a business venture. This is in direct competition with other people in this line of business that maintain offices in commercial areas. This gives him a distinct advantage. This is not a one-horse antique shop, it is a going mail order business.

Mr. Swetnam stated that he sees this gentleman as a scholar. He wants to move his residence from New York and is now working on an additional degree at a local university.

Mr. Smith asked if he felt that this residential community should subsidize this gentleman's education.

Mr. Swetnam disagreed that this is what they would be doing.

Mr. Lawson in rebuttal to the opposition stated that Mr. Seltman told him that he has only one or two customers on an average every one to two weeks. Therefore, this would be such a minimal impact on the surrounding area that no one would even know this is what he was doing, if it were not for this hearing.

Mr. Durrer moved to grant the application with several conditions.

Mr. Swetnam seconded the motion.

The motion failed by a tie vote, 2 to 2, with Messrs Durrer and Swetnam voting Aye and Messrs. Smith and Barnes voting No.

Mr. Barnes stated that he could not make a decision on this today and would offer a substitute motion to defer this for 60 days.

Mr. Swetnam stated that he felt that to deny this would be an injustice to this man, therefore, he would second Mr. Barnes' motion in order to keep this application alive.

The motion passed 3 to 1 with Mr. Durrer voting No.

The case was set for 11:20 a.m. on November 16, 1976.

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10:40 - L. FAYE KIRBY & ELIZABETH HULL appl. under Sec. 30-7.2.6.1.3.2 to permit school of general education for 12 children, 9 A.M. to 3 P.M. Monday through Friday, 7805 Idylwood Road, 39-4((6))6A, 6B & 7, Providence Dist., (R-12.5), 64,958 sq. ft., S-198-76; and request for waiver of dustless surface, V-199-76 (JOHN & JANE CATLIN, owners of property). (The hearing began at 12:40 p.m.)

Mrs. Kirby, 2023 Kirby Road, submitted the required notices to property owners of this hearing. The notices were in order.

Mrs. Kirby stated that there are currently ten children enrolled in this school. They are all close personal friends of the director. These children will be driven to and from school by either the director or the parents of the children. There is a parking area and turn around area on the property to accomodate five cars. The A frame structure is the proposed school location. They have completed the work as suggested by the inspection report and they are now ready for final inspection just as soon as they get approval from this Board. It is not required that this school be certified by the State Board of Education. They have been advised that schools do not usually apply for accreditation until they have been operating for a couple of years.

Mr. Durrer stated that he is concerned that the Health Department has no control.

Mr. Covington stated that as far as the building is concerned, this is checked by a team of inspectors from the Health Department, the Fire Marshal's office, the Division of Environmental Management's electrical and building code office, and the applicant is not able to operate until the school has passed all these inspections. The Zoning Office has periodic inspections to be sure the applicant is complying with the Special Use Permit requirements.

Mrs. Kirby stated that she is a certified reading specialist and will be the director of this school. She stated that she will plan the day's activities and the curriculum for the school. According to the State Department of Welfare, one could set up a school without being a certified teacher.

Mrs. Kirby stated that the reason they are requesting a waiver to the dustless surface requirement is because this is to be a temporary use. They will operate at this location for no more than three years.

In answer to Mr. Durrer's question, Mrs. Kirby stated that she has never directed a school before. She was the director for the reading school at the University of Virginia, but that school was already set up.

Mr. Smith stated that if the Board so desires, it can make as a condition that this school be under the Health Department's jurisdiction.

Mr. Durrer stated that he felt the Board should do that.

There was no one to speak in favor or in opposition.

RESOLUTION

In application S-198-76 by L. FAYE KIRBY & ELIZABETH HULL under Sect. 30-7.2.6.1.3.2 of the Zoning Ordinance to permit school of general education for 12 children, 9 A.M. to 3 P.M., 7805 Idylwood Road, 39-4((6))6A, 6B, & 7, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on September 17, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is John E. and Jane Catlin. The applicants are the lessees.
2. That the present zoning is R-12.5.
3. That the area of the lot is 64,958 sq. ft.

4. That compliance with the Site Plan Ordinance is required.
5. That the property is subject to Pro Rata Share for off-site drainage.

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WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The number of children permitted shall be 12. Ages 5 through 12.

7. The hours of operation shall be from 9 A.M. to 3 P.M., Monday through Friday.

8. This permit shall be in force for 2 years with the Zoning Administrator being empowered to grant 2 one year extensions.

9. The Health Department shall have supervision of this operation.

Mr. Barnes seconded the motion.

The motion passed unanimously, 4 to 0. Mr. DiGiulian was absent.

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Mr. Swetnam then made the following motion:

WHEREAS, Application V-199-76 by John E. and Jane Catlin under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit a variance to Section 30-3.10.5 which requires a dustless surface for the driveway and parking spaces for the school of L. Faye Kirby and Elizabeth Hull on property located at 7805 Idylwood Road, 39-4((6))6A, 6B and 7, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 17, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 64,958 sq. ft.
4. That the Board finds that the applicant's property will only be used for a school on a temporary basis.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

Page 405, September 17, 1976
CATLIN (continued)

1. This approval is granted for the location and the specific area indicated in the plats included with this application only, and is not transferable to other land or to other locations on the same land.
2. This variance shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to expiration.
3. This is granted for a period to run concurrent with the Special Use Permit of KIRBY & HULL, with a maximum of four years.

Mr. Barnes seconded the motion.

The motion passed unanimously, 4 to 0. Mr. DiGiulian was absent.

11:00 - EZRA A. FOX appl. under Sect. 30-6.6 of Ord. to permit subdivision a.m. of lot with one lot having less than required frontage, (20' frontage, 150' required), 14110 Georgetown Pike, 6-4((1))57, (5.1 ac.) Dranesville Dist., (RE-1), V-193-76.

Mr. Charles Runyon, 152 Hillwood Avenue, Falls Church, engineer, submitted the required notices to property owners of this hearing. The notices were in order.

Mr. Runyon stated that this property is wide on the front and very narrow on the rear. In order to provide a better utilization of the land area in this division, it is necessary to request a variance. He stated that as the Board can see from the topo lines on the plat, there also is a topography problem which limits the area for the siting of the house on the property. The applicant owns no other property contiguous to this property, or even in Fairfax County.

There was no one ^{else} to speak in favor of the application.

Mrs. John ? , 625 Seneca Road, inquired as to why a variance was necessary. She asked why the applicant could not just grant a driveway easement through the property. She was afraid this would establish a precedent.

Mr. Smith explained that the applicant needs the frontage in order to divide the property and establish a lot to the rear. He stated that he doubted if there were very many lots in this area with this configuration.

There was no one else to speak in opposition.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application V-193-76 by Ezra A. Fox under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit subdivision of lot into two with one lot having less than required frontage, 14110 Georgetown Pike, 6-4((1))57, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 17, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.491 acres.
4. That the Board finds that the applicant's property is
 - (a) exceptionally irregular in shape, and
 - (b) has exceptional topographic problems.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location indicated in the plats

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included with this application only, and is not transferable to other land.

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed unanimously, 4 to 0. Mr. DiGiulian was absent.

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The Board recessed at 1:15 p.m. for lunch and returned at 2:20 p.m to take up the 11:10 a.m. item.

CALVARY CHRISTIAN CHURCH appl. under Sec. 30-7.2.6.1.11 of the Zoning Ord. to permit construction of church, 9800 Old Keene Mill Road (lots 8 & 10), 88-1((2))8&10, Springfield Dist., (441, 570 sq. ft.), RE-1, S-200-76.

Mr. Walter Stevens, attorney for the applicant with offices on Chain Bridge Road in Fairfax, submitted the required notices to property owners which were in order.

Mr. Stevens stated that this proposed church will seat 300 persons. The present plans show 77 parking spaces, which is 17 more than required by the Site Plan office. This will be a one story structure of brick construction. The building will have a basement. He submitted a sketch showing how the proposed building will look. He stated that both the pastor of the church and Mr. Toby Bird, the architect are present should the Board have questions of them. This church was the subject of a previous application before this Board about fourteen months ago. That application was withdrawn because the neighbors were complaining that they did not want a church on that property. The Church now hopes it has found a suitable site and requests the Board give favorable consideration to this application. He stated that the church is willing to dedicate in accordance with the comments from Preliminary Engineering Branch.

There was no one to speak in opposition to this application.

RESOLUTION

In application S-200-76 by Calvary Christian Church under Sec. 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of church, 9800 Old Keene Mill Road, 88-1((2))8 & 10, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on September 17, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is G. K. Keyt, L. Manaric and J. Woodyard. The applicant is the contract purchaser.
2. That the present zoning is RE-1.
3. That the area of the lot is 441,570 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the

plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The membership shall be 300.

7. There shall be parking for 77 cars.

8. The owner shall dedicate to 60' from the center line of Old Keene Mill Road.

Mr. Barnes seconded the motion.

The motion passed unanimously, 4 to 0. Mr. DiGiulian was absent.

11:30 - DOUGLAS & NANCY McKINLEY appl. under Sec. 30-6.6 of the Ord. to permit construction of greenhouse within 33.45' of front property line (45' required), 2107 Martha's Road, Hollin Hills Subd., 93-3((4)65, Mt. Vernon Dist., (20,396 sq. ft.), R-17, V-201-76.

(The hearing began at 2:40 p.m.)

Mr. McKinley presented notices of this hearing to the Board. The notices were in order.

Mr. McKinley stated that this greenhouse will be a designed greenhouse. It will not be a kit-type greenhouse. He submitted a model of the greenhouse and the existing house to show how it would look after construction. The purpose of putting the greenhouse in this location is to get the best and sunniest location on the property. All along the back of the property is heavily wooded with evergreens from neighboring properties. The proposed greenhouse will be compatible with the architectural style of the existing house and the neighboring houses. The proposed location will also minimize visibility of the greenhouse to the neighbors.

The justification for the need for this variance is that this is a corner lot, therefore having front yard setback requirements for the side yard.

Mr. McKinley stated that he has obtained the approval of the subdivision's architectural control committee for this greenhouse. He submitted a petition from several property owners on Martha's Road stating that they have no objection to the granting of this variance and stating that they feel that the greenhouse will be architecturally consistent with, and will not affect the values of other properties in the neighborhood.

Mrs. Nancy O'Roerke, who lives on Recard Lane, spoke in opposition to the application. She also presented to the Board letters from Mr. and Mrs. Christopher Morrow, 7408 Recard Lane and Dorothy Weintraub, 7410 Recard Lane, stating their objection to the possible use of growing lights that might be used in this greenhouse. She also presented a letter from Kathleen Spagnolo, 7401 Recard Lane stating that even though she had signed a petition in favor of the greenhouse, she was concerned about the growing lights that might be used.

Mr. McKinley in rebuttal stated that he felt there were physical problems with the lot that the denial of this variance would cause him to be deprived of the reasonable use of his land. There is no one living right next door to the greenhouse that would be looking into it all night. Actually, if this were not a corner lot, the greenhouse could be constructed 15' from the side property line. However, since it is a street, they are not able to build within 45' of the property line in their side yard since the ordinance treats that yard as a front yard. The greenhouse will be screened adequately.

Mr. Swetnam inquired of Mrs. McKinley if it was customary to face a greenhouse south.

Mrs. McKinley answered that that is customary.

Mr. Swetnam stated that then as he viewed the property, there is no other place on the lot to place it in order to get a south exposure and therein lies the hardship.

Mr. Smith asked if he felt that everyone should be allowed a greenhouse as a matter of convenience to them.

Mr. Swetnam answered that every case has to stand on its own merits.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, application V-201-76 by Douglas and Nancy McKinley under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of greenhouse within 33.45' of front property line (45' required) on property located at 2107 Martha's Road, 93-3((4))65, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 17, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 20,396 sq. ft.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. That the addition shall have a front wall of brick and appropriate glass areas.
4. That any lights will be screened from outside view.

Mr. Barnes seconded the motion.

The motion passed 3 to 1. Mr. Smith voted No. Mr. DiGiulian was absent. Mr. Smith stated that he was voting No because he did not think the applicant has demonstrated a hardship.

For clarification, Mr. Swetnam stated that the applicant will have to shade the lights, put shade in, if she is going to leave the lights on all night. There is nothing that can be done about the light shining straight up, but one should not be able to look into the window and see the lights.

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11:40 - AMOCO OIL CO., S-202-76

a.m.

11:50 - AMOCO OIL CO., S-203-76.

a.m.

Both these cases were called and the AMOCO representative, Mr. L. J. Hayward, told the Board that their office had neglected to get out the proper notices to property owners. He requested the Board defer these cases to a later date in order to give them an opportunity to comply with these requirements for notification.

The Board deferred these cases until November 30, 1976.

The meeting adjourned at 3:30 p.m.

Jane C. Kelsey

By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith

DANIEL SMITH, CHAIRMAN

APPROVED October 19, 1976
DATE

Submitted to BZA 9/28/76

Submitted to Bd. of Supervisors,
Planning Commission and other
Depts. Nov. 2, 1976

The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on Tuesday, September 21, 1976, beginning at 10:00 a.m. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; Tyler Swetnam; George Barnes and John DiGiulian. No one was absent.

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The meeting opened with a prayer by Mr. Barnes.

The Board meeting began at 10:00 a.m. with 10 members present.

10:00 - BERNARD C. COX appl. under Sect. 30-6.5 of the Zoning Ord. to appeal Zoning Administrator's decision to revoke Special Use Permit, 3801 Skyview Lane, 58-4(1)54, (8 acres), Providence District, (RE-1), V-183-76.

(The hearing began at 10:40 a.m.)

Mr. Blaine Friedlander, attorney for the applicant, was present, as was Mr. Cox.

Mr. Smith asked Mr. Knowlton to give the Board the background on this case.

Mr. Knowlton stated that this was a Special Use Permit granted to Mr. Bernard C. Cox in 1973 for three years with the Zoning Administrator empowered to grant 3 additional one year extensions. The permit contained a condition number 3 which states, "This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board..." Since this Special Use Permit was issued, a number of things have transpired. He asked Mr. Koneczny, Zoning Inspector, to give the Board a chronology of the events that have transpired.

Mr. Friedlander interrupted to say that he thought this was an appeal from the Zoning Administrator's decision. This is what he had applied for, he stated.

Mr. Smith stated that this is a fact findings hearing on the appeal.

Mr. Friedlander stated that this is an appeal on a letter written June 14, 1976. He stated that he is not appealing anything that Mr. Knowlton or anyone wants to testify to this morning. "My appeal is to what you all have done to Fairfax County laws as a result of the Zoning Adm.'s action taken unilaterally" Mr. Friedlander stated that he wished to put on record so as to protect any rights his client might have that he thought that if the Board proceeds in the manner that it is now that the Board is violating the rights of his client under the 14th Amendment and Section 1.10 of the Constitution of Virginia and that is the right of the due process of law.

Mr. Durrer inquired the identify of the gentleman speaking (Mr. Friedlander)

Mr. Friedlander gave his name and address as Mr. Blaine Friedlander, attorney for Mr. Cox, address, 2018 North 16th Street in Arlington, Virginia.

Mr. Smith: "I don't think this fact finding session will violate the constitutional rights of the Permittee in the case, Mr. Friedlander."

Mr. Friedlander: "The Board has just stated that Mr. Knowlton has told us under which section he wrote the letter."

Mr. Smith: "There was a re-evaluation hearing held on this permit."

Mr. Friedlander: "My objection to that is a part of the record."

Mr. Smith: "You did accept a condition as set forth on the Board's findings at that hearing."

Mr. Friedlander: "If the Board will recall, I objected to a unilateral hearing which is a violation of the constitutional rights. The Board at that point said that 'we will protect your rights, you have 10 days to appeal'. You know that if you violate someone's constitutional rights, any acts that flow therefrom is void. I have made my point and I will let Mr. Knowlton continue and say anything he wishes."

and without consult with us on June 14, 1976. That is the issue on appeal."

Page 411, September 21, 1976
COX (continued)

Mr. Stitt, Assistant County Attorney, stated that, "I think the gentleman had a point to make and he made it. The Board can proceed with the fact finding hearing."

(Edwin C. Woodburn, 3804 Skyview Lane)
Another gentleman from the audience came forward to the podium and alledged that it was his understanding that Mr. Cox did not file an appeal within the 10 days required by the Code.

Mr. Smith asked him to be seated and the Board would get this information. He stated that the Board is proceeding with the hearing on the appeal.

Mr. Koneczny: "As Mr. Knowlton indicated, this is a Special Use Permit issued for a riding stable in 1973. Our office became aware of violations through complaints of the citizens of certain activities that were contrary to the Special Use Permit. We investigated the property on a number of occasions and in November, 1975 is one occasion when we had issued Mr. Cox a violation notice for having pinball machines, amusement equipment and related items on the property. These were not permitted by the Special Use Permit. There was a re-evaluation hearing on January 28, 1976 whereby the Board, in its motion, through the re-evaluation indicated to Mr. Cox that any further violations of the Special Use Permit would cause the Zoning Administrator to use his authority to revoke the Special Use Permit. Approximately the middle of June 1976, Mr. Woodburn, a resident of Skyview Lane, presented pictures to Mr. Covington (Assistant Zoning Administrator) indicating clear evidence that there was a violation to those conditions. Mr. Knowlton by the action of this Board wrote a letter of this sort regarding these violations of the Special Use Permit. The date of the letter was the 14th of June 1976. ~~and the Special Use Permit being revoked.~~ Mr. Cox received it on the 17th of June."

Mr. Smith: What date did the Permittee respond to the correspondence by the Zoning Administrator?

Mr. Koneczny: We have an application dated July 9, 1976.

Mr. Friedlander: (interposing) There should be another document there in June. I would like the record to show that I was on vacation and trying a case in Toledo, Ohio and I dictated a letter over the phone and it was delivered to you. That was part of my problem. No one told me what you were doing. /on the 27th of June. It was impossible to get the form filled out in Ohio.

Mr. Smith: I think the Zoning Administrator followed the proper procedure. The correspondence would have been with the Zoning Office, not the Board.

Mr. Friedlander: That doesn't mean that it is correct. I think that as a member of the Bar and having entered my appearance in this case, that you and your staff owe me the courtesy of advising me of any action that you take. If you want to advise my client, I have no objection. I want the record to be clear that I dictated on or before the 27th of June a document requesting this appeal.

Mr. Smith: The advice to the client is the proper advice.

Mr. Smith: We will go ahead with the fact finding hearing anyway whether you met the procedural requirements of the ordinance or not, Mr. Friedlander, to protect your clients interest and to give you an opportunity to be heard. The Chair will limit the proceeding. I will give you not more than 15 minutes and the people who are present not more than 15 minutes.

Mr. Woodburn, are you handling the Complainants case? Did you present the evidence to the Zoning Administrator that brought about this action?

Mr. Woodburn: I did present that evidence Mr. Chairman, but I am not representing the residents as a unit.

Mr. Smith: Who was the Complainant in this case?

Mr. Woodburn: I did, sir.

Mr. Smith: Are there other complainants?

Mr. Woodburn: I'm not sure.

Mr. Smith: How many people here presented evidence to the Zoning Administrator in connection with this case and do want to be heard on this?

(Three people raised their hands.)

Mr. Smith: Mr. Woodburn, do you want to start off. Do you have evidence to present.

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when I get the new gen*

Mr. Woodburn: My name is Edwin Woodburn, 3804 Skyview Lane, Fairfax, Virginia. My property abuts Mr. Cox's property. I would like to say that the posting for this sign for this appeal is about 50' inside Mr. Cox's property that is in a cul-de-sac and it is extremely difficult, especially since Mr. Cox has indicated to us that he doesn't want us on his property. Even as late as yesterday, there were several people on the street who were not aware of this public hearing.

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Mr. Smith: You were aware of it and you are here. Please present the Board with the facts that you have regarding the violation.

Mr. Woodburn: It is incredible to me that we are here again. Certainly, this to me is a witness of the most flagrant disregard to zoning regulations and contemptous attitude for neighbors that I have experienced. Mr. Cox has totally disregarded the instructions and warnings of this Board. The conditions established by this Board when you initially approved the permit in 1973 and he has even intensified the -- and expanded the activities. He continues to operate an amusement business seven days a week, all hours of the day, continues to use on-street parking, continues to repair all of his trucks, numbering somewhere between 12 and 15 and maybe more, on the premises, has expanded to a retail business of selling pinball machines and similar pieces of equipment to the point that he now has, I believe, two trucks that he uses for delivery of pinballs that he sells. All of this in the name of 'horses'. While everyone concentrates on horses, he is enjoying a commercial and industrial use in a residential zone. On November 14, 1973, you approved a Special Use Permit for Mr. Cox to operate a riding stable and the boarding of horses. The approval was granted with limitations. I would like to review some of those. One of them was that the approval was granted to the applicant only and is not transferable with ^{out} future action of this Board and is for the location indicated in the application and is not transferable to other land. I now understand that Mr. Cox permits his former employees to contract for his horses and his trucks for ^{an} amusement business. He has entered the contracting business by using the Special Permit for other than himself by permitting employees to carry out a business through contract. Another limitation was that the approval was granted for the buildings and use indicated on the plats with the application. It goes on to say that any additional uses must be evaluated by this Board. The sale of pinball machines and similar equipment has become a full time business. He now has full time employees and trucks used only for this business. I would like to read just a couple of ads out of the Washington Post paper, dated September 12, 1976. It says, 'pinball, football, baseball, gunfighter, jukeboxes'. On September 19th, it says, 'pinball collection, jukeboxes, video games'. How can this use be permitted to continue when other people in the area have been forced to move from a residential zone when they were in a commercial business much less intense than this business. Another limitation was that 'hours of operation shall be from 9 A.M. to 5 P.M., Monday through Friday'. Mr. Cox operates seven days a week and at all hours of the day. Another limitation was, 'parking shall be on site for all employees'. Mr. Cox has never attempted to do this, either by design, or because he does not have enough space on his property to provide off-street parking. I have pictures taken in June, July, August and early September, if you would like to see those.

Mr. Swetnam: I think he ought to submit the pictures and identify them.

Mr. Smith: Do you have photographic evidence to present? Have you noted the dates and times on all of these?

(Mr. Woodburn came forward and presented the pictures.)
Mr. Swetnam: Mr. Woodburn, did you take these yourself?

Mr. Woodburn: I did.

Mr. Swetnam: Do you certify that these are the actual pictures that you took and that they are of the subject property? And, on the dates indicated on the reverse sides of the photographs?

Mr. Woodburn: I do so certify. That is correct sir. I do have a couple of advertisements from the paper, The Washington Post that I would like to submit to the Board. They do not contain the name or address of the Permittee. They only contain a phone number.

Mr. Smith: Is that telephone number at the address of the Permittee?

Mr. Woodburn: To my knowledge it is.

Mr. Swetnam: Have you verified this?

Mr. Woodburn: I have not recently. I did several months ago.

Mr. Smith: Is this the same telephone number that you verified?

Mr. Woodburn: Yes sir. Another limitation was, 'No storage or repair of vehicles or rides is permitted'. That is continuing. Under the Zoning Ord.

it clearly states that this type of use would be permitted only if it is not detrimental to the neighborhood. In this case, I can assure you that it is. The use is at the end of a cul-de-sac. All traffic has to come in and go out the same way. There are no sidewalks. It is dangerous to pedestrians and certainly to the children that are there. I respectfully request that you uphold the revocation of the permit and that you stop Mr. Cox from continuing his retail business and that he be limited to raising horses, which is a permitted use in a residential zone.

(The Board members had no questions of Mr. Woodburn.)

The next speaker was -

Mrs. Smith: My name is Janie Smith. I live at 3811 Skyview Lane. This is at the end of Skyview Lane. This is the third time I have attended these hearings.

(It was confirmed by the speaker that she was not related to Daniel Smith, the Chairman, that she had not talked with Mr. Smith about this hearing.)

Mrs. Smith: I have not talked with you about this hearing. In fact, nobody will talk with me about it. I called the office yesterday and was told that I could talk with no one on the Zoning Board. I am here for the third time. This is the second time I have testified and I am testifying with the same information that Mr. Woodburn had. As late as Sunday, during the day, there were eight cars parked at the end of the cul-de-sac and I, specifically, counted at least five trucks going in and out carrying equipment. This is a continuation. It goes on every day. I can substantiate many of the dates that Mr. Woodburn has and I do not have pictures, but I can substantiate many of the times that he has taken the pictures. I would like to go on record as also asking for this permit not to be allowed to continue.

Mr. Smith: Now the cars that were parked there were people visiting the premises, buying or workers, or what were they?

Mrs. Smith: They were workers. I saw them get in the trucks and drive them out.

Mr. Smith: In other words, they parked their cars there.

Mrs. Smith: Yes.

Mr. Smith: Do you have the tag numbers of the cars?

Mrs. Smith: No, I do not. I believe Mr. Woodburn has some of the license numbers.

Mr. Smith: We would like to have them for the record.
The next speaker please.

Mr. LeRoy: My name is Stanley LeRoy. I live at 3826 Skyview Lane. This is also my third time in appearing here before you. I have already submitted evidence at previous times. I just want to reiterate that I have also witnessed the continued truck traffic and just as of last weekend, I had to clean off a few beer cans off my front lawn which appeared there during the night. I won't make any sworn statements that I know who did it, but very few people drive back and forth during the night on our street.

Mr. Smith: Is there anyone else to speak?

Mr. Mallory: My name is James A. Mallory. I live at 3812 Skyview Lane, next to Mr. Woodburn and two doors from Mr. Cox. I would like to confirm everything that Mr. Woodburn has said. I would like to go on record as saying that I don't know why it has fell on the shoulders of citizens to prove all these violations when we have got an enforcement body that we pay our taxes to support. We have taken pictures, pictures, pictures and we have given testimony and testimony and yet we are referred to isolated instances and asked to get tag numbers and all that. That doesn't seem to be in the province of the citizens. That seems to be a proper area for enforcement. It looks like it is laid on our backs of the citizens to prove something that goes on every day of the week. Those monstrous recreation vehicles, sometimes they are painted red and they are huge. If you can't pick up evidence like that in great quantities -- I just don't know. You have to hide to get away from it. Thank you.

Mrs. Smith: I have a list of license numbers that Mr. Woodburn collected on Sunday. I would like to submit this as evidence too, if you desire.

Mr. Smith: We will accept them for the record.

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Mr. Swetnam: I would like to have Mr. Woodburn come up and initial these and initial these photographs.

(Mr. Woodburn came forward, signed the photographs and the list of license numbers.)

(There was no one else to speak from the citizens.)

Mr. Durrer: What is the acreage involved?

Mr. Friedlander: Eight acres.

Mr. Durrer: Does the riding stable and school encompass the entire eight acres?

Mr. Smith: Yes.

Mr. Friedlander: Part of it is Mr. Cox's home.

Mr. Smith: His home, as I recall, showed on the plats with the application. We will go back and check it.

Mr. Friedlander: That is part of the property.

Mr. Durrer: I just wanted to get a general size of the property we were talking about.

Mr. Smith: (looking at the plats which were with the application) I don't know who lives in the house, but there is a house shown on this eight acres that was included in the application.

Mr. Friedlander: There is a fence between the house and the stables and the house abuts the cul-de-sac. The Permittee does live in this house. If it please the Board, I came here this morning prepared to defend the letter written on the 14th day of June, 1976, devoid -- and I still haven't heard what Code section you all are proceeding against me on. If someone has that Code section, I would like to know it. I presume we are going under Title 18 and 19 of the County Code.

Mr. Smith: This is a fact finding hearing in the furtherance of the re-evaluation hearing that took place at an earlier date, sir.

Mr. Friedlander: I didn't realize that this was a fact finding hearing. On the 24th of August, I received a communication from this Board, speaking through its Clerk that this was a hearing on the appeal. Now, to my knowledge a fact finding mission and an appeal are two different things and are designed to do two different things. I am very much disturbed at the comments that were made and I will take Mr. Mallory first. He says, why should the citizens prove the facts, that the government should prove the facts. I wish Mr. Mallory and this Board to understand that Mr. Cox also is a taxpayer and he is entitled to be treated equally. I think that the problem that we must approach first is apparently that those who are opposed to Mr. Cox have let their emotions get the better of what justice is supposed to do and what it is supposed to be. I call the Board's attention to the document in the back of the room signed by each of the members of the Board of Supervisors and the Governor of the State of Virginia and for what reason, I do not know. But it affirms the desires and the statements of George Mason that freedom is more than just a piece of paper. It is a reality. I call your attention to part of an editorial in the Washington Star last evening, which seems to me to be pertinent to what we are trying to do today. One of the candidates for office this fall made a statement that he favored a shifting back toward the removal of technicalities which prevent the conviction and punishment of those who are guilty. Today, everyone has assumed that Mr. Cox is guilty of something, but no one has told us precisely under what section of the Code he can be found guilty. The Star went on to say that when you get right down to it, rules of criminal procedure, or civil procedure for that matter, invariably add involved technicalities and then it goes on to say that it depends on whose technicalities they are. In general, the more civilized the rules are, the more protective of the accused, and in this case -- Mr. Cox, they tend to be. Neither habeas corpus nor due process of law, which you remember I have raised, has ever for a moment inconvenienced the kangaroo courts of Moscow, Peking, or other citadels of people's justice where guilt is swiftly and summarily determined in a deed that is left to be determined. I am here today to defend for the first time documents that I have never seen, testimony that has never been given to anyone before today and now I am supposed to say that we either did it, or we didn't do it. Mr. Woodburn says that it is incredible and it is flagrant that Mr. Cox has a contemptuous attitude. These are conclusions. They are not facts. He says that he has

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intensified the amusement business, he has parking on the streets, they are repairing all the trucks, they are expanding the retail business, it is a commercial enterprise. I haven't been given one person who has done these things. If the repair of a truck takes more than 10 or 15 minutes, it would seem to me that this Department that we have would have been called down to verify that. They have been called down there plenty of times.

Mr. Smith: Has the Permittee repaired the trucks on the premises?

Mr. Friedlander: I have no knowledge that he has. My knowledge is completely to the contrary.

Mr. Smith: Could we ask him that question? -- with your permission.

Mr. Friedlander: I would like to be heard further before we ask him any questions. I am completely undecided on that issue.

Mr. Smith: Let me say this to you. The Board will give you ample time to study the documents and respond to them. You don't necessarily have to respond to them at this hearing since you have not seen them. They have been a part of this file for a considerable time, other than the ones that have just been presented.

Mr. Friedlander: I saw those photographs. I came up and looked at them at a time when we were trying to figure out what was going on. This was around the 9th of July that I saw them, if that is the date that I filled in the application. It was my first day back. I saw the pictures, but the pictures that I saw told me nothing. They didn't tell me what those cars were doing there. They didn't tell me what was happening. They were just photographs.

Mr. Smith: Can you tell me whether or not any of these parked cars shown on the photographs belong to the Permittee.

Let me take them one by one.

Mr. Friedlander: First photograph, 4/3/76, that is the only notation -- there is truck in a cul-de-sac, I would assume that it belongs to Mr. Cox. There is some trucks parked in the cul-de-sac the same date - 4/3, the same date, 4/3, the same date, the same trucks, 4/3, the same date, the same trucks, 4/3, the same trucks. 5/15/76, it is hard to tell what is going on, but there seems to be an amusement truck in there; 5/15, same scene; 5/22, cars parked, but we don't know when these pictures were taken.

Mr. Smith: You have heard the Complainant certify that these photographs were taken on the dates that have been indicated on them here.

Mr. Swetnam: Mr. Chairman, these are the ones that have been certified and signed.

Mr. Smith: He also certified to the Zoning Administrator that those were the dates and were correct. Also, we have others here.

Mr. Friedlander: Let me address that certification. There are some kids inside a fence on a bicycle and there seems to be a tent up for drying out and a car parked inside and a horse van parked inside and here is a picture with a truck, but no date, and again April 3 and April 3. My problem with these, if we are going under any kind of rules whatsoever is that basically you have deprived Mr. Cox of the constitutional right that the Constitution of Virginia has given him, specifically for Mr. Woodburn, Mr. Mallory and the people on Skyview Lane. They are entitled to the same rights as Mr. Cox is and conversely he is entitled to the same rights they are. I cannot think of any situation that galls me more than for a public servant to unilaterally and without a hearing to make and act as Judge, prosecutor and jury all at the same time because the Constitution of the State of Virginia says that he shall not do it. Mr. Knowlton, when he wrote the letter, did not have the courtesy to call me and advise me that he had these photographs. He did not ask if these photographs were accurate or what our comments were. And, my comments are on these photographs today are that they should not be received or considered. The standards that are required by the State of Virginia and the United States Constitution is that you must be fair. To be fair means nothing more than that you hear both sides. It means that you must be unbiased. You hear both sides. You must be impartial. You hear both sides. And before the letter of June 14th was written, no one heard any side except Mr. Woodburn's. The Constitution of the United States --

Mr. Smith: (interposing) I disagree with you. You had had an opportunity to be heard and a re-evaluation hearing --

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Mr. Friedlander: (interposing) Not on April 3 and thereafter, I had not. I had not seen these pictures until July 9th.

Mr. Smith: We are also holding another hearing to satisfy the requirements that you speak of.

Mr. Friedlander: Well, I don't know what hearing you are holding except the one on appeal. I am stating to you what I think the law to be. I am stating to you our position. I understand what the decision is going to be from what the Chairman is saying. Due process means that I am quoting the law of Virginia, means that we are entitled to notice, an opportunity for hearing and defense. We come today and get hit with more evidence without adequate notice. I will not respond to any evidence that was submitted today. I will tell you for the last part that the Code that you are operating under and I ask the question again so that I can be very clear that you are proceeding under your duties as set forth in Section 19, part 2, of the Code of Fairfax County and that you are proceeding under your powers and duties in Section 19-209 and I would like for somebody to say Yes, or No.

Mr. Smith: We are acting under Section 30-6.7.1.2 of the Code of Fairfax County, sir.

Mr. Friedlander: Is that part in effect? I would love to know what the Code of Fairfax County is and I would like for the County Attorney to tell me. I was told that this was under Section 19.4 of the Code of Virginia. I mean the Code of Fairfax County and it is called the Zoning Ordinance, which apparently repealed the section that you are talking about in 1974. It was adopted in 1974.

Mr. Smith: I was not aware of the fact that you were not aware of the section of the ordinance that we were operating under. Section 30-6.7.1.2

Mr. Friedlander: If that is the case, then you have no jurisdiction. At some point we have to determine where we are.

Mr. Knowlton: The present Zoning Ordinance which is Chapter 30 of the County Code is the one that we are acting under. The ordinance he is referring to is the proposed new zoning ordinance which will probably go into effect in early 1978, which was approved by the Board after long public hearings, but was not put in effect. That is page 527 of the current code.

Mr. Stitt: That is correct.

Mr. Friedlander: Well, I guess Jack Herrity is going to get another letter from me. Well, you know at some point, at some time, at some place in this County, somebody has got to determine which laws that we attorneys must look at. Now, it is 30-6.7.1.2, page 527, did you say. All right, I've got it. All right, it says for the use with any Special Use Permit from the Board of Zoning Appeals is required and complies with the specific requirements of this chapter, shall be deemed a permitted use in which it is thus permitted, subject to the conformity to said standards and the jurisdiction of the Board of Zoning Appeals with respect to any use --

Mr. Smith: (interposing) Mr. Friedlander, you are reading the section prior to the one that was quoted. You are reading section 30-6.7.1.1 of the Ord. I quoted only 30-6.7.1.2 which is at the bottom of page 527.

Mr. Durrer: It would appear that we could go on here all day on these technicalities. We have an agenda to follow. I would suggest that the County Attorney staff and Mr. Friedlander hash these out in private and we go ahead with the agenda and when they get a case for us to hear, to come back and present the evidence and we will go from there.

Mr. Friedlander: I have made my case. I don't think you have jurisdiction.

Mr. Smith: Then we have completed the hearing. Mr. Friedlander will have ample time to examine the evidence that has been presented to the Board and respond to it. I think, I would like to see him respond. He has gone over the time allotted, but I am allowing him additional time in order to try to satisfy Mr. Friedlander since he was misled by the Zoning Ordinance he had in hand. I think the case has been made for both the Complainants and the Permittee, but the Board does need additional information and Mr. Friedlander should be given additional time to respond to the photographs that were presented here and indicate to the Board whether or not the permittee is the

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COX (continued)

owner of any of these vehicles depicted in the photographs. Also, the Zoning Enforcement should check the tag numbers indicated here as to the owner of the vehicles and request from Mr. Friedlander the names of all of Mr. Cox's, the Permittees, employees.

Mr. Friedlander: I know what Code we are using now, but what authority of the Code are we having a hearing. I was under the impression that this was an appeal.

Mr. Smith: I quoted it to you at least twice -- 30-6.7.1.2, and would you furnish the Board the information that we requested, sir. How long would it take you to respond?

Mr. Friedlander: I have yet to see the documents.

Mr. Smith: You have seen some of the photographs. There are others here that Mr. Swetnam has.

Mr. Friedlander: These photographs I have categorically refused to respond to because I think you have violated our constitutional rights.

Mr. Smith: We will take those back and put them in the record if you don't want to respond to them. Do you want to respond to the other photographs we have here, on a time basis, not today?

Mr. Friedlander: We will submit a response to these photographs with the understanding of our legal position and without waiving any of the rights that we may have. I would like to discuss these with my client and I will be prepared to submit our response to each of the photographs in writing, one week from today.

Mr. Smith: That sounds reasonable, Mr. Friedlander. May we have a list of the tag numbers back for the record. Do you want to make a list of the tag numbers to verify whether or not those tag numbers belong to any of Mr. Cox's employees. Mr. Friedlander, you may keep the photographs for a period of a week.

Mr. Friedlander: I will go over them right now.

Mr. Smith: We would like to complete the hearing before you discuss these with your client.

Mr. Friedlander: I don't know which hearing we are talking about.

Mrs. Smith: What is the status of the Permit at this time since it has been revoked and will Mr. Cox be able to continue to run his business.

Mr. Smith: We have not completed the fact finding hearing.

Mrs. Smith: So, he is continuing to run his business, is that correct?

Mr. Smith: That is correct. He will be allowed to continue until there is a decision by this Board.

No other question, Mr. Woodburn, we are not going into any more detail.

Mr. Woodburn: I just wanted to clarify the tag number list. Some of those are employees and others could be customers.

Mr. Smith: Could you give us a copy of the list of employees of Mr. Cox?

Mr. Friedlander: At what point?

Mr. Smith: At the same time you respond to the photographs.

Mr. Friedlander: At what point in time. He has various employees at various times.

Mr. Smith: As of 9/19/76, as of two days ago, Sunday of this month.

Mr. Friedlander: I will talk to him and if he sees fit, I will respond to that, if not, I will say why not. I will indicate whether these tag numbers belong to any of his employees.

Mr. Durrer: I have one comment to make. I think that this is a case where the County staff should have had more information for the Board to consider at this hearing. We have heard testimony from the citizens and from Mr. Cox's attorney. I think that it is a little detailed for the Board to accept evidence such as this, going over the technicalities of what section of the County or State Code we are operating. I think it is a case where the staff

has not held up their end and I don't think we really have enough information, as you said Mr. Chairman, for us to act on this thing.

Mr. Swetnam: It seems to me that to continue this thing is out of order. Mr. Friedlander is a real good lawyer. I am sure that we have not followed the proper procedure and accordingly, I would move that in this case, V-138-76 that the Administrator's actions be reversed and that if, by further investigation the Administrator and his staff feel that this is a proper action that they follow the procedure as set down by Mr. Ruck in this note, 1, 2, and 3. That is my motion, Mr. Chairman.

Mr. Durrer: Mr. Chairman, I will second that motion.

Mr. Smith: Mr. Swetnam, Mr. Knowlton was following the instructions of this Board at the time that letter was written and I would certainly hope that in view of this and after having instructed him to act in this manner that the Board would continue this fact finding hearing and get the additional information and then make a decision as to whether or not this is the proper procedure or not. We held a re-evaluation hearing earlier on this. This is more or less a continuation of that hearing -- a fact finding hearing. We are now accumulating facts and these facts have been agreed upon and I think some time should lapse before the Board takes an arbitrary action such as this.

Mr. Durrer: I seconded that motion because I don't think--I know they were notified of the fact that this hearing was going to be here, but I don't think that enough information was given the applicant.

Mr. Smith: This is why we are continuing the hearing in order for the applicant to appraise the information presented here today and respond to the Board. To do otherwise would not be fair and equitable to the Permittee or the County.

Mr. Durrer: If we continue it for another 60 days, I think it will expire on its own accord won't it.

Mr. Smith: If you want to go for 60 days all right, but I think we should get the information, make it available and then make a decision in the matter.

Mr. Swetnam: My motion concerns the Administrator's decision, not further hearings. I have no objection to starting all over again as long as we do it by the numbers.

Mr. Smith: Well, again, the Zoning Administrator was following the direction of this Board, sir. The Board directed --

Mr. Swetnam: I don't want to fight Mr. Friedlander's case for him, certainly at this level, but it is my understanding that there has been a great lack of inspections. We can't document these things and that is what our problem is.

Mr. Smith: In a period of 60 days, you can document it, and get a response from the Permittee, or Mr. Friedlander in defense of Mr. Cox. Again, the Board directed the Zoning Administrator to take this action.

Mr. Swetnam: Mr. Chairman I recognize that, but as I see it and view it, the Zoning Administrator hasn't done 1, 2, 3. And, I think that is what we are bound with and I think that within 30 days, the Zoning Administrator can do 1, 2, 3.

Mr. Covington: Mr. Smith, we could observe this thing from 8 until 4:30 from now to doomsday and at the times we are there, it could be just like church. The only thing that we have to rely on are the people that live there. We don't work on weekends, we work from 8 A.M. to 4:30 p.m. We have no overtime in the budget and it is physically impossible. Now, you have written statements by the applicant in the newspaper advertising the operating of a business, you have pictures taken by the people that live along that street. We followed the procedure that was outlined for us to follow and directed by this Board. Now, you want us to turn around and run another race. This was done as a result of a trial in court.

Mr. Stitt: Mr. Chairman, could I respectfully ask that the motion be held in abeyance and the Board go into executive session, either/or.

Mr. Smith: Is there any objection to that?

Mr. Stitt: For a discussion of legal procedures that involve this Board.

Mr. DiGiulian: I move that we go into executive session.

Mr. Durrer: I second the motion. The motion passed unanimously.

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Mr. Friedlander: I would note for the record my objection, just for the record.

Mr. Smith: Your objection is noted Mr. Friedlander. The Board will go into executive session and return in approximately 10 minutes, I hope.

Mr. Friedlander: I am putting a number on the photographs on them, so that when I reply you will know which photograph I am talking about.

(The Board went into executive session at 11:40 a.m. and returned at 11:47)
Mr. Smith called the meeting to order.

Mr. Swetnam called for the question. The vote was 3 Nos and 2 Ayes.
Messrs. Smith, DiGiulian and Barnes voted No; Messrs Durrer and Swetnam voted Aye. The motion failed.

Mr. DiGiulian moved that the Board hold the record open for 60 days to obtain additional information, to request Mr. Friedlander to respond to the testimony, and to get additional information from the Zoning Administrator.

Mr. Barnes seconded the motion.

The motion Passed 3 to 2. Messrs Smith, Barnes, and DiGiulian voted Aye.
Messrs Durrer and Swetnam voted No.

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SEPTEMBER 21, 1976

10:20 - DISMAS HOUSE, a corp., appl. under Sec. 30-7.2.6.1.3.2 of the Ord. to permit school of general education with dormitory facilities for 6 boys, 7701 Old Telegraph Road, Piney Run Subd., Sec. 6, 100-1((9))4, (2.36 acres), Lee District, (RE-1), S-158-76, (Deferred from 7-16-76).

This case was deferred in order to give the Hayfield Farms Civic Association an opportunity to have a general meeting and take a position on this case. A memo had been received that indicated that Hayfield Farm Civic Association would not oppose this application.

Mr. Bruce Burgess, Vice-President of that civic association, residing at 5802 Broadmoore Street, stated that the hearing was held on September 8. There was a representative present from Dismas House. He gave a presentation similar to what he presented to this Board at the public hearing. There had been a couple of changes, however. The major point was that it is now their understanding that the children will not go to the public school in the area, but will be schooled at the facility in question. There was also a question on the insurance liability. Father Adams confirmed verbally that they would carry adequate insurance. The motion not to oppose this application carried by a very narrow margin.

Mr. Robert Foldenauer, 2284 ? Court, confirmed that they will carry adequate liability insurance in the amount of one million dollars. In answer to Mr. Smith's question, Mr. Foldenauer stated that the corporation will be responsible for the students that attend classes and live at this house. The students will not be going to public schools in the area. The Board has a copy of the articles of incorporation. These have not been changed.

Mr. Smith stated that the Board has received a communication from ^{a member of} the Planning Commission recommending that the Board deny this application. He stated that the memo is dated July 14, 1976 and is from John Roehrs, a member of the Planning Commission, and states that the Lee District Task Force has reviewed this case and they feel that the granting of this application is a violation of their "land use" planning attempt.

Mr. Smith stated that at the original hearing, he had entered into the record the letters of opposition from the citizens in the immediate area and from the Piney Run Subdivision. He asked those citizens who were present, if they had changed their views, or if they were still in opposition.

Several citizens raised their hands and one citizen said from the audience that they were still in opposition.

Mr. Durrer made a motion to deny the application. There was no second to his motion. His motion therefore died for lack of a second.

R E S O L U T I O N

In application S-158-76 by DISMAS HOUSE, INC. under Sect. 30-7.2.6.1.3.2 of the Zoning Ordinance to permit operation of school of general education with dormitory facilities for 6 boys, 7701 Old Telegraph Road, 100-1((9))4, County of Fairfax, Mr. Swetnam moved that the Board adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners and a public hearing by the Board held on July 16, 1976 and deferred to September 21, 1976 for additional information.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is Robert and Judith Trainor.
2. That the applicant is the lessee.
3. That the present zoning is RE-1.
4. That the area of the lot is 2.36 acres.
5. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. This permit is granted for One (1) year with the Zoning Administrator empowered to grant two (2) one year extensions.
7. The students shall be limited to Six (6).
8. The students shall attend school on the premises, not public schools.

Mr. DiGiulian seconded the motion.

Mr. Durrer asked if the Board might not be getting itself in a box again by allowing the Zoning Administrator permission to extend the time. Does the Board have the authority to give the Zoning Administrator the power to grant extensions.

Mr. Smith stated that the Board does have that authority to allow the Zoning Administrator to grant extensions, providing there have been no complaints. If there are complaints, the Zoning Administrator will not extend it. He then pointed out to the applicant that if the request for extension is not in prior to the date of expiration, that the permit automatically expires.

Mr. Swetnam stated that his motion to grant for one year would give the applicant a chance to see if this facility will work, and if it doesn't it will protect the neighborhood.

Mr. Durrer stated that he knows that this area has had problems in the past

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DISMAS HOUSE (continued)

and by putting six disturbed children or young adults in this neighborhood will only make matters worse.

Mr. Barnes stated that he hoped the directors would police this facility.

Mr. Durrer asked how the directors are going to control the children away from the school. If they are allowed to run at large and if they are allowed to participate in the community, there will be problems. He stated that he is concerned for the neighbors and the community in general.

Mr. Smith stated that he too is concerned.

Mr. DiGiulian stated that it is his understanding that these children will be under supervision at all times, 24 hours a day.

Mr. Smith stated that this could be. He stated that he assumed that this facility is government subsidized.

Mr. Foldenauer stated that this facility is government subsidized.

The vote was 3 Ayes and 2 Nos. Messrs. Smith and Durrer voting No. The motion carried to grant this application.

Mr. Swetnam told the applicant's agent that if there were any complaints, the Zoning Administrator would not extend the permit.

Mr. Barnes stated that it could be revoked prior to the end of the year, if there are any complaints that are verified by the Zoning Administrator.

SEPTEMBER 21, 1976

10:50 - JJS CORP. OF VA. T/A COMMONWEALTH CHRISTIAN SCHOOL, S-178-76

(Hearing began at 12:25 p.m.)

Mr. Smith read a letter from Charles Shumate, attorney for the applicant, requesting a deferral of this case until he can work out the problems and questions raised by the office of Preliminary Engineering.

Mr. Barnes moved that the request be granted.

Mr. DiGiulian seconded the motion.

There was no one in the room other than Mrs. Young, director of the school, interested in this case. She submitted the notices to property owners of this hearing which were in order.

The motion passed unanimously to defer this case until October 13, 1976.

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SEPTEMBER 21, 1976

11:10 - ROSE HILL BAPTIST CHURCH appl. under Sect. 30-7.2.6.1.11 of the Ord. a.m. to permit use of mobile trailer for Sunday School classrooms, 4905 Franconia Road, 82-3(1)5, (2.244 acres), Lee District, (R-12.5), S-179-76.

(Hearing began at 12:29 p.m.)

Rev. Upshaw, 5719 Lorcom Lane, pastor of the church, submitted notices to property owners of this hearing to the Board. The notices were in order.

Rev. Upshaw stated that the membership for this church is slightly over 200. The attendance exceeds that. They are requesting one mobile unit to be used on a temporary basis, about three years. This unit will be used for Sunday School classrooms.

There was no one ^{else} in the room interested in this application.

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R E S O L U T I O N

In application S-179-76 by Rose Hill Baptist Church under Sect. 30-7.2.6.1.11 of the Zoning Ordinance to permit the use of a mobile trailer for classrooms on property located at 4905 Franconia Road, 82-3((1))5, County of Fairfax, Mr. Swetnam moved that the Board adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on September 21, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is Tr. of Rose Hill Baptist Church.
2. That the present zoning is R-12.5.
3. That the area of the lot is 2.2 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. This permit is granted for a period of two (2) years with the Zoning Administrator being empowered to grant three (3) one year extensions.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

SEPTEMBER 21, 1976
 11:20 - WILLIAM WEST appl. under Sect. 30-6.6 of Ord. to permit subdivision of one lot into 3 with 2 of the proposed lots having 70' less width than required by the Ord., (proposed lots 2 and 3 - has 10', 80' required), 2748 Oldewood Drive, 49-2((1))64, (1.1348 acres), Providence District, (R-12.5), V-181-76.

(Hearing began at 12:35 p.m.)

Mr. Charles Runyon, 152 Hillwood Avenue, Falls Church, engineering firm, represented the applicant before the Board. He submitted notices to the property owners of this hearing. The notices were in order.

He stated that this property used to have another acre in it, but it was condemned by the Highway Department. This area is immediately adjacent to the Fairfax County Park Authority's Jefferson Golf Course. It is proposed that these three lots be served by a pipestem easement across the first two lots to serve lot 3. This will serve only these three residences and will

be maintained by these three residences. It, therefore, will not be a tax burden in the future.

In answer to Mr. Durrer's question, Mr. Runyon stated that the lots across the street look to be about one-half to one acre.

Mr. Smith stated that the real estate records do not reflect Mr. West as being the owner of the property. The Board will need a copy of the deed whereby Mr. West took title to this property before the Board can make a decision.

Mr. Bruce Bass, the contiguous property owner, spoke in opposition to this application. He stated that he also represents five other families in the area who live directly around this site, or across the street. He submitted a petition to the Board from these neighbors in opposition to this application.

Mr. Bass stated that all the lots have single family homes on them and are good sized lots. He stated that he felt there should be some other roadway, perhaps on the other side of the lots, if the Board feels it has to grant this variance. He stated that he owns and lives on Lot 63.

Mr. Swetnam asked if there was any reason why the road could not be moved over to the other side.

Mr. Runyon stated that he had just discussed this with Mr. West and Mr. West is willing to do that.

Mr. Runyon in rebuttal to the opposition stated that this property is zoned R-12.5 which means that Mr. West could get four lots there. Mr. West feels that three lots would be reasonable.

In answer to Mr. Durrer's question, Mr. Bass stated that he would not object as strongly to this application if the road is moved, as far as he personally is concerned. He requested that there be some sort of privacy hedge along the property line between the two properties in order that it might be in keeping with the other properties in the neighborhood.

There was no one else to speak regarding this case.

The Board recessed this case until after lunch in order for the applicant to obtain a copy of the deed to this property and for the engineer to redraw the plats. The case would be called later in the day.

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The Board recessed for lunch at 1:00 p.m. and returned at 2:25 to take up -

SEPTEMBER 21, 1976
11:30 - CLEMENTINE P. CHRISTEL appl. under Sect. 30-6.6 of Ord. to permit A.M. construction of 10' high grape arbor in front setback area, 4900 Briggs Road, 56-4((1))21B, (1.16 acres), Springfield District, (RE-1), V-184-76.

Mrs. Christel represented herself before the Board. She submitted notices to property owners of the time and date of this hearing to the Board. The notices were in order.

Mrs. Christel stated that this structure will be 53.6' long and 16' wide, 10' high and will be 8' from the end of her front property line and extend within 9' of the carport. The structure will be 12 round columns with grape vines growing across the trellis-type top. This variance is requested because this is the only place on the property where grapes can be grown since grapes require a large amount of sun. In the backyard, there is a septic field and there also is a large amount of trees both on her property and on the neighbors property. Further back on the property, there is a storm sewer easement from the adjoining property that causes flooding over a large portion of the backyard. The side yard offers insufficient space. This grape arbor will have a fine architectural design as can be seen from the plans that were submitted with the application. This design will be compatible with the existing house and the other houses in the area. It will increase the value of the property. The arbor will also screen the house from the dirt road that runs in front of the house, Shirley Gate Road.

Mr. Barnes stated that it looked as though she might be able to put the arbor in the back yard.

The Board questioned whether or not this grape arbor should be considered a structure. It was the Zoning Administrator's interpretation of the word and definition of the word "structure" in the Ordinance, that this arbor would be considered a structure and would have to meet the setback requirements of the Ordinance.

Mr. Smith stated that these grapes could be grown on a three foot fence and it would not be necessary to have a variance.

Mr. Smith stated that Mrs. Christel has the same problem that everyone else who might want to grow grapes has in Fairfax County. If the ordinance is too restrictive for Mrs. Christel, then it is too restrictive for everyone else. This is something that should then go back to the Board of Supervisors for a change in the Ordinance, if that is the case. The Zoning laws in Fairfax County are for the benefit of all.

There was no one to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, application V-184-76 by Clementine P. Christel under Section 30-6.6 of the Zoning Ordinance to permit construction of 10' high grape arbor in front setback area, 4900 Briggs Road, 56-4((1))21B, County of Fairfax, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 21, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.16 acres.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is denied.

Mr. Barnes seconded the motion.

The motion passed 3 to 2 with Messrs. Swetnam and Durrer voting No.

SEPTEMBER 21, 1976

11:40 - JUDSON H. SPRINGER appl. under Sect. 30-6.6 of Ord. to permit enclosure of carport into garage closer to side property line than allowed by Ord., (6.9'; total of 17.9' requested; 8', total of 20' required), 7823 New London Drive, 98-2((6))382, (14,038 sq. ft.), Springfield District, (R-12.5C), V-185-76.

(The hearing began at 2:50 p.m.)

Mrs. Springer submitted notices of this hearing that she had given to nearby property owners to the Board. The notices were in order.

Mrs. Springer's main justification for the need for this variance was because of the irregular, small and narrow lot that prevents them from being able to build a garage any place else on the lot. They have owned the property since July, 1975. The subdivision is about four years old. The five houses around their property have double car garages.

Mr. Mitchell stated that this is the same subdivision that the Board had him go into and count carport and garages some time ago. He stated that the number of garages far outweigh the number of carports. The Board has granted two other variances in this subdivision for the enclosure of carports.

In answer to Mr. Swetnam's question, Mrs. Springer stated that they do share a driveway with Lot 381. That property has a double car garage facing their

carport. The carport was constructed at the time the house was built.

Mr. Swetnam stated that this will be a 1.1' variance on one corner and 2.1' variance on the other corner.

There was no one ^{else} to speak in favor or in opposition to this application.

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R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-185-76 by Judson H. Springer under Section 30-6.6 of the Zoning Ord. to permit enclosure of carport into garage closer to side property line than allowed by the Ord., 7823 New London Drive, 78-2((6))382, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 21, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 14,038 sq. ft.
4. That the Board finds that the applicant's property is exceptionally narrow and irregular in shape.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has satisfied the Board that physical condition exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

SEPTEMBER 21, 1976

11:50 - PAUL R. & ESTHER R. ROCKEFELLER appl. under Sect. 30-6.6 of Ord. to a.m. permit construction of addition closer to side lot line than allowed by the Ord., (9.6' from side, 12' required), 4611 Steadman Place, 101-1((5))(7)4, (14,431 sq. ft.), Lee District, (R-12.5), V-186-76.

Mr. Rockefeller submitted notices to the Board. The notices were in order.

The justification for this variance request was that the property is located in a cul-de-sac on a lot with a very narrow front property line and a very wide rear property line. Had the house been located more centered on the lot, it would have permitted the owners to utilize the land to construct a 16' x 23' room addition without encroaching on the setback requirement of 12 feet. The addition will be consistent with similar additions on this house style located throughout the subdivision.

There was no one ^{else} to speak in favor or in opposition to this application.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. V-186-76 by Paul R. and Esther R. Rockefeller under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of a family room addition to their residence located at 4611 Steadman Street, 101-1((5))(7)4, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 21, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 14,431 sq. ft.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing buildings on the subject property,

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously.

SEPTEMBER 21, 1976

DEFERRED CASE:

12:10 - EUGENE SLAVEY appl. under Sect. 30-6.6 of Ord. to permit construction of pool 6', total of 19.1' from side property line, 12' and total of 40' required, 2715 Calkins Road, 26-3((2))7, (20,105 sq. ft.), Centreville District, (RE-1Cluster), V-119-76. (Deferred from 7-6-76 for proper notices.)

A representative from the Tahitian Pool Company, 3564 Bladensburg Road, Brentwood, Maryland, submitted notices to property owners of this hearing to the Board. The notices were in order.

The representative stated that Mr. Slavey had been present earlier, but had to leave because of an appointment.

The reason for the variance request, he stated, is that the entire rear yard is covered with septic fields. Therefore, the side yard is the only practical place. He stated that they applied for a permit to construct the pool in the rear yard, but were unable to obtain the permit from the Health Department because of the septic fields. They want them to stay 25' away from the drain fields and the septic tank.

Mr. Smith questioned this and requested the representative to go to the Health Department and obtain concurrence with that statement.

The Board recessed this hearing until the representative could go to the Health Department to try and verify his statements.

Upon the representative's return, he stated that he had talked with Mr. Myers from the Health Department at the site several months ago and it had been Mr. Myers' verbal statement that he could not place the pool in the rear yard. He submitted a plat showing one location in the rear yard where they had been refused a permit because of the closeness to the septic fields.

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It was the Board's decision that this case be deferred until October 13, 1976 to allow the applicant's representative the opportunity to submit to the Health Department a request to have the pool immediately behind the house in the rear yard. If the Health Department turns down that request, then they would reconsider the variance request.

Mr. Barnes so moved that this be done.

Mr. Durrer seconded the motion.

The motion passed unanimously.

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SEPTEMBER 21, 1976

WILLIAM WEST. The plats had been received showing the road moved to the opposite side of the property. The objectors had seen the new plats. A copy of the deed transferring ownership of this property to William West had also been received.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, application no. V-181-76 by William West under Sect. 30-6.6 of the Fairfax County Zoning Ordinance to permit subdivision of one lot into three lots, two of which would have pipestem access to the road and would have seventy feet less width at building setback line than required by the Ordinance (proposed lots 2 and 3 - 10' width, 80' required), 2748 Oldewood Drive, 49-2((1))64, (1.1348 acres), Providence District, (R-12.5), V-181-76 has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 21, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 1.1348 acres.
4. That the applicant's property is exceptionally narrow;

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved .

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

DEFERRED CASE: SEPTEMBER 21, 1976
12:20 - JAMES STROMAYER appl. under Sect. 30-6.6 of Ord. to permit construction of carport addition closer to side property line than allowed by Ord., (9.5' from side, 10' required), 7804 Elba Road, 102-1((20))8, (17,673.2 sq. ft.), Mt. Vernon Dist., (R-17), V-152-76. (Deferred from 8-31-76 for proper notices.)

Mr. Stromayer presented certification of notice to property owners of this hearing to the Board. The notices were in order.

Mr. Stromayer stated that he is applying for a variance of 6 inches in order to construct this modest carport. This is an unusual shaped lot in that the fronts of the property come almost to a point. It is pie shaped and goes out to the rear of the house.

There was no one^{else} to speak in favor or in opposition to this application.

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R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. V-152-76 by Mr. and Mrs. James Stromayer under Sect. 30-6.6 of the Zoning Ordinance to permit construction of carport addition 9.5' from side property line, 10' required, (variance of .5'), 7804 Elba Road, 102-1((20))8, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 21, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 17,200 sq. ft.
4. That the Board finds that the applicant's property is exceptionally irregular in shape and is also very narrow.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

AFTER AGENDA ITEM: September 21, 1976.

COMMUNITY CHURCH OF GOD, S-182-75, Granted October 14, 1975. Request for extension.

Mr. Smith read the Permittee's request for extension.

Mr. Barnes moved that the request be granted for a six month extension from October 14, 1976.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

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The meeting adjourned at 3:30 p.m.
//

Jane C. Kelsey
BY JANE C. KELSEY, CLERK TO THE
BOARD OF ZONING APPEALS

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to BZA on October 5, 1976

APPROVED October 19, 1976
DATE

Submitted to Bd. of Supervisors,
Planning Commission & other Depts.
on Nov 2, 1976

The Special Meeting of the Board of Zoning Appeals Was Held on Tuesday, September 28, 1976 in the Board Room of the Massey Building. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam; and, John DiGiulian. No one was absent.

The meeting was opened with a prayer by Mr. Barnes.

The hearing began at 10:12 a.m.

10:00 - LUCK QUARRIES, INC. appl. under Sec. 30-7.2.1.1.3 of the Zoning Ord. to permit renewal of SUP #S-271-66 for stone quarrying operation, NW corner of Lee Hwy. (Rt. 29-211) and Bull Run Post Office Rd. (RT.621), 64((1))3 & 5, (72.0662 ac.), Springfield District, (RE-1), S-113-76. (Deferred from 6/22/76 in order for both north and south quarry applications to be heard together.

10:00 - LUCK QUARRIES, INC. appl. under Sec. 30-7.2.1.1.3 of the Zoning Ord. to permit extension of existing Special Use Permit for stone quarrying and stockpiling of quarried stone and accessory uses, 15717 Lee Hwy., 64((11))12, 13, 14, 15 & 72 (99.99 ac.), Springfield District, (RE-1 & IG), S-180-76.

Mr. Royce Spence, attorney for the applicant with offices at 311 Park Avenue, Falls Church, Virginia, submitted the required proof of notification to the Board. The notices were in order.

Mr. Spence stated that Luck Quarries has been before the Board of Zoning Appeals, the Board of Supervisors and the Planning Commission several times in the last couple of months. The asphalt plant which was granted a Special Use Permit by the Board of Supervisors in July of this year is now in operation. The south side operation containing 72 acres was granted a Special Use Permit in 1964 for a period of five years. It was extended again until this date. The south side quarry has actually been used since the 1930's. Prior to that time, it was used as a quarry by Fairfax County. The area around the quarry is basically rural. The County expects the sewage treatment plant to serve that area to be ready by 1978 or 1979 which would handle 900,000 gallons of sewage. That plant will serve everything to the east of the Cub Run Watershed ridge. Not only has the 900,000 gallon capacity been allocated, but there is a waiting list of 1,100,000 gallons.

Mr. Spence stated that subdivision plans have been recorded in the area of the quarry operation. One of those is R-17 single family homes. This subdivision will be about 1300' from the closest home in that subdivision. This subdivision abuts the north side of the quarry operation. Another subdivision plat has been placed with the County and has received preliminary approval. This subdivision is much closer to the operation, but it may be on the wrong side of the ridge line and may not be able to connect to sewer.

Mr. Spence stated that Luck Quarries, Inc. is asking for a five year permit and some of these subdivisions are at least five years away from being completed. If the subdivisions are completed prior to that time, the Luck Quarry people are very flexible and has a history of flexibility in its operation.

Mr. Spence stated that at the present time, the quarry has been averaging around 10,000 lb. per shot. However, they would like to have their permit changed to limit the shots to 15,000. The hours of the quarry are from 7 A.M. to 6:30 P.M., Monday through Friday and one-half day on Saturday for sales and maintenance only. The hours for blasting are between 11 A.M. and 2 P.M. during the week. This has proven very satisfactory. The quarry is presently under a restoration bond of \$1,000 per acre. They now have \$172,000 worth of bonds for this quarry. A large part of the restoration has been done at the present time. Both properties are entirely fenced with a 6' or 7' fence with barbed wire on top of it. A number of berms have been constructed and those will be continued. The quarry is willing to continue with the conditions that are presently imposed on the property. They are asking for no changes and no extension of acreage. There is a condition on the permit that the quarry will retain a 300' buffer. This protects any future development.

In answer to Mr. Smith's question, Mr. Spence stated that there has always been 72 acres on the south side. This acreage was in the application at the time of the original granting. However, when the Board of Supervisors adopted the Natural Resource Ordinance and put certain portions of the County in the Natural Resource District, twelve of those 72 acres was inadvertently left out. The Board of Supervisors recently rezoned those 12 acres in order that it could be included in the Natural Resource District.

The Board several months ago allowed the quarry to extend the hours of operation on a small rear portion of the quarry until September 28, 1976 and if there were no complaints on this additional operation, that the Board would extend further until December 15, 1976 to meet some emergency orders by the Highway Department.

There were five people in the audience who indicated that they wished to speak in opposition to this application. The first speaker was Dr. William B. Ingersal, contiguous property owner. He confirmed that a subdivision plat has been approved by the County for the subdivision of his property to construct single family homes. His complaint was that Luck Quarries might develop the additional 12 acres that was recently added to the Natural Resource District.

⁷Overlay

Mr. Spence came forward and indicated to Dr. Ingersal and the Board where that acreage was located that was recently added to the Natural Resources Overlay District. It was contiguous with Dr. Ingersal's property. Most of the 12 acres was taken up with buffer strip, the remaining portion being about 1.25 acres. It was suggested that Mr. Spence might get together with the representative from that subdivision to work out any problems regarding that quarry.

Dr. Ingersal stated that he is not opposed to the operation of the quarry, but only to the extension of the quarrying operation on the north side contiguous with his property.

Mr. Spence stated that the quarry operation would not extend to that area for perhaps another 15 or 20 years.

Mrs. Arthur W. Naylor, Jr., property owner across the Bull Run Post Office Road from this quarry, spoke in opposition. Her main points of opposition were the extreme amount of dust after a blast, the noise of the operation itself, and the vibrations caused by the blasts. She stated that the quarry is now blasting directly across from her home. Those blasts have caused damage to her property. She has owned her property for over 30 years and has been living there for 26 years. She owns 16 acres.

Mr. Joseph Tetchin, 2801 New Mexico Avenue, Washington, D. C., representing his wife, Clara, owner of property located across Bull Run Post Office Road from this quarry, spoke in opposition. He stated that his wife owns 278 acres there. He stated that sketch plans for the subdivision of this property have been filed with Fairfax County. He urged the Board to deny the applications of Luck Quarry in their entirety and, if the Board decides to do otherwise, that such permit be limited to two years with a strong urging to phase out the operation, and that the Board further condition the permit as it deems necessary. He stated that his wife had owned the property for 23 years.

Mr. Lawrence P. Robinson representing his father and mother, Willard P. and Lillian M. Robinson, spoke in opposition to these applications. He stated that the Board has created a monster. This is not sparsely settled land as Mr. Spence stated, but some of the homes are close together and these are homes that people have put their lives into. He stated that he is not sure that this quarry is complying with the environmental impact study that was done previously. He questioned the integrity of the people who operate this quarry and stated that he felt Mr. Spence had mislead the Board in some of his statements. He stated that Luck Quarry had promised to construct a berm around the asphalt plant, but had never gotten around to it and the plant is operating now.

Mr. Smith stated that the plant should not have been allowed to operate before the berm was constructed. However, that Special Permit was granted by the Board of Supervisors and was not under the jurisdiction of this Board.

Mrs. Benjamin Naylor, another nearby property owner, spoke in opposition to this application. Her opposition was to the dust and odor coming from the quarry. She stated that this operation does not close down at 9:00 P.M. at night either. She stated that she can hear the machines running, even at midnight. She stated that her family owns about 30 acres and has lived here for 30 years. She stated that on occasion, rocks have been thrown on her property from a blast.

Mr. Jack Maize, Zoning Inspector charged with inspecting these quarry operations, confirmed that about two years ago something did go wrong with one of the blasts and rock was thrown on Mrs. Naylor's property. He stated that that was before all of the controls this Board imposed had been fully conformed with.

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LUCK QUARRIES (continued)

As a result of that error, limitations have been imposed and procedures established and to the best of his knowledge, he stated that this problem has not occurred again. He stated that he did not know he was to appear before the Board this morning and therefore did not come prepared. However, the Board granted the Special Use Permit with about 17 limitations. Those conditions have been met. The dust machines have been working and they also have a rolling watering tank that travels over the interior roads.

Mr. Covington explained to the Board that a great portion of the dust is coming from the blast. It is impossible to control the dust from a blast. The blast blows the dust and dirt into the air. He stated that he felt the operation is getting too close to that section of the road and any blast along that road should be discontinued.

In answer to Mr. Smith's question, Mr. Spence stated that the blasting area is now about 150' from the property line of the road.

In answer to Mr. Smith's question, Mr. Maize stated that he had not been asked to inspect any property damage to the nearby residences.

In answer to the Board's question, Mr. Maize stated that he has a record of all of his office's monitoring and would furnish the Board with them.

Mr. Spence in rebuttal to the opposition stated that the noise that is heard at midnight is not the quarry operation, but the asphalt plant. There is a fan that runs there most of the night. It moves the dust back into the area where it can be reused. He stated that after discussing this with Luck's representative, they have agreed that they will erect a barrier around it to keep the noise from carrying over the neighborhood. That Permit was granted by the Board of Supervisors and did not have a time limit on it as far as hours are concerned.

Mr. Covington stated that there is a noise ordinance that could control that.

Mr. Swetnam stated that there are no inspectors that work at night, therefore, how can the noise ordinance be enforced. He stated that he finds it difficult to understand why the inspectors hours cannot be rearranged in order to cover some of these things at night.

Mr. Durrer stated that he assumed the Board would get the same answer to that as it received when it asked for additional clerical help.

Mr. Spence stated that as far as the berm around the asphalt plant, that berm will be erected. He stated that he did not recall whether or not that was a condition of the Permit, but they do intend to erect the berm as soon as possible. He stated that the shots are precise in that they are limited to 1,000 or 1,200 pounds.

Mr. Smith stated that the Board should consider limiting any shots within a certain distance from occupied dwellings.

Mr. Barnes stated that he was concerned about the citizens living in that area of the blasting.

Mr. Covington stated that he felt the Board owes it to the citizens in that area to limit the permit to no more blasting on the east side of the quarry. He stated that the quarry has plenty of rock elsewhere in the quarry.

In answer to Mr. Smith's question, one of the gentlemen from the quarry in the audience stated that they still stop traffic on Bull Run Post Office Road during a blast.

Mr. Lawrence Robinson asked from the audience that he be allowed to look over the papers regarding the monitoring, etc.

Mr. Smith told him that as soon as the Clerk is contacted by Mr. Maize that the papers are ready, he will be called. He gave his phone number as 836-2559.

Mr. Covington pointed out that the new ordinance does not permit blasting within 150' of a street or property line, or nearer than 750' from an occupied residence or commercial building.

Mr. Spence stated that those limitations do not apply to the existing quarry operations that were there prior to the adoption of that ordinance.

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Mr. Swetnam moved that this hearing be deferred until October 13 in the afternoon for decision only and in order to get additional information from Mr. Maize regarding the monitoring of the blasts. He stated that he would like the information available to the Board by October 6 in order that the Board will have time to digest it. All operations can continue during this period under the Special Use Permit that it is now operating under.

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Mr. DiGiulian seconded the motion.

The motion passed unanimously.

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10:20 - KINGS WEST SWIM CLUB, INC. & RICHMARR CONSTRUCTION CO. appl. under a.m. Sec. 30-7.2.6.1.1 of the Zoning Ord. to permit construction of community recreation facility (pool, bathhouse & tennis courts), 1000 feet south of Braddock Road at the intersection with Roberts Road, 68-2((1))pt. of parcel 37 (352,408 sq.ft.), Annandale Dist., (RTC-10), S-187-76.

(The hearing began at 11:45 a.m.)

Mr. Russell Rosenberger, attorney for the applicant, submitted the required proof of notification to property owners of this hearing to the Board. The notices were in order.

Mr. Rosenberger stated that the hours of operation for this facility would be from 11 A.M. until 9 P.M. Mondays through Saturday and from 12 Noon to 9 P.M. on Sundays for the pool and from 7:00 A.M. to 9:00 P.M. for the tennis courts. There are no lights proposed for the tennis courts. This facility will serve 244 members who will be residents of the Kings Park West Subdivision consisting of 127 townhouses and the remainder single family houses. This pool is centrally located. Therefore, they have only provided 50 parking spaces. The bath house will be constructed of brick veneer.

There was a difference between the size of the bath house on the plan that had been submitted to the Board and the site plan that Mr. Rosenberger was referring to.

The Board hearing no opposition to the application, or to the deferral, deferred this case until later in the day in order that the applicant could obtain new plats showing the actual proposed plan that they have already submitted to the Site Plan Dept. This deferral was on Mr. Durrer's motion, Mr. DiGiulian's second and passed unanimously. Mr. Rosenberger returned later in the day and submitted the proper plats.

R E S O L U T I O N

In application S-187-76 by Kings West Swim Club and Richmarr Construction Co. under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit construction of community recreation facilities (pool, bathhouse & tennis courts), 1000' south of Braddock Road at the intersection with Roberts Road, 68-2((1))pt. of parcel 37, County of Fairfax, Virginia, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of 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 28, 1976; and

- WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is Richmarr Construction Company.
 2. That the present zoning is RTC-10.
 3. That the area of the lot is 352,408 sq.ft.
 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law: That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

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1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Parking shall be provided for 50 cars.
7. The number of family members shall be limited to 244.
8. The hours of operation shall be
11 A.M. to 9 P.M., Monday through Saturday and 12 Noon to 9 P.M. Sunday for the pool, and
9. The hours of operation shall be
7 A.M. to 9 P.M. for the tennis courts.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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10:40 - LEONARD M. SCHWAB appl. under Sec. 30-6.6 of Ord. to permit construction a.m. of garage closer to front property line than allowed by Ord., (20.7' from front, 40' required), 8709 Southern Pines Court, 29-3((11))186, (12,942 sq. ft.), Centreville District, (R-12.5), V-189-76.

(The hearing begin at 12:15 p.m.)

Mr. Schwab presented to the Board proof of notification to property owners. This was in order.

Mr. Schwab's main justification for this variance was the way the house was placed on the lot. He stated that because of the angle the house was placed on the lot, there was no place left for a garage to be constructed within the limits of the setbacks from property lines. He stated that he had owned the property for two years and three months. He stated that all the lots in this subdivision are about the same size and the houses either have carports or garages. There are about 15 or 20 two car garages.

Mr. Swetnam stated that there is no way Mr. Schwab can construct a garage on this property without a variance.

Mr. Smith stated that he wouldn't have to have a two car garage, however.

There was no one else to speak in favor of this application.

There was no one to speak in opposition to the application.

Mr. Schwab submitted three letters from contiguous and nearby property owners stating that they have no objection to the granting of this variance. The letters were from Philip Cohen, 8705 Southern Pines Court; Dianne Laslie, 8707 Southern Pines Court; and Richard Crenshaw, 1751 Pine Valley Drive, Vienna. Mr. Crenshaw was the contiguous property owner on the Pine Valley Drive side of Mr. Schwab's property. The way the cul-de-sac cut into the lots, made Mr. Schwab house have front setbacks for three sides; front and both sides.

SCHWAB (continued)

Mr. DiGiulian made the following motion.

R E S O L U T I O N

WHEREAS, Application V-189-76 by Leonard M. Schwab under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of garage closer to front property line than allowed by Ordinance (20.7' from front, 40' required), 8709 Southern Pines Court, 29-3((11))186, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 28, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 12,942 sq. ft.
4. That the applicant's property is
 - (a) exceptionally irregular in shape, and
 - (b) has an unusual condition in the location of the existing building on the property;

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Swetnam seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No. He stated that he did not feel this is a minimum variance to afford relief.

 10:50 - MARION FAIRCLOTH appl. under Sec. 30-6.6 of Ord. to permit construction of open porch 4.5' from side property line, 10' required, 3600 Maryland Street, 101-4((10))(13)1, 2, 19 & 20, (18,038 sq. ft.), Mt. Vernon District, (R-17), V-188-76.

Mr. Faircloth presented notices and certification thereof of property owners of this hearing to the Board. The notices were in order.

Mr. Faircloth stated that he wishes to add an open porch toward the rear of the house and a carport toward the front. The property consists of four lots, two of which are corner lots, and faces on three streets. Half the property is covered by heavy woods. The porch is 10.5 x 15 feet on the right side of the house facing the woods. Because of the irregular shape of the property, the frontage on three streets, and the setback requirements from those streets, a variance must be granted in order to construct this porch.

The photographs showed the property dropping considerably from the side of the house looking from the corner of Braddock and Maryland Streets.

Mr. Faircloth stated that the canopy over the carport slab would be fiberglass.

In answer to Mr. DiGiulian's question, Mr. Faircloth stated that from the rear corner of the house to either the house on lots 21 and 22 is about 100 feet or more.

There was no one else to speak in favor of the application.

There was no one to speak in opposition to the application.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-188-76 by Marion and Ethel Faircloth under Section 30-6.6 of the Zoning Ordinance to permit construction of open porch and carport closer to side property line than allowed by the Ordinance (4.5' from side, 10' required), 3600 Maryland Avenue, 101-4((10))(13)1, 2, 19 & 20, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on September 28, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 12,942 sq. ft.
4. That the applicant's property is
 - (a) exceptionally irregular in shape, and
 - (b) has an unusual condition of the location of the existing building on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

11:00 - TYRONE Z. DENNESSY appl. under Sec. 30-7.2.6.1.14 of Ord. to permit home professional chemical engineer's office, 6437 Old Dominion Dr., 31-3((3))(4)1 & 2, (22,060 sq. ft.), Dranesville District, (R-12.5), S-190-76.

(The hearing began at 12:40 a.m.)

Dr. Dennessy, 6437 Old Dominion Drive, McLean, submitted the required proof of notification to property owners of this hearing to the Board. The notices were in order. He stated that no other property touches his property. His property is like an island surrounded by streets.

Dr. Dennessy first gave the Board his theory on cancer. Then, in answer to the Board members questions, stated that the hours of operation would be from 10 A.M. until 4 P.M., Monday through Friday, by appointment only. That there would be no advertisement. He would have only a few clients. If the operation becomes successful, he would have two assistants. The traffic impact would be negligible. He stated that he has been doing research on this since 1963. He is not subsidized by any government agency. His clients are usually professionals and university professors from Georgetown University and American University. He was educated in Transylvania and West Germany. There will be no laboratory in his home, just papers, pencils and charts.

He stated in answer to one of the Board members questions that he is not licensed by the State to perform these services. This is not required. The only thing that will transpire between the client and himself will be conversation. There is no examination.

There was no one else to speak in favor of the application.

There was no one to speak in opposition to the application.

R E S O L U T I O N

436.

Mr. Durrer made the following motion:

WHEREAS, application S-190-76 by Tyrone Z. Denessy under Section 30-7.2.6.1.14 of the Zoning Ordinance home professional chemical engineer's office on property located at 6437 Old Dominion Drive, 31-3((3))(4)1 & 2, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 28, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 22,060 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

and,

WHEREAS, the Board has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the application be granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 10 A.M. to 12 P.M., and from 2 P.M. to 4 P.M., Monday through Friday.
7. This Special Use Permit is granted for a period of One (1) year.

Mr. Barnes stated that he would second that motion because the clients that Dr. Dennessy will have are so few that it will not create much of an impact on the community.

Mr. Durrer stated that he felt the same way as Mr. Barnes' stated.

The vote was 4 to 1 with Mr. Smith voting No. The motion passed.

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The Board recessed for lunch at 1:00 P.M. and returned at 2:15 P.M.

11:20 - ELIZABETH IDA THOMPSON, Trustee, appl. under Sec. 30-6.6 of Ord. to permit construction of street causing existing house to be 19.1' from right-of-way line, 50' required by Ord., 9518 Leesburg Pike, 19-1((1))17, (67.7 acres), Dranesville District, (RE-1 & RE-2), V-191-76.

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Mr. Ken Bryant, attorney for the applicant, submitted the required proof of notification to the Board. These notices were in order.

Mr. Douglas Detwiler, certified land surveyor, 10604 Warwick Avenue, in answer to Mr. Swetnam's questions, stated that the reason for the location of the road is so that it will match up with Beulah Road. The County has dictated the location of Beulah Road. The road is 60' dedicated and he did not remember the exact pavement width.

Mr. Swetnam stated that the road would be 28' from the house, from the edge of the pavement.

Mr. Covington confirmed that the setback requirement for RE-1 cluster is 45'.

Mr. Bryant stated that this house will be torn down when the couple die. They are 82 and 83 years old now. This road will affect only the existing building and will not affect any new construction.

There was no one else to speak in favor of the application.

There was no one to speak in opposition to the application.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application V-191-76 by Elizabeth Ida Thompson, Trustee, under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of a street causing existing house to be closer to right-of-way line than allowed by Ord., 9518 Leesburg Pike, 19-1((1))17, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held on September 28, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the applicant's lot area is 67.7 acres.
4. That the applicant's property is
- (a) exceptionally irregular in shape and is also exceptionally narrow, and
5. This variance is necessary because of the requirement to align the proposed Beulah Road with the existing right-of-way of Beulah Road; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. When the life estate ceases to exist, the subject house will be removed.

Mr. Swetnam seconded the motion.

The motion passed unanimously with all members present and voting.

11:40 - MICHAEL D. ROSEN, D.V.M. appl. under Sec. 30-7.2.10.5.2 of the Ord. to permit veterinary clinic, 7187 Lee Hwy., Sec. One - Greenway Downs Subd., 50-2((5))pt. 3 & 4, (3,085.95 sq. ft.), Providence Dist., (C-G), S-213-76, OTH

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Dr. Rosen presented notices to property owners to the Board. The notices were in order.

Mr. Bernhart Wenzel, 7185 Lee Highway, requested that this case be deferred. He stated that his father went to Europe the day before the notice of this hearing came and is returning September 29, 1976, the day after the hearing. He stated that he was sure that his father would wish to be present to speak in objection to this case. The business that his father owns next door is of European Delicatessen. The two businesses do not mix.

Mr. Durrer stated that he would like to hear from the owner of the contiguous property.

Dr. Rosen stated that if the son knows what the objections of his father would be then he might be able to give those objections to the Board today. He stated that it is a hardship to defer this case. He stated that he wants to begin the business as soon as possible in order to earn a living. He is under a contingency lease at the present time.

Mr. Durrer moved that the Board defer this case until the next hearing in order to hear the opposition.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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SEPTEMBER 28, 1976
AFTER AGENDA ITEMS:

CONGRESSIONAL SCHOOL, INC., 3228 Sleepy Hollow Road, 61-1((1))5.

The Board on April 13, 1976 deferred action on the re-evaluation hearing on this case until September 14, 1976. At the April 13, 1976 hearing, Mr. Devers and Mr. Spence, the attorney, stated that the lights, lettering and proper painting would be completed on all busses that are used for the transportation of the children in the school by August 31, 1976.

The deferral date was overlooked by the Staff and was not brought to the Board's attention on September 14, 1976.

The Board was in receipt of two reports from Zoning Inspector, Beaver. The first report dated September 21, 1976 indicated that an inspection had been made and the findings were that the school was using seven van-type busses to transport students. All seven had been painted yellow; however, five had no school bus marking or lights and two had "Congressional Transportation" on the side, but no lights. The second report was dated September 28, 1976 and stated that an inspection was again made on September 27. The inspector found eight van-type busses in use for transporting Congressional School students. Two were painted white with black and white lettering and no lights. There were two painted yellow with no markings or lights. There were four painted yellow marked "Congressional Transportation" on the sides, and "school bus" marked on the front with no lights.

Mr. Smith stated that there was also a question regarding the guard house. He asked Mr. Spence, attorney for the applicant, to submit a copy of the building permit for the guard house. Mr. Spence stated that he would.

Mr. Spence stated that Mr. Devers is in the process of having the busses lettered and lights installed. He has to take the busses out of service while they are being worked on. He cannot take them all out of service at the same time. He stated that Mr. Devers has had dozens of meetings with the citizens in the area. He had VEPCO shade the lights to stop the glare into the neighbors' properties and he is also in the process of planting evergreens in the area for screening and has met the most of the problem areas.

Board

After considerable discussion, Mr. Durrer stated that he had been on this Board since February and the Board has heard Mr. Devers several times. He asked Mr. Spence to give the Board a firm date on which the busses would be

completely finished, in the near future.

Mr. Spence stated "three weeks".

Mr. Durrer moved that this be further deferred until October 26, 1976 and if the busses are not completed in accordance with the requirements by that date, that the Board revoke the school's Special Use Permit.

Mr. Swetnam seconded the motion.

Mr. Swetnam then made a substitute motion that the busses should be painted and lettered with proper lights, etc. by the 19th of October in order for inspections to be made. Then if this is not done, the busses will have to be taken off the street.

Mr. Durrer stated that he could make that part of his motion.

Mr. Swetnam withdrew his substitute motion and Mr. Durrer incorporated Mr. Swetnam's motion into his motion and added that he fully intended to move that the Board revoke the Special Use Permit if this work has not been completed.

The Board requested the Zoning Inspections Division to make an inspection of the school on October 19, 1976.

The motion passed unanimously, with all members present and voting.

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MICRO SYSTEMS COMPANY, INC. (HAPPY INN MOTEL), S-114-73, 250' north of intersection with Route 1 and Old Mill Road, 109((2))11 & 12.

The Board on August 31, 1976 considered the interior courtyard changes that had been made in the development of this property. Certain walkways and the swimming pool had been omitted. The Board deferred action on these changes until the Architectural Review Board could consider them. The Architectural Review Board has now considered the changes and recommended approval of them.

The Board again reviewed the revised plans.

Mr. Covington advised the Board that the Board of Supervisors was holding up their approval until this Board made its decision.

Mr. DiGiulian moved that this Board approve the plans as-built with the omission of the interior pool and walkways in accordance with the recommendations of the Architectural Review Board. These changes seem to be only interior changes within the courtyard of the motel and are not visible from the road.

Mr. Swetnam seconded the motion.

The motion passed unanimously with all members present and voting.

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SPECIAL MEETING

The Board members reviewed the scheduled agendas through October and noted the two requests for out of turn hearings.

It was the Board's decision to hold a Special Meeting on Friday, November 12, 1976 in order to take care of the backlog of cases that are now pending.

The Board then granted out-of-turn hearings for Edward Matthews and Alec Whyte as requested. Both cases requested early hearings because inclement weather would force the contractor to have to wait until spring to begin construction on their proposed swimming pools.

The Clerk advised the Board that the cases were now scheduled through November 30, 1976 with about 30 new pending cases that have not even been set up as yet. This will move the cases on the 16th up to the 12th.

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AFTER AGENDA ITEM

WASHINGTON FARM METHODIST CHURCH, S-177-75, 3925 Old Mill Road, 110-2((9))11B and 110-2((1))9B, 33, 39, granted October 14, 1975.

The Board was in receipt of a letter from Richard Williams, Chairman, Administrative Board of the Church, requesting the Board grant an extension to the Special Use Permit because they have not yet begun construction due to numerous unexpected delays encountered in the process of obtaining site plan approval, financing, and other pre-construction requirements. They have now received approval of the site plan and are proceeding toward settlement on the financing arrangements.

The Board granted a 6 month extension from October 14, 1976. This is the last extension that can be granted by the Board.

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AFTER AGENDA ITEM -- APPROVAL OF MINUTES FOR AUGUST 31, 1976

Mr. Swetnam moved that the minutes for August 31, 1976 be approved as read.

Mr. Durrer seconded the motion.

The motion passed unanimously.

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The meeting adjourned at 3:37 p.m.

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Jane C. Kelsey

By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Submitted to BZA on 10-^{19 - see #19 memo in Print}~~13~~-76. _{shot.}

Submitted to Bd. of Supervisors, Planning Commission and other Depts. on Nov. 2, 1976

Daniel Smith

DANIEL SMITH, CHAIRMAN

APPROVED October 19, 1976
DATE

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The Regular Meeting of the Board of Zoning Appeals Was Held In The Board Room Of The Massey Building on Wednesday, October 13, 1976. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam; and, John DiGiulian.

The meeting was opened with a prayer by Mr. Barnes.

The meeting began at 10:10 a.m.

10:00 - PEGGY T. THORNTON applicatbn for an art school and group day care a.m. facility at 1000 Balls Hill Road, 21-3((1))53, S-192-76.

The Board was in receipt of a request from Ms. Thornton to withdraw this case without prejudice. Ms. Thornton stated in her letter that upon receiving a team inspection, the repairs that would have to be made to the structure would have a tremendous cost. Therefore, she would not be able to go forward with the school at this time.

Mr. Barnes moved that the request to withdraw this application without prejudice be granted.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

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10:20 - FRANK A. MORAN appl. under Sec. 30-6.6 of Ord. to permit construction a.m. of attached garage closer to side property line than allowed by Ord., (7.2' from side, 12' required), 4402 Kerrybrooke Drive, 82-1((12))75, (14,202 sq. ft.), Lee Dist., (R-12.5), V-194-76.

(The hearing began at 10:32 a.m.)

Mr. Moran submitted proof of notification to property owners of this hearing. The notices were in order.

Mr. Moran's justification for this variance was because of the irregular shape of the lot which causes one corner of the proposed garage to come too close to the property line. He stated that he had lived at this property for three years, but had owned the property for eight years. He stated that the proposed garage would be architecturally compatible with the existing house. The brick and wood that would be used would be similar, if not identical, to the existing brick and wood, if possible.

There was no one to speak in favor of this application, other than Mr. Moran.

There was no one to speak in opposition.

R E S O L U T I O N

In application V-194-76 by Frank and Brenda Moran under Section 30-6.6 of the Ord. to permit the construction of a garage, 4402 Kerry Brook Drive, 82-1((12))75, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on October 13, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owners of the property are the applicants.
2. That the present zoning is R-12.5.
3. That the area of the lot is 14,202 sq. ft.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and building involved:

- (a) exceptionally irregular shape of the lot,
- (b) exceptionally narrow lot.

NOW, THEREFORE, BE IT RESOLVED, that the application is granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

10:30 - DOLORES L. ROGERS appl. under Sec. 30-7.2.6.1.7 of Ord. to permit a.m. beauty salon as home occupation, 5629 Clermont Drive, 82-1((4))1A, (.76605 ac.), Lee Dist., (R-12.5), S-195-76.

(The hearing began at 10:42 a.m.)

Mrs. Rogers submitted the proof of notification to property owners of this hearing. The notices were in order.

Mrs. Rogers stated that she wishes to have a beauty shop in her own home in order that she can help earn a living for the family and also be at home to guide her children who are 17, 13 and 7. She stated that she had owned a beauty shop for two years at 3212 Campbell Drive. However, she found that it was requiring too much of her time away from her home and she sold the shop. Prior to that, she had worked part time at another shop for about six years.

In answer to Mr. Smith's question, Mrs. Rogers stated that there is a 'for sale' sign in front of her house. They have planned to sell the house and move out of the area. However, their plans have changed and they will not be moving. They do have a six month contract with the realtor. Therefore, the sign must stay up until that contract expires.

Mrs. Rogers in answer to Mr. Durrer's question, stated that the closest beauty shop is in the Rose Hill Shopping Center. She expects to draw her customers from the area where she used to work. They are customers who have been coming to her for years. She plans to have these customers by appointment only and start the appointments around 9:00 a.m. after the children have gone to school. She will stop around 3:00 p.m. when the children get home from school and then have a few customers in the evening when they get off from their regular jobs. She plans to work on Tuesday, Thursday, Friday and Saturday.

Louise Palmateer, 5701 Clermont Drive, next door to Mrs. Rogers, spoke in support of the application. She stated that Mrs. Rogers has fixed their driveway so she felt there would be no traffic problems and they have also improved their house so that it is an addition to the neighborhood.

Mrs. Rogers in answer to one of the Board member's questions, stated that she does have the shop equipment in the house, but she has never used it for gain, only for herself and her family. The driveway was put in for their own use. No off-site parking is required by the Ordinance. However, because there is no curbs along that street and a deep ditch on each side of the street, it would be impossible for people to park along the street.

Mrs. Janet Mitchell, 4421 Upland Drive, two houses away from Mrs. Rogers, spoke in opposition to this application. Her opposition was based on the fear that this use would cause the area to turn toward commercial uses. She stated that there are no commercial uses in this neighborhood now. She stated that the traffic is already very heavy along this road. The public school is nearby and the children have to cross this road. Additional traffic will adversely impact the area and will be a dangerous situation. She stated that

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she had had an appraiser comment on whether or not he felt this beauty shop use would devalue the property of the neighbors. He stated to her that it probably would not unless there was a sign. She stated that she also feared that this use would continue even if the applicant who has a 'for sale' sign in her front yard sells the property.

Mr. Smith stated that these permits are granted to the applicant only and are not transferable to anyone else.

Mrs. Mitchell stated that if the house is purchased by someone else who wishes to have a beauty shop and the Board denies that application after granting this one, would it not be discriminatory to say that the new owner could not do the same thing. She stated that it certainly would be more difficult to deny a second applicant after the first has been granted.

Mr. Smith stated that the Board is in receipt of a letter from Orville J. Litzinger, President of the Clermont Woods Community Association, dated October 7, 1976 stating that at a meeting of their association on September 28, 1976 the following resolution was passed concerning this application.

"Be it resolved that the Clermont Woods Community Association is opposed to granting a Special Use Permit for operation of a commercial business within the residential area."

Mrs. Rogers, in rebuttal, stated that she had not planned to have a sign on the property. However, there is a real estate office in a home down the street that has a large sign. She stated that her only advertising would be word of mouth and would mainly be her old customers.

Mr. Durrer stated that this is another case where if this Board approves this application, it is opening up strictly residential neighborhoods for commercial use. He stated that he is opposed to it.

Mr. Barnes stated that he feels that as long as it is in the Ordinance, it should be granted if it meets the criteria. He stated that he felt this application meets the criteria in the ordinance. He stated that long ago, this Board requested the Board of Supervisors to remove these uses from the Ordinance, but they have not seen fit to do so.

Mr. Durrer stated that he did not feel this applicant meets the standards of the Ordinance for Special Use Permit uses in residential zones. She does have reason to have her work in her home. She should be home taking care of the children. She has been out of the home working for six years and now it suddenly dawns on her that she should be at home. It is up to the Board to decide these cases based on the merits of the case that is before it. This is a quiet residential neighborhood and this certainly will have some impact on it.

NOTE

R E S O L U T I O N

In application S-195-76 by Dolores L. Rogers under Section 30-7.2.6.1.7 of the Zoning Ordinance to permit a beauty parlor as a home occupation, 5629 Clermont Drive, 82-1((4))1A, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners and a public hearing by the Board held on October 13, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is .76605 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

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NOW, THEREFORE, BE IT RESOLVED, that the application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 8:00 A.M. to 8:00 P.M., TUESDAY, THURSDAY, FRIDAY AND SATURDAYS, with no more than five (5) appointments per day, with ONE (1) customer at a time.
7. This Special Use Permit is granted for One (1) year.

Mr. DiGiulian seconded the motion.

and he stated

Mr. Smith stated that he agreed with Mr. Durrer in this case, that there has been no indication that the community desires the services of this beauty shop. The customers will be coming from outside the community. There should be more than one property owner indicating that they feel the services would be good for the community. The civic association opposes this use.

Mr. Swetnam stated that there is nothing verifying the letter from the civic association is a true motion of the group at a duly notified hearing of the citizens of the community.

The motion to grant passed 3 to 2 with Messrs. Smith and Durrer voting No.

10:50 - J.V.F. DEVELOPMENT ASSOC., LTD. appl. under Sec. 30-6.6 of the Ord. a.m. to permit accessory structures closer to side property lines than allowed by the Ordinance, V-204-76.

The Staff Report indicated that plats had been submitted showing the setbacks in compliance with the ordinance. Therefore, the application was withdrawn administratively.

Mr. Smith stated that the Board's record would so note.

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11:00 - HERITAGE DAY CARE CENTER, INC. appl. under Sec. 30-7.2.6.1.3 of Ord. a.m. to permit amendment to existing SUP to allow increase in number of children to 87, 7 A.M. to 6 P.M., Monday through Friday, 7901 Heritage Drive in the Immanuel Methodist Church, 70-2((1))2, Annandale Dist., 1.77045 acres, C-N and RM-2, S-205-76.

Mrs. Elaine Shell representing the applicant, submitted the required proof of notification to property owners of this hearing. They were in order.

Mrs. Shell stated that she incorporated the school July 1 of this year. She is the secretary of the corporation and her husband is the president. They wish to expand the number of children to 87 at such time as the church finishes their addition to the structure.

She did not have a copy of the lease agreement duly signed by the church and the corporation. She stated that heretofore, she had submitted a copy of that lease every year to the Zoning Administrator.

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R E S O L U T I O N

In application S-205-76 by Heritage Day care Center, Inc. under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit the continued operation of a day care center with an increase in the number of children to 87, 7 A.M. to 6 P.M., Monday through Friday, 7901 Heritage Drive in the Immanuel Methodist Church, 70-2((1))2, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on October 13, 1976.

WHEREAS, the Board has made the following findings of fact:

- 1. That the owners of the subject property are the Trustees of the Immanuel Methodist Church.
- 2. That the present zoning is C-N and RM-2.
- 3. That the area of the lot is 1.77 acres.
- 4. That this use is under Site Plan control.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
- 4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
- 5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. That the maximum number of children shall be 87.
- 7. That the application be amended to reflect the name of the current operator, Heritage Day Care Center, Inc.
- 8. That the hours shall be from 7 A.M. to 6 P.M., Monday through Friday.
- 9. That this Special Use Permit is granted subject to the presentation of a new lease to the Zoning Administrator prior to the 15th of November, 1976, and each succeeding year that the school is in operation, unless the applicant obtains a longer lease. The file shall have a current lease at all times.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

Page 446, October 13, 1976, 11:20 A.M.

A. L. WHEELER, (Trustee), appl. under Sec. 30-6.6 of the Zoning Ordinance to permit townhouses to be constructed 4' from side property line (10' required), 1613 Chain Bridge Road and 1553 Davidson Road, Dunningham North, 30-4((1)) 4, 5, 5A, 6, Dranesville District, 1.45635 acres, RTC-10, V-206-76. AMENDED TO INCLUDE VEGA INVESTMENT CORP. and remove lots 5 and 5A.) (The hearing began at 11:35 a.m.)

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Mr. Martin D. Walsh, attorney for the applicant, with offices at 1400 North Uhle Street, Arlington, Virginia, presented the proof of notification to property owners. The notices were in order.

Mr. Walsh confirmed that the property is owned by Vega Investment Corp. and A. L. Wheeler, Trustee.

The Board amended the application to include Vega Investment Corp.

Mr. Walsh submitted a certificate of good standing for that corporation.

Mr. Walsh stated that this is a townhouse, RT-10, development. It appears on the tax map as only two lots, lots 4 and 6, not 5 and 5A. He asked that lots 5 and 5A be removed from the application.

Mr. Smith stated that it would be done.

Mr. Walsh stated that this is 1.45 acres and is called Dunningham North. Mr. Wheeler purchased the property after it had been zoned RT-10. The development plan submitted at the time of rezoning showed the townhouses lined up in a row with one row perpendicular to Chain Bridge Road and one parallel to Chain Bridge Road. They are required to have a 10' setback along Dunningham Court and also in the back as it abuts Stoneleigh Subdivision. They only have 14' where they need 20'. Since the time the application was filed, they met with the citizens in the area. The citizens are very much opposed to their original application showing townhouses within 4' of the side property line. Mr. Wheeler has agreed to compromise. Therefore, they are only requesting a sideyard variance. They will not have to ask for a variance in the front.

Mr. Smith stated that if they were going to modify their request, they should wait and bring in new plats to conform to that request since the Board must grant according to the plats.

Mr. Walsh stated that they are now requesting a lesser variance. They would like to get the 2' today and come back for the 4' at the next available hearing.

Mr. Smith stated that they would be putting their second request in jeopardy. The case will have to be readvertised.

Mr. Walsh stated that the meetings with the citizens were just completed this morning. He stated that he had had some communication with people from McLean earlier, but the first time he was approached by the citizens was about a week ago.

A lady from the audience who stated that she was a resident of Stoneleigh and lives on the contiguous property, also stated that she is opposed to this application and had never seen these people before, much less come to an agreement with them.

Mr. Walsh stated that due to the configuration of the lots, they could not meet the normal setback requirements and were asking for a variance.

Mr. Smith stated that this seems to be a matter of convenience since they could change the townhouses back to the original plan and not need a variance.

Mr. Walsh stated that the changes they have made will move the development more compatible with the neighborhood, and will be in the best interest of the County.

Mr. Smith stated that it looks as though it will be adversely affecting the property owners surrounding it, since there are several here in opposition.

Mr. Swetnam moved that the applicant be instructed to come in with a corrected application showing the requested variance.

Mr. DiGiulian seconded the motion.

Mr. Swetnam recommended that the applicant also get in touch with the contiguous

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property owners.

(There was no action on the previous motion.)

Mr. Walsh stated that he would request the Board to allow him to withdraw this application.

Mr. Swetnam moved that the applicant's request to withdraw the application be granted without prejudice.

Mr. Durrer seconded the motion.

Mr. Smith asked if there was any objection to this withdrawal.

Mrs. Walton Matthews stated that his property adjoins the subject property on two sides. She stated that this variance will cut off their air and view and will be very undesirable. She stated that she had no objection to the withdrawal of this application.

Mr. Richard Thompson, owner of one of the lots in the Stoneleigh Subdivision and chairman of the legal advisory board of that subdivision, stated that his board initiated communication with the applicant to try to work out the problems here.

Mr. James Peters, contiguous property owners, stated that he had received no notification of this hearing from the applicant, only the registered letter from the County.

Mr. Swetnam told Mr. Peters that that letter came from the applicant, not the County.

Mrs. Chrystyna Kuzmowych, 1548 Bruton Court, contiguous property owner, stated that they have had no communication with the applicant other than the letter they received that there would be a hearing regarding the setback and she did not understand what it was all about.

Mr. Smith stated that the applicant had followed the procedural requirement regarding notification.

Mr. Durrer suggested that the applicant notify the people who are present who are interested in this case.

Mr. Walsh stated that Mrs. Kuzmowych's husband called him and he did give him all the information that he could over the phone.

Mr. Smith told Mr. Walsh that it behoves he and Mr. Wheeler to try to work out this, so that they do not need a variance. If they are encroaching on the other property owners there and this variance is a matter of convenience in order to develop the property in a more convenient manner, then they should redesign their townhouses perhaps to either cut out some of them, or cut down the size of them.

Mr. Swetnam stated that Mr. Walsh had said that the developer was attempting to do a better job in the development of this site and he would, therefore, reserve his opinion until he sees a revised development plan.

The motion to withdraw the current application passed unanimously with all members present and voting.

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11:40 - JOHN & MARY HANNA appl. under Sect. 30-6.6 of Ord. to permit construction of carport 5.4' from side property line, 10' required, 4444 Rockcrest Dr., Springbrook Forest Subd., 69-2((10))35, 11,801 sq. ft., Annandale Dist., R-17 Cluster, V-207-76.

(The hearing began at 12:00 Noon.)

Mr. Hanna submitted the requires proof of notification to property owners to the Board. The notices were in order.

Mr. Hanna stated that the house is next to a corner lot and the builder made the lot much more narrow than any other lot in the subdivision. The other houses have carports or garages.

He stated that he has talked with his neighbors and they have no objection. He stated that he has also submitted a petition from the neighbors indicating

that they have no objection to the proposed carport.

The Board and Mr. Covington discussed the requirement for side setbacks in cluster zones.

Mr. Covington stated that the requirement is a minimum side yard of 8' and with a total for both side yards of 24'. The ordinance permits an extension of 5' into a side yard with another minimum of 5' ^{for an open structure}. Therefore, the applicant can build within 5' of a sideyard for an open structure, which this is. But, his total for both sides yards must be 19 feet, which the applicant does not have and must have a variance for.

Mr. Smith stated that he did not agree with that interpretation, but this is what the Board would have to abide by. He stated that he felt that if the applicant could extend 5' into the minimum, but no closer than 5' for an open structure, and the applicant was not going closer than 5' to the property line, then he did not need a variance, no matter what the total side yards was.

There was no one else to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-207-76 by John and Mary Hanna under Section 30-6.6 of the Zoning Ordinance to permit construction of a carport 5.4' from the minimum side yard and 17.8' for the total side yards, 4444 Rockcrest Drive, 69-2 ((10))35, County of Fairfax, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 13, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-17 Cluster.
3. That the area of the lot is 11,801 sq. ft.
4. That the Board finds that the applicant's property is
 - (a) exceptionally irregular in shape, including narrow because of converging side lines.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. That the architecture of the proposed addition shall be compatible with the existing structure.

Mr. Swetnam seconded the motion.

The motion passed unanimously, with all members present and voting.

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12:00 - HENRY DEVELOPMENT COMPANY, INC., V-225-76, request to permit house
Noon to remain closer to side property lines than allowed by the Ord.,
2414 Albot Road, Centreville District.

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Ms. Karen Harwood with the law firm of Miller and Ralston requested a deferral of this case. She stated that their firm is in the process of relocation and the entire file on this case was lost. They either did not send out letters of notification, or the letters were lost.

There was one person in the room who stated that she was in opposition to this application. She stated that she had received no notification, except to see the sign that was posted in the front yard of the subject property. Mr. Smith explained that the Board could not hear the case without the proper notification being made to property owners.

Mr. Durrer stated that he objected to a two week deferral. He moved that the case be deferred until 10:00 a.m., November 16, 1976.

Mr. Swetnam seconded the motion.
Mr. Smith noted that this case had been granted an out-of-turn hearing. The motion passed unaniously.

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DEFERRED CASE:

12:15 - MELVIN L. RIDER appl. under Sec. 30-7.2.10.6.4 of Ord. to permit
a.m. 12 parking spaces on property of gasoline station to be used for
U-Haul rental trucks, 6701 Franconia Road, Lee District, (C-G),
S-159-76. (Deferred from 9-7-76 for proper notices.)

Mr. Albert, representative from the U-Haul Company of Washington, D. C., represented Mr. Rider before the Board. He stated that it had been his responsibility to send out the notification letters and he had sent out some of them. They had had a problem verifying property owners for some of the lots and 3 of the notices did not get out in time to meet the 10 day requirement.

Mr. Swetnam stated that this is the second time this case has been scheduled with no notices and this applicant is under violation notice. He stated that he felt the County government should do something about the violation.

Mr. Smith stated that the County staff allowed the applicant to continue operation until the Board could hold this hearing. He stated that the Board can take action today to have the trucks removed until such time as the applicant has the right to have them there.

Mr. Swetnam stated that the photos in the file show that the trucks are parked there already and are contrary to the way the parking is shown on the plats. If the Board continues this deferral so easily, they will be operating for the next two or three years.

Mr. Albert stated that it was not their intent to delay these hearings.

Mr. Barnes stated that they should remove the trucks in One day from this hour.

Mr. Swetnam moved that the trucks be removed within one day and that this case be deferred until 10:00 a.m. on November 30, 1976. He stated that the Board would give the case a specific time now so that the applicant could get right to work on the notices.

Mr. Barnes seconded the motion.

The motion passed unaniously with all members present and voting.

Mr. Rider stated that the trucks would be removed within 24 hours from this hour.

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12:30 - JJS CORPORATION OF VA. T/A COMMONWEALTH CHRISTIAN SCHOOL appl. under P.M. Sec. 30-7.2.6.1.3.2 of Ord. to permit construction of 2 new buildings, double tennis courts, soccer field, 2nd story recreational room addition, relocation of storage building and removal of one building, 8822 Little River Turnpike, 58-4((1))65, (4.2244 acres), Providence District, (RE-1), S-178-76, (Deferred from 9-21-76 at request of applicant.)

Mr. Charles L. Shumate, with the law firm of Hansbarger & Shumate, 10523 Main Street, represented the applicant. He had submitted proper notification to property owners at the original hearing. The notices were in order.

Mr. Shumate stated that this school has been in operation since 1953. It was originally under the name of Benjamin Acres School. Mrs. Fortune, formerly Mrs. Boyett, took over the school in 1970. The Special Use Permit was granted subject to certain conditions, maximum number of students, etc. This application does not seek to change the number of students or in any way expand the facility that would cause more impact to the surrounding area. Mrs. Boyett wishes to create more facilities for the students that she presently has. About two-thirds of the students are in the Jr. High School program, thereby needing more physical education facilities. The staff report for the original hearing referred to certain land dedications and other conditions that needed to be further considered. They have now met with Mr. Hendrickson and Mr. Reynolds and it is their position that certain of these site plan requirements will no longer be required by the applicant at this time. There is a letter in the file from Mr. Hendrickson with Preliminary Engineering to this effect. That letter states that it will be agreeable with his branch if this Board makes as a condition that this use will be under site plan control.

Mr. Shumate stated that the total land area is 4.2244 acres. The total number of students at the present time is under capacity, or less than 325. He stated that the improvements that they proposed are shown on the plats.

Mr. Durrer asked if these improvement are two new buildings, double tennis courts, soccer field, 2nd story recreational room addition and relocation of the storage building, and removal of one building.

Mr. Shumate stated that that was correct.

Mrs.(Boyett)Fortune stated that the new buildings will be used for classrooms, administrative offices, and other school uses. The tennis courts will be open. They will not have an enclosure around them. This will also be used for basketball, etc. The construction of the new buildings will be brick and frame. One building is about 116' x 56' and the other is about 20' x 32'. The frame building that is in existence now is used for storage. It used to be a house was on the back of the property. It burned down and they built a new building exactly like the old one. She stated that they did get a building permit. It is physically located on the same foundation.

Mr. Smith questioned the setback for the proposed relocation of that building.

Mr. Covington stated that that building would have to meet the setback and it does not now do so.

Mr. Shumate stated that the plan will have to meet all setback requirements at the time it goes to site plan. This was an oversight on the part of the engineer. The plat came into the Zoning Office and was returned originally for corrections. The corrections were made and the Zoning Office accepted the plat with this application. They did not know the building did not meet the setback requirement.

The Board members discussed whether or not to grant this case without waiting for new plats showing the proposed relocation of the building within the proper setback distance, or to defer the case until new plats are submitted.

Mr. Shumate and Mrs. Fortune both stated that she might loose her financing commitment if she waited any longer. She stated that she has a commitment for about \$600,000 which is contingent upon this Special Use Permit. She stated that she has asked for several extensions of time on that commitment.

Mr. Durrer moved that this Board continue with this hearing, but reserve the decision until proper plats have been submitted.

The motion died for lack of a second.

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Mr. DiGiulian stated that he felt the Board could approve everything else except the relocation of that building and defer decision on that building until the new plats are submitted.

There was no one else to speak in favor and no one to speak in opposition to the application.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application S-178-76 by JJS CORPORATION OF VIRGINIA T/A COMMONWEALTH CHRISTIAN SCHOOL under Section 30-7.2.6.1.3.2 of the Zoning Ordinance to permit construction of two new buildings, double tennis courts, soccer field, 2nd story recreational room addition, relocation*of storage building and removal of one building, 8822 Little River Turnpike, 58-4((1))65, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

* See condition No. 7.

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 13, 1976, having been deferred for a full hearing from September 21, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is Shirley W. Fortune. The applicant is the lessee.
2. That the present zoning is RE-1.
3. That the area of the lot is 4.2244 acres.
4. That compliance with Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. Revised plats showing the relocation of the existing 20'x32' building is to be submitted to the Board of Zoning Appeals and approved by that board prior to any construction on this building.
8. All other requirements and conditions of the existing Special Use Permit S-38-70 shall remain in effect. i.e., 325 students, maximum at any one time; hours: 7 A.M. to 6 P.M., five days a week; ages: 3 thru 15; nursery thru 8th grade.

Mr. Swetnam seconded the motion. The motion passed 4 to 1. Mr. Smith voted No. He stated that he was voting No, because he felt this should not be granted until the applicant has provided new plats showing the relocation of the building.

Page 452, October 13, 1976

EUGENE SLAVEY appl. under Sec. 30-6.6 of the Zoning Ord. to permit pool to be constructed closer to side property line than allowed by Ord., 2715 Calkins Road, 26-3((2))7, (20,105 sq. ft.), Centreville District, V-119-76. (Deferred from September 21, 1976 for additional information.)

Mr. Gary Feth, a representative of Tahitian Pools, 9522 Lee Highway, Fairfax, Virginia, represented the applicant. He stated that he had new plats showing where the drainfield is located and the possible relocation for the pool in the rear yard. However, even though the Health Department will approve the pool in the rear yard, because of the topography of the rear yard, it would be extremely difficult to place the pool there.

He submitted the new plats to the Board. He also submitted additional photos showing the rear yard and the different elevations from the patio that is on the basement level to the patio that is on the first floor level. He stated that one patio is 8' higher than the other. In order to place the pool that close to the house considering the topography, a retaining wall would be necessary. Mr. Slavey would like to construct the pool in the side yard as originally planned because of the extra expense necessary to construct the retaining wall and the aesthetic value of the property. A pool in the rear yard would change the aesthetics of the yard drastically.

Mr. Durrer stated that if the applicant can construct the pool without a variance, perhaps the application should be withdrawn.

Mr. Feth stated that he was acting as a agent for Mr. Slavey and Mr. Slavey wishes to go ahead with the variance because anyplace else on the property would be impractical for this pool.

Mr. Smith stated that he felt this pool in the side yard would have some effect on the contiguous property owners.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-119-76 by Eugene Slavey under Section 30-6.6 of the Ordinance to permit construction of pool 6' from side property line, 2715 Calkins Road, 26-3((2))7, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 21, 1976 and deferred to October 13, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1Cluster.
3. That the area of the lot is 20,105 sq. ft.

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is denied.

Mr. Swetnam seconded the motion.

The motion passed unanimously with all members present and voting.

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Page 453, October 13, 1976

MICHAEL D. ROSEN, D.V.M. appl. to permit veterinary clinic at 7187 Lee Hwy., 50-2((5))pt. 3 and 4, Providence District, C-G zoning, S-233-76. (Deferred from September 28, 1976 at the request of the contiguous property owner's son stating that his father, the owner of the property, was out of the country and would wish to speak in opposition to this application.)

(The hearing began at 2:50 p.m.)

Dr. Michael Rosen, 1623 Park Crest Circle, Reston, Virginia, had submitted proper notices at the original scheduled time on September 28, 1976.

Dr. Rosen stated that he would limit his practice to cats. This will eliminate the problem of noise and odor in the hospital. He stated that with any business, planning is important. He plans to show each new client through the hospital and, of course, cleanliness will be stressed. Most clients will welcome a hospital for cats only.

Mr. Covington stated that this use will create less impact as far as parking is concerned than a retail business that could go in by right. There are two parking spaces in front of the building. This is a very old area and is near the Falls Church city line.

In answer to Mr. Smith's questions, Dr. Rosen stated that he has been doing relief work for other veterinarians in the area. He has had a license for three years and graduated from Ohio State University.

Mr. Barnes stated that he knew for a fact that it is difficult to get into a veterinary medicine school.

Dr. Rosen stated that he could keep no more than eight animals at the hospital at any one time since he only has eight cages. However, his business will consist of mostly out-patients. Cats do much better at home in familiar surroundings.

Mr. Barnes stated that he imagined that people who have cats would prefer to take them to a cat hospital, because they surely act up when they are around dogs.

Mr. Mark Dare, attorney with the law firm of Hazel, Beckhorn and Hanes, P. O. Box 547, Fairfax, Virginia on University Drive in Fairfax City, represented Mr. Wentzel, contiguous property owner, in opposition to this application. He stated that Mr. Wentzel is the owner and operator of the delicatessen next door to this, which has a common wall with this building. He stated that Mr. Wentzel opposes this use for several reasons, the insufficient parking in the front of the building, the sanitary conditions that will suffer an adverse impact if this hospital goes in because of the obnoxious odors from tom cats particularly and from a female cat in heat, the roach problem that surrounds cats, the smell from the cat litter that might possibly seep into his ventilation system, the animals that might get loose and get into the shop, the cat hairs that will filter through the air and get on his food, and the noise, even though not as sharp as dogs, will still come through the thin walls that separate the two buildings.

In answer to Mr. Durrer's question, Dr. Rosen stated that animal hospitals are inspected by the Board of Veterinary Examiners of the State of Virginia. This is done once a year.

Mr. Smith stated that the Fairfax County Ordinance requires that this hospital be odor free and constructed according to specific specifications.

Dr. Rosen in rebuttal to the opposition stated that there would be no way that he could or would treat dogs because he would not have the proper equipment that would be applicable to dogs. There are other veterinary clinics in the immediate area where the dogs could be placed. He stated that the other reason why he would not permit a dog in his hospital would be that a dog might excite a cat and cause him to loose the cat, if the cat were very ill. He stated that he would not treat tomcats either ^{on an extended basis} since they are very aggressive and would cause confusion in the hospital. However, the need for treatment of tomcats is rare because most people have their tomcats neutered. Therefore, on the rare occasions that a tomcat would be brought to the hospital, he would be treated on an out-patient basis, or transported to a nearby larger hospital if necessary, as soon as his condition could be stabilized. Female cats do not have an odor, even when they are in heat, that can be detected by anyone other than a male cat. Cats will be brought into the hospital in carriers that he will provide. He will use the proper ventilation system and will use proper and clean methods in caring for these animals that will not

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cause an adverse impact on the neighbors. Roachs are common more in food stores, than in cat hospitals.

Mr. Swetnam stated that he had a big problem with this case. He stated that if Dr. Rosen wished to have a pet store and have dogs, cats, birds and other animals that he could do that by right with no Special Use Permit at this same location. However, he stated that he still felt that this use would not be compatible with a food store. He stated that he felt the best solution would be to grant this use for a limited period with very strongest restrictions on it.

Mr. Covington stated that small animal hospitals in C-N and C-D districts have specific requirements that are not required in C-G districts, which this is, and that the Board will have to make a ^{change} condition if they wish these conditions imposed.

October 13, 1976

Resolution

Bd. of Zoning Appeals

In application S-213-76 by Michael D. Rosen, D.V.M. under Section 30-7.2.10.5.2 of the Ordinance to permit a veterinary clinic, 7187 Lee Highway, 50-2((5)) part 3 & 4, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on September 28th, 1976 and deferred to October 13, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is Costas Daskal Akris, et als.
2. That the present zoning is C-G.
3. That the area of the lot is 3,085.95 sq. ft.
4. That this use is subject to Site Plan Ordinance.

AND, WHEREAS, the Board has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land or to other structures on the same land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. This permit is granted for Five (5) years. *
7. The specific requirements for small animal hospitals in C-N and C-D zones apply in this instance.

* Mr. Barnes seconded the motion and the motion passed unanimously. Condition No. 5 was originally for one year, but after extended discussion by the Board members, Mr. Swetnam amended that condition to five years.

Page 455, October 13, 1976

2:20 P.M.

LUCK QUARRIES, INC. NW corner of Lee Highway and Bull Run Post Office Road, S-113-76 and 15717 Lee Hwy, S-180-76.

The Board was in receipt of several letters which the Chairman placed in the record after noting and stating that the Board members had a copy of these letters and had read them. One letter was from the Zoning Administrator setting forth 23 suggested conditions, if these permits are granted. One letter was from the applicant through their attorney, Royce Spence. There were two letters from contiguous neighbors, Mrs. Naylor and Mr. Ingersol. Mr. Smith reread the letter from the Restoration Board concerning suggested conditions for these permits. Mrs. Naylor and Mr. Ingersol's letters were in opposition to the granting of this Special Use Permit.

Mr. Smith asked, to refresh his memory, if there was any machinery on the north side.

Mr. Spence stated that there was not, it was prohibited by prior permits.

Mr. Smith asked Mr. Spence if the quarry intends to stockpile, have machinery, or store on the north side, or crush.

Mr. Spence answered that "No sir", they do not intend to do any of those things. He stated that the only thing they intend to do on the north side is quarry. He stated in answer to Mr. Smith's question, that they do use the underground tunnel under Lee Highway and that it is not necessary to stop traffic on Lee Highway anymore.

Mr. Smith told Mr. Spence that he no longer would have two permits, one for each side, but one permit that would run simultaneously and come up for renewal at the same time.

Mr. Spence stated that the asphalt plant is doing everything it possibly can to eliminate the noise problem there.

Mr. Maize, Zoning Inspector, testified that he devotes one-half day per week to the inspection of this quarry.

October 13, 1976 R E S O L U T I O N Bd. of Zoning Appeals

In applications S-113-76 (north operation) NW corner of Lee Highway and Bull Run Post Office Road, 64((1))3 and 5, (72.0662 ac.) and in Application S-180-76 (south operation) 15717 Lee Highway, 64((1))12, 13, 14, 15 & 72 (99.99 acres), application by Luck Quarries, Inc. under Section 30-7.2.1.1.3 of the Fairfax County Zoning Ordinance to permit stone quarrying operation on the north side and to permit stone quarrying and stockpiling of quarried stone and accessory uses on south side, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on September 28, 1976 and continued until October 13, 1976 for viewing and additional information; and

WHEREAS, the Board has made the following findings of fact:

1. That the owners of the property are Fairfax Quarries, Inc. and McKinley Robinson.
2. That the present zoning is RE-1 and I-G.
3. That the area of the land is 172.05 acres.

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 and in C or I Districts as contained in Sec. 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has

started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. This permit is granted for Five (5) years.

7. The terms and conditions of the previous granting shall be enforced and the 23 items in the Zoning Administrator's memorandum dated October 12, 1975. They are:

(1) This permit to be granted for the maximum period specified by the Code (5 years).

(2) The existing restoration plan shall be maintained current.

(3) A bond of \$1,000 per acre to insure restoration of the property shall be continued for the duration of this mining operation.

(4) Reservation of a 300 foot buffer along State Route 621, north of Routes 29 and 211.

(5) Reservation of a 300 foot buffer along any common boundaries of the quarry which borders the Ingersoll land (formerly Marsh).

(6) Dedication of a 50 foot strip along State Route 621, north of Routes 29 and 211.

(7) There shall be no processing or storage of processed rock north of Routes 29 and 211.

(8) Blasting vibrations shall be limited to a maximum resultant peak particle velocity of 1.5 inches per second in the earth at any occupied structure not on the quarry property. Within these limits the operator shall continue to diligently oversee all loading and blasting so as to minimize to the extent possible any justifiable complaints of residents.

(9) Millisecond delay caps or their equivalent shall be used in all blasting operations, with no blast to exceed 10,000 pounds. No single millisecond delay charge shall be loaded in excess of 1,000 pounds.

(10) Earth vibration produced by the quarry from sources other than blasting shall not exceed 0.05 inches per second at any occupied structure not on quarry property.

(11) The peak overpressure (noise) from any blast shall be limited to 0.0092 pounds per square inch (130 decibels) at any occupied structure not on quarry property.

(12) Airborne noise produced by the quarry from sources other than blasting shall not exceed the following at any occupied structure not on quarry property: 10 decibels above the background in residential areas and 16 decibels in commercial or industrial areas.

(13) Roads and other areas subject to traffic within the confines of the quarry will be watered as often as necessary to control dust.

(14) All present dust control equipment including the Johnson Marsh Dust Control System, will continue to be maintained and operated. In addition the plant manager shall, as an experiment, install one or more brushes to remove dust from the underside of the conveyor belts.

(15) No drilling or crushing shall be performed other than during the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, provided however, that blasting shall occur only between the hours of 10:00 a.m. and 3:00 p.m. weather conditions permitting. There shall be no more than one blast per day.

(16) All blasting material shall be handled and stored in accordance with standards and regulations established by the United States Bureau of Mines.

(17) There shall be no work performed other than sales of materials or maintenance activities on facilities and equipment on Saturday between the hours of 7:00 a.m. and 6:00 p.m. No work on Sunday.

(18) In the event any feasible equipment or means of controlling dust during blasting activities becomes available to the industry, the quarry operators shall install and use the same as soon as available to them.

(19) Discipline of personnel and supervision during blasting and loading shall be diligently exercised to prevent flying rock.

(20) Traffic control practices shall be detailed and rigidly enforced to

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insure that public roads in the immediate vicinity of the quarry are closed to all traffic during blasting activities.

(21) All operations at the quarry shall conform to applicable performance standards, regulations and ordinances.

(22) The Zoning Administrator, or his agent, shall periodically inspect the premises to determine that the quarry is being operated in compliance with all the foregoing restrictions.

(23) An annual inspection fee shall be paid to the County of Fairfax. This fee to cover inspections relating to the conditions and standards enumerated above.

8. That there will be no Saturday OR Sunday crushing or shooting.

9. That both north and south quarries will be under the same use permit from this date, October 13, 1976.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

Mr. Swetnam moved that the the night operation which the Board discussed on August 31, 1976 to allow a temporary change in the present hours of operation for just a small portion of the crushing operation in the most isolated portion of the crushing plant in relation to the roads and homes in the area be extended until December 15, 1976. Those hours are from 6:30 p.m. until 9:30 P.M. Monday through Friday and 7:00 a.m. until Noon on Saturdays.

Mr. Barnes seconded the motion.

The motion passed 4 to 1 with Mr. Smith voting No. He stated that he was voting No because he felt a change of this nature should require a public hearing.

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AFTER AGENDA ITEM -- OCTOBER 13, 1976 -- BOARD OF ZONING APPEALS

- 1. DISMAS HOUSE, a corp., S-158-76, 7701 Old Telegraph Road, 100-1((9))4.

Mr. Smith stated that the Board members had received a letter from Robert N. Hartman, 6073 Piney Run Drive, Alexandria submitting a statement requesting an appeal of the Zoning Administrator's decision in accepting the application of Dismas House under the Group 6 category instead of Group 5, the institutional category.

Mr. Covington stated that the Zoning Administrator accepted this application for a school of general education, Group 6. If this group wishes to appeal the decision of the Zoning Administrator, it must be done by formal application. It is the Zoning Administrator's position that this is Group 6 because they are providing education for these youngsters.

Mr. Smith stated that it seemed to him that it is a home for boys. However, this is something that would have to be taken up on an appeal, if there is a formal appeal.

Mr. Swetnam stated that when he read this petition under cover of Mr. Hartman's letter, it was his feeling that they were questioning the Board's right to decide as it did because they consider that the Board decided the case under the wrong section of the ordinance and according to the wrong rules. The proper relief, he stated, should be through the Circuit Court. The Board has already acted on the case and the Zoning Administrator is out of it. The Board made the decision at Board level.

Mr. Smith stated that their first remedy is through this Board with a formal application. Their (meaning the petitioners) contention is that the Zoning Administrator misinformed the Board and the Board heard the case under the wrong section of the ordinance.

Mr. Swetnam stated that that is the reason he feels that the Board no longer is acting on what the Zoning Administrator decided, but what the Board has done. The Board cannot go back and say it was in error because the Zoning Administrator gave it the wrong information. The Board does not have that pejorative.

Mr. Covington stated that the Board accepted the decision of the Zoning Administrator by hearing the case.

Mr. Smith disagreed and stated that "not necessarily". The Board accepted the application as it was presented to the Board and there was no question or allegation of error.

Mr. Swetnam stated that if the Board decides that way, it is setting a precedent.

Mr. DiGiulian stated that this Board is not an appeal body for itself. The Board heard the case and decided that it was a permitted use as a school of general education. He stated that he had not read or heard anything since then or during the hearing that would tell him differently and cause him to change his mind.

Mr. DiGiulian asked if this needs any action from this Board in order for them to file a formal appeal from the Zoning Administrator's decision.

Mr. Smith answered "No."

Mr. Durrer stated that then the Board should send that information back to the petitioners.

Mr. Durrer moved that the Board tell the citizens who are contesting this issue that it is the Board's contention that they may file a formal appeal and come back through the system. At that time, the Board can hear the appeal. Until then, the Board cannot hear it.

Mr. Barnes seconded the motion.

Mr. Swetnam stated that he felt there has to be an appeal time, even on the Zoning Administrator's decision. The applicants or the other side have 30 days to appeal the Board's decisions in Circuit Court of Fairfax County. There has to be an appeal time on this too. The 30 days has past since the Zoning Administrator made this decision.

Mr. DiGiulian stated that if the objectors can file an appeal without a decision of this Board, then he sees no reason for the motion.

The motion passed 3 to 2, with Messrs. DiGiulian and Swetnam voting No.

Mr. Smith stated that the Board is only advising them. The Board has correspondence and correspondence has to be answered.

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AFTER AGENDA ITEM -- OCTOBER 13, 1976 -- BOARD OF ZONING APPEALS

2. CHARITY BAPTIST CHURCH, S140-75

This application was granted in 1975 with an entrance on Lewinsville Road. Subsequent to that action, the applicant's engineer requested the Board for an engineering change to allow the entrance to be on Spring Hill Road because the Highway Department would not approve an entrance on Lewinsville Road because of improper site distance. The Board was in receipt of a letter from Leon C. Gamble addressed to Oscar Hendrickson, Chief of Preliminary Engineering Branch, objecting to this revised entrance because he felt it would cause traffic problem and create unnecessary accidents. He felt that he should have had notice of this change so that he could have stated his objections.

Mr. Russell Jenkins, engineer on this project, stated that in the course of developing the site plans, they noted that the Highway Department had a requirement of a 350' site distance clearance which they could not maintain on Lewinsville Road. They also required a deceleration lane. This deceleration lane would be required to go across the front of the Board of Supervisors property which is contiguous to the church. They then initiated a request for a right-of-way to go across that property. They wrote to John Shacochis, Supervisor for Dranesville District, and sent along a copy of the plan. They requested an easement across the front of that property. Mr. Shacochis said he would forward the request to the attorney. The church has not yet received an answer on that or heard anything since last June. Shortly after that they approached Mrs. Hall, the other contiguous property owner on the other side, to discuss with her the possibility of getting an easement across the front of her property. There is only a matter of 3' from the pavement edge to a sharp bank that is approximately 5' high and immediately on top is a white painted board fence, just inside of that is her driveway and two beautiful trees. Of course, she said she didn't want to give an easement.

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CHARITY BAPTIST CHURCH (continued)

Therefore, they asked her to contact the church if she would agree to discuss the matter further. She has not contacted the church. The only place on the property where they meet the Highway Department's entrance requirements is on Springhill Road. The proposed entranceway on Springhill Road is the only place on that road fronting their property that meets the requirements. They, therefore, did not have a choice. The times of services for the proposed church and the existing church across the street are different. They hope that there will not be a problem.

Mr. Jenkins stated that when the Board's clerk called him about this problem of explanation regarding the Highway Department's requirements, he called the Highway Department and requested a letter concerning this. However, the Highway Department said they could not get the letter to the Board by this hearing.

Mr. Smith stated that the Board had earlier approved this change, but the Board was in receipt of a letter from a contiguous property owner objecting to this change. The staff felt that the Board should perhaps get some additional information on this.

Mr. Durrer moved that the clerk inform Mr. Gamble that the Board has approved the change in the entrance way for this church because this is the only place where the Highway Department will approve an entrance.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

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AFTER AGENDA ITEM -- OCTOBER 13, 1976
SHIPIRO

The Board had some time ago considered a letter from Mr. Shipiro regarding whether or not certified plats would be required in order to submit an application for a variance. The Board did not put its findings on the record. Therefore, the Board again considered this request.

Mr. Smith stated that this is a requirement and a policy of the Board. Mr. Shipiro should be required to do the same thing that everyone else is required to do.

Mr. Barnes moved that Mr. Shipiro be required to come in with certified plats showing the fence, etc. as set forth in the instructions to applicants that accompany the application form and that he should follow the proper procedure as outlined by those instructions.

Mr. Durrer seconded the motion.

Mr. Covington stated that this is a case where Mr. Shipiro already had the fence up and one of the Zoning Inspector's issued him a violation notice for having the fence in the front setback area. He is an attorney, formerly with the County Attorney's office.

Mr. Durrer stated that he should have known to inquire about how high the fence should be, etc., particularly since he was an attorney with the County.

The motion passed unanimously with all members present and voting.

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AFTER AGENDA ITEM -- APPROVAL OF MINUTES -- SEPTEMBER 7 and 14, 1976

Mr. Durrer moved that the minutes for September 7 and September 14, 1976 be approved.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

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AFTER AGENDA ITEM, NO. 6 -- VFW OF McLEAN, REQUEST FOR EXTENSION OF SPECIAL USE PERMIT, S-196-75, granted October 28, 1975.

Mr. William J. Taylor, Commander of the VFW, McLean Post 8241, 1051 Springhill Road, requested, by letter dated September 24, 1976, the Board extend the Special Use Permit. He stated that there were several reasons why they could not begin construction prior to the end of the year. They were:

- (1) Construction estimates based on the original architect specifications were exhorbitant.
- (2) Architect specifications had to be changed in order to secure more reasonable bids.
- (3) Financing to be obtained had to be delayed until the construction estimates were obtained. Such financing is in the process but may not be finalized before the October 28th date.

Mr. Durrer moved that the request for extension be granted and that this extension be for 6 months from October 28, 1976.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

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AFTER AGENDA ITEM -- OCTOBER 13, 1976
ARTHUR JOHN SELTMAN, S-197-76, Heard by the Board on September 17, 1976 and deferred to November 16, 1976.

The Board was in receipt of a letter from Thomas O. Lawson, attorney for the applicant, dated September 28, 1976, requesting that they be allowed to withdraw their application for the special use permit. He had attached a copy of a letter from the applicant to the real estate agent setting forth the reasons for this request.

Mr. Swetnam moved that the applicant be allowed to withdraw this application without prejudice.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

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The Board meeting adjourned at 4:30 p.m.

"
Jane C. Kelsey
By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: Nov. 9, 1976
DATE

Submitted to the BZA on Oct 26, 1976

Submitted to the Bd. of Supervisors, Planning Commission and other Depts. on _____

The Regular Meeting of the Board of Zoning Appeals Was Held In The Board Room of the Massey Building on Tuesday, October 19, 1976. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam and John DiGiulian.

Mr. Barnes opened the meeting with a prayer.
The meeting began at 10:05 A.M.

10:00 - CHARLES & GAIL DAVENPORT appl. under Sec. 30-6.6.5.4 of Ord. to permit partially constructed wooden deck to be completed and allowed to remain within 7.2' of side property line (8' min. & total of 24' required), 1501 Twisting Tree Lane, Dominion Woods, 31-3((31))22, Dranesville Dist., (16,837 sq. ft.), R-17C, V-208-76.

Mr. Charles Davenport submitted the required notices to property owners of this hearing. The notices were in order.

Mr. Davenport stated that his lot is a pie shaped lot that falls very steeply toward the rear. He contracted with Mr. Kevin Taunt to construct this deck and Mr. Taunt started to work in April. On April 10, they paid Mr. Taunt \$1,350 for partial payment of the work. On April 18, they discovered that the level of the deck floor was below the level of the house floor. After discovering that, he asked his brother to tear the deck down. (He meaning Mr. Taunt) The police was called and Mr. Taunt ceased tearing down the deck. There has been no work done on the deck since that time. On April 26, an inspector from the building department of the County came by and told them that there was no building permit on file for the deck. They had a survey done and filed it with the building permit. In June they were told that there was a problem and they would need a variance to allow the deck to remain. They filed the application for the variance in August. They have discussed the problem with the neighbors and the neighbors have no objection. There are only four homes that has a view of this deck. One of the neighbor's view is blocked in summer because of the trees. The neighbor who lived in the Law's house before the Law's moved in stated that he felt the house looked much better with the deck.

In answer to Mr. Smith's question, Mr. Davenport stated that he did not have a written contract with Mr. Taunt to do this work. Mr. Taunt was not a licensed contractor. He submitted a piece of paper with a price written on it to the Chairman.

Mr. Smith stated that his reason for asking this question was that he wanted to see who was actually responsible for obtaining the building permit. If the contractor doesn't have a license, something should be done about it. The applicant needs to show that this construction was done and was no fault of his.

Mr. Smith stated that this house is already in the setback area and has a variance that was built into the ordinance in that a carport can extend 5' into any required setback. This deck could not have been constructed if a building permit had been applied for. It is up to the applicant to prove to this Board that he had nothing to do with it. It behoves this Board to get the facts in these cases especially when there are allegations of irregularities.

In answer to Mr. Smith's question, Mr. Mitchell stated that the staff has not established the fact that Mr. Taunt does not have a license.

In answer to Mr. Smith's question, Mr. Davenport stated that he has only partially paid Mr. Taunt for his work. He was paid \$1,350 on a \$2,900 job.

Mr. Smith stated that it looks basically complete.

Mr. Davenport stated that the footings will have to be redone and the doors have to be put in. The work is 40 to 50 percent complete.

Mr. Davenport stated that Mr. Taunt had done some work for some of the neighbors and the neighbors had told them that Mr. Taunt did fine work and was a fine craftsman.

There was no one to speak in favor other than the applicant.

There was no one to speak in opposition.

Mr. Smith stated that he would like to hear what the contractor might have to say.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-208-76 by Charles and Gail Davenport under Section 30-6.6.5.4 of the Zoning Ordinance to permit completion of a partially constructed wooden deck within 7.2' of the side property line, 1501 Twisting Tree Lane, 31-3((31))22, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 19, 1976.

WHEREAS, the Board has made the following findings of fact:

That the Board has found that non-compliance was no fault of the applicant.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

THIS approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No.

October 19, 1976

10:20 - MARKLEY & GWENDOLYN SEIBERT appl. under Sec. 30-6.6 of the Zoning Ord. to permit construction of addition to and enclosure of existing carport to use as garage within 9.4' of side property line (15' required, 3411 Fiddlers Green, Barcroft Lake Shores Subd., 61-1((11))647, Mason District, (15,107 sq. ft.), R-17, V-209-76.

Mr. Finch from Martin Home Improvements Company represented the applicants. He submitted notices to property owners of this hearing. The notices were in order.

The main reason for the need for this variance, Mr. Finch stated, was due to the fact that the house was not located squarely on the lot. If it had been this variance would not be necessary. He stated that the enclosure of this carport will enhance the property and will not be detrimental to the neighborhood.

Mr. DiGiulian stated that the plats show that the proposed carport after it is enclosed and widened, will be 12 feet wide.

Mr. Finch stated that it will be 12.91'.

There was no one else to speak in favor of the application.

There was no one to speak in opposition.

October 19, 1976

R E S O L U T I O N

Board of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, Application V-209-76 by Markley and Gwendolyn Seibert under Section 30-6.6 of the Zoning Ordinance to permit construction of addition to existing carport and enclosure of same to use as a garage, 3411 Fiddlers Green, 61-1((11))647, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements,

9.4' from side property line

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 19, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.

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2. The present zoning is R-17.
3. The area of the lot is 15,107 sq. ft.
4. The Board finds that the applicant's property has an unusual condition in the location of the existing building on the subject property.

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously.

October 19, 1976

10:30 - JAMES A. CASSELL appl. under Sec. 30-6.6 of Ord. to permit extension of dwelling to within 13.3' of side property line, 10323 Beach Mill Road, 3((1))20, Deanwood Subd., Dranesville District, RE-1, (22,207 sq. ft.), V-210-76.

Mr. Cassell presented the required proof of notification of this hearing to nearby property owners. The notices were in order.

The hearing began at 10:37 a.m.

Mr. Cassell stated that he and his wife wish to restore an existing cabin and a barn and make a house by joining the two together. The barn is 13.3' from the property line. He submitted a signed petition from some of the neighbors who were in support of this request. He stated that this is a very old cabin which was constructed in the early 1800's. It was the Deanwood Store.

Mrs. John Irving, contiguous property owner, spoke in opposition to this variance. She stated that this is less than one acre and they feel that the construction of this house this close to their property line will adversely affect their property. She questioned the adequacy of the drain fields for the septic system for this property. She stated that there is a house on the property which the Cassell's are using to live in now. It was condemned 10 years ago for health reasons because of the inadequacy of the septic system at that time.

Mr. Covington explained to the Board that this variance is needed even though the barn exists because they are converting the use. The barn is non-conforming, but when the use is changed, it loses its non-conforming status.

Mr. Swetnam stated that the Health Department is the department that determines whether or not the septic system is adequate.

Mr. Cassell, in rebuttal, stated that they have an approved septic system for a one-bedroom house. The log cabin will be kept as nearly as possible to how it used to be. It will be used as a library and family room. He stated that the Health Department has said that he could possibly add one more bathroom. The septic tank has a 1,125 gallon liquid capacity. There are two septic drain fields.

Mr. Barnes stated that he felt this would be adequate. He stated that he felt this will be a great improvement for the property and the Cassell's should be commended in their endeavors.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-210-76 by James A. Cassell under Section 30-6.6 of the Zoning Ordinance to permit extension of dwelling to within 13.3' of side property line, 10323 Beach Mill Road, 3((1))20, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, the application has been properly filed in accordance with all requirements and following proper notice to the public and a public hearing by the Board held on October 19, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. That the area of the lot is 22,207 sq. ft.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties and the existing structures were built prior to the Zoning Ordinance.

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Swetnam seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No.

October 19, 1976

10:40 - LEWIS M. PEARSON appl. under Sec. 30-6.6 of Ord. to permit enclosure of existing screened porch 19.3' from rear property line (25' required) 3434 Upside Court, Valley Brook Subd., 60-2((30))9, Mason District, (RE-0.5), (16,669 sq. ft.), V-211-76.

(The hearing began at 10:55 a.m.)

Mr. Pearson submitted the required notices to property owners of this hearing. The notices were in order.

Mr. Pearson stated that the property was purchased by the applicant in March 1973. They wish to have an all-weather enclosure, in keeping with the architectural character of the house. The unusual shape and size of the building lot together with the siting of the house on the lot preclude reasonable expansion of the residence in any other direction. The proposed project will not change the existing width, depth or elevation as they pertain to the affected setback. All existing and proposed improvements are largely concealed from neighboring property by heavy, existing foliage.

There was no one else to speak in favor.

There was no one to speak in opposition.

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R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-211-76 by Lewis and Marjorie Pearson under Section 30-6.6 of the Zoning Ordinance to permit the enclosure of an existing screened porch for year around use 19.3' from the rear property line (25' required), 3434 Upside Court, 60-2((30))9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 19, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. The present zoning is RE-0.5.
3. That the area of the lot is 16,669 sq. ft.
4. That the Board finds that the applicant's property is exceptionally irregular in shape.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

10:50 - THE POTOMAC SCHOOL, a corp., appl. under Sec. 30-7.2.6.1.3.2 of the Zoning Ordinance to permit amendment to existing SUP for school of general education to add 7 tennis courts without lights with hours 6 a.m. to dusk; and to add 4 paddle tennis courts with lights with hours 6 a.m. to 10 p.m., 1301 Potomac School Road, 31-1((1))5 & 12A, Dranesville District, (70.327286 acres), RE-1, S-212-76.

(The hearing began at 11:02 a.m.)

Mr. Gerald Miles, Headmaster of the school, submitted the required proof of notification to property owners of this hearing. The notices were in order.

Mr. Miles stated that the requested courts will be used primarily for educational purposes for the 530 children that they presently have in this school. They only have one tennis court at the present time. These courts will also be used in the summer day camp program. This will greatly enhance the summer program. The courts will be used by the members of the Potomac School parents club and other people who would like to join such as organization. They will make the courts available to the people who live in the Evermay Subdivision contiguous with the school.

In answer to Mr. Durrer's question, Mr. Miles stated that there will be a charge for the activities other than the school's use of the courts.

Mr. Covington stated that this would not be permitted unless they are like a community association which pays dues. If they are opening the courts up for a fee, after-hours, this would not be permitted. That would be a commercial use.

Mr. Miles stated that they already have a Special Use Permit for the pool which has the same type arrangement that they propose for the tennis courts.

Mr. Smith stated that he did not recall that that permit was for a pool organization, but was for the school. He referred back to the minutes of that meeting. Mr. Fifer, attorney for the applicant, on March 13, 1974 had made the statement that "...the pool would be used by the neighboring community as

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a local pool or swim club..."

Mr. Miles stated that the school is a corporation, but the association that runs the pool would not be. It is all a part of the general operation of the school. One becomes a member of the pool association by simply paying a fee to Potomac School. These fees will help maintain the courts and the pool and will enable the school to offer these services to the students. There are 58 members in the pool. The fee is \$225 for a family membership per year and a greatly reduced fee for an individual membership. The membership is not restricted. A person might be from Virginia or the District of Columbia.

Mr. Covington stated that this would not be permitted. He stated that there is a court ruling that says membership in a community association must be from within the County. He stated that if they are operating two separate operations, school and pool association, then they need a dual Special Use Permit and two applications.

The Board recessed for five minutes.

Mr. Swetnam moved that the Board go into executive session. Mr. DiGiulian seconded the motion and the motion passed unanimously.

The Board returned in 10 minutes to continue with this case.

Mr. Smith stated that it had been agreed that these facilities would only be used for students, parents of students and any other uses would require an additional use permit.

October 19, 1976 R E S O L U T I O N Board of Zoning Appeals

In application S-212-76 by The Potomac School under Sec. 30-7.2.6.1.3.2 of the Zoning Ordinance to permit construction of 7 tennis courts without lights and 4 paddle courts with lights, 1301 Potomac School Road, 31-1((1)) 5 and 12A, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board held on October 19, 1976.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is The Potomac School.
2. That the present zoning is RE-1.
3. That the area of the lot is 70.327286 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

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THE POTOMAC SCHOOL (continued)

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. The hours for the tennis courts shall be from 6 A.M. until dark.

7. The hours for the paddle tennis courts shall be from 6 A.M. until 10 P.M.

Mr. Barnes seconded the motion.

The motion passed unanimously.

OCTOBER 19, 1976
11:00 - HIGHLAND SWIM CLUB, INC. appl. under Sec. 30-7.2.6.1.1 of the Zoning Ordinance to permit installation of lights (DeVoe = low) on four existing tennis courts and increase hours of operation -- (6 A.M. to 11 P.M.).

Mr. Leroy Haugh, 4049 North 41st Street, Arlington, represented the applicant. He could not submit the proper proof of notification to property owners of this hearing. Therefore, the hearing was deferred to 10:20 a.m. on November 30, 1976 for proper notices.

There were three people in the audience who indicated that they were in opposition to this application.

One lady stated that she had a statement in opposition, but would be unable to attend the hearing on November 30, 1976.

A gentleman also indicated that he was in opposition, but would be unable to attend the November 30, 1976. He stated that he would write a statement of opposition and submit it to someone else to present to the Board on that date.

In answer to Mr. Swetnam's question, Mr. Haugh stated that he had a statement answering the inquiry of the staff concerning two of the existing tennis courts.

Mr. Smith stated that these statements would be accepted at the time of the hearing.

OCTOBER 19, 1976
11:20 - T. D. COLLINSWORTH & RICHARD F. SHANE appl. under Sec. 30-6.6 of the Ord. to permit shed (accessory structure in front yard) to be located 23.9' from DuBois Street and to permit privacy hedge 6' in height in front setback, 4313 Javins Drive, Ridgeview Subd., Section 3, 82-3((10))(E)16, (10,543 sq. ft.), Lee District, R-12.5, V-215-76.

Mrs. Shane submitted the required proof of notification of property owners to the Board. The notices were in order.

Mrs. Shane stated that she and her husband are the contract purchasers of the subject property. They should have settled by now, but there were some legal technicalities involved. She agreed to submit a copy of the contract to purchase for the file.

Mr. Smith stated that only the owner of the property is the proper applicant. Mrs. Shane stated that she and her family had moved to this house from four houses down the street. Before they agreed to purchase the property, they wanted to make sure that they could make an addition to the house, to make sure they could place a privacy hedge along the side yard, which zoning calls a front yard, and to place their shed in the side yard. The Zoning Office now indicates that they can place their hedge in the side yard. They do not need a variance to construct the addition. However, the shed is still the problem. They have met with their neighbors and the neighbors have suggested certain things which they have agreed to. She submitted a copy of that agreement for the record.

The Board members discussed with Mrs. Shane and one of the neighbors the possibilities of moving the shed nearer the house. Mrs. Shane stated that the Fire Marshall's office would not permit the shed next to the house.

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Page 468, October 19, 1976
 COLLINGSWORTH & SHANE (continued)

Mrs. Shane stated that this shed is used to store bicycles for their eight children. Just as soon as the addition is completed, they have agreed to move the shed and to get a smaller shed.

Mr. Smith stated that the variance has to be granted for a permanent location. The shed could be moved up behind the house if it is agreeable with the Fire Marshall and this would not require a variance. At such time as the addition is started, the shed could then be moved to the location indicated on the plats submitted with this request. If this is the Board's decision.

Mr. Swetnam stated that he did not feel the Fire Marshall would permit this shed close to the house.

After much discussion, Mr. Swetnam made the following motion:

OCTOBER 19, 1976

R E S O L U T I O N

BOARD OF ZONING APPEALS

WHEREAS, Application V-215-76 by Thomas and Bonnie Collingworth under Section 30-6.6 of the Zoning Ordinance to permit an accessory structure 10'x14' to be erected in the front yard and closer to the front property line than allowed by the Ordinance (23.9' from DuBois Street), 4313 Javins Drive, 82-3((10))(E)16, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 19, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 10,543 sq. ft.
4. That the Board finds that the applicant's property is exceptionally small and is a corner lot. This granting is based on the plat location.

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. This granting is for 24 months only and shall be removed at the end of that time.

Mr. Durrer seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No.

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11:40 - FELLOWSHIP BAPTIST CHURCH appl. under Sec. 30-7.2.6.1.11 of the Zoning Ordinance to permit addition to church, 11032 Oakton Road, 47-3((1)) 2, (4.75 ac.), Centreville Dist., RE-1, S-216-76.

(Hearing began at 12:25 p.m.)

Rev. Federal Layne, pastor of the church, submitted the required proof of notification to property owners. The notices were in order.

Rev. Layne stated that they proposed to construct a 40'x90' addition to their existing church which would become their permanent sanctuary. The present sanctuary would become educational classrooms for Sunday School and a fellowship hall. The seating capacity would be 350 for the new sanctuary.

Mr. DiGiulian stated that the plats show that the church has 30 existing parking spaces and propose to add 60 spaces.

Mr. Mitchell stated that 70 spaces would be required for 350 seats.

Rev. Layne stated that 70 spaces would be all that would be needed.

Mr. Swetnam stated that if the plat shows 90 spaces and the Board follows its usual procedures and policies, it will have to defer this case for revised plats showing only 70 spaces, if this is all the applicants wants.

Mr. Smith stated that if they intend to construct the 90, there will be no need for a change, but if they decide to only have 70, they will have to come back at the time of site plan approval with a new plat for this Board to approve.

Rev. Layne stated that he would prefer to go ahead with the 90 spaces, rather than be deferred.

There was no one else to speak in favor and no one to speak in opposition to this application.

October 19, 1976 RESOLUTION Board of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, Application S-216-76 by FELLOWSHIP BAPTIST CHURCH under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of addition to church at 11032 Oakton Road, 47-3((1))2, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 19, 1976; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owners of the property are the Trustees of the Fellowship Baptist Church.
- 2. That the present zoning is RE-1.
- 3. That the area of the lot is 4.75 acres.
- 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require

approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.

4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. There shall be a minimum of 70 parking spaces.

7. The seating capacity shall be 350.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

October 19, 1976

12:10 - ANTONIO CAFFI & RICHARD DEITRICK appl. under Sec. 30-6.6 of Ord. to permit construction of pool closer to side and rear property lines than allowed by the Zoning Ordinance, within 7', 1905 Baton Drive, Tiburon IV Subd., 28-3((1))53, (15,017 sq. ft.), Centreville District, R-17, V-233-76. OTH.

(The hearing began at 12:37 p.m.)

Mr. Richard Deitrick submitted the required proof of notification to property owners. The notices were in order.

Mr. Deitrick stated that the house and the garage are so sited on the property that they are prevented from putting a pool anywhere else on the property.

Mr. DiGiulian stated that it appeared to him that the applicants could put in an 18' x 30' pool on the right side of the property without a variance.

Mr. Deitrick stated that on the right side of the property they would have to cut down their only oak tree and several dogwood trees. They would also have to do some regrading.

Mr. DiGiulian asked if he had tried to see if the pool could be located there. He asked if Mr. Deitrick would like to reconsider his request.

Mr. Deitrick stated that he was told that it could not go there by the pool construction company, and that was all he could go by.

There was no one else to speak in favor and no one to speak in opposition to the application.

October 19, 1976 R E S O L U T I O N Board of Zoning Appeal

Mr. DiGiulian made the following motion:

WHEREAS, Application V-233-76 by Antonio Caffi and Richard Deitrick under Section 30-6.6 of the Zoning Ordinance to permit construction of pool closer to side and rear property lines than allowed by the Zoning Ordinance, 1905 Baton Drive, 28-3((1))53, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 19, 1976; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is R-17.
- 3. That the area of the lot is 15,017 sq. ft.

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not presented evidence and satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that

would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is denied.

Mr. Swetnam seconded the motion.

* The motion passed 3 to 1. Mr. Durrer voted No. Mr. Smith abstained.

*Mr. Durrer asked Mr. DiGiulian why he moved to deny this request.

Mr. DiGiulian stated that he felt there is adequate space to construct a pool of a similar size on the right side of the house.

Mr. Durrer inquired of the applicant what hardship this would cause.

Mr. Dietrick stated that it would cause them to have to cut down their only hardwood tree, a 65' tall oak. In addition, they have done a great deal of landscaping and put in a patio on that side of the house. That will have to be removed and reconstructed.

OCTOBER 19, 1976

12:20 - LARRY ATTIG appl. under Sec. 30-7.2.8.1.2 of the Zoning Ordinance to permit operation of riding stable, 16009 Lee Highway, 63((1))9 and 11, (91.5 acres), Springfield District, (RE-1), S-176-76. (Deferred from 9/14/76 for proper notices).

12:20 - BULL RUN JOINT VENTURE & LARRY ATTIG appl. under Sec. 30-6.6 of the Zoning Ordinance to permit waiver of requirement for dustless surface, 16009 Lee Highway, 63((1))9 and 11, (91.5 acres), Springfield District, RE-1, V-177-76. (Deferred from 9/14/76 for proper notices).

Mr. Larry Thomas, attorney for the applicant, 3918 Prosperity Avenue, Suite 102, Fairfax, Virginia, submitted the required proof of notification to property owners. The notices were in order.

Mr. Thomas in answer to the Board members questions, stated that the stable has been in operation for some time without a Special Use Permit. They had a discussion with Mr. Koneczny, Zoning Inspector, and they were allowed to continue with their operation until the Board could hear this application. They do have a lease on the property. A copy is in the file. The operation began about a year ago.

Mr. Attig came forward to explain about the operation. He stated that they have a total of 49 horses on the property. However, some of those horses are boarders, which they can do by right. They have about 20 rental horses. They have made every effort to try to get this application before this Board.

Mr. Barnes stated that he had viewed the property on two occasions. Mr. Attig does not have stables to house all the horses. He has "run-ins". He stated that at the time he viewed the property the first time, the horses were standing in mud, but someone said that stone was going to be brought in and placed where the mud was. He stated that his first viewing was just after a heavy rain. His second viewing found the stone in place. These were large stones covering about one-half the paddock.

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The Board recessed at 1:15 p.m. and returned at 2:15 p.m. to continue with the hearing.

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Mr. Thomas stated that the road is in good condition. Bull Run Joint Venture and Mr. Attig have been maintaining the road. About 200 tons of gravel has been applied in the past two years to this road. No one has ever been stuck on the road. He stated that he has been told by the applicant that there has been no problem with dust on this road in the summer months.

Mr. Barnes stated that if a scraper was run up that road, it would help it.

Mr. Thomas stated that Mr. Attig has from five to ten patrons per day on an average. During peak periods, they have a slightly higher number. During the winter months and during rainy weather, the number drops off considerably. The road certainly presents no hazards to any nearby residents.

Mr. Thomas stated that this use will not be detrimental to the surrounding properties. The surrounding properties consist of parkland and a great amount of vacant land. This is a low-density area and is also in a historic area.

Mr. Smith stated that he was in receipt of a memo from the Architectural Review Board stating that that Board had reviewed the application and recommended to the Board of Zoning Appeals that the special use permit be granted.

Mr. Thomas stated that they have had no complaints about this operation from the community. He stated that the operation is very popular with the local residents, Boy Scouts and others and also is used by the County's department for underprivileged and underachievers which has been found to be very therapeutic. This operation is consistent with the zoning requirements and is in harmony with the zoning district, he stated.

Mr. Barnes stated that the insurance policy that is in the file is a personal policy and does not cover the operation. This is not sufficient at all.

Mr. Swetnam moved that this case, S-176-76 and V-177-76 be deferred until next week, October 26, 1976, for decision only, at such time the applicant will present evidence of proper insurance.

Mr. Barnes seconded the motion.

The motion passed unanimously.

It was the Board's decision that the operation would have to cease until such time as the Board has evidence of insurance and grants the Special Use Permit.

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DEFERRED CASE: OCTOBER 19, 1976

2:00 - DOROTHY B. McCORMICK appl. under Sec. 30-6.6 of Ord. to permit use of existing structure as single family dwelling closer to side property line than allowed by the Zoning Ordinance, (11.9' from side, 20' required), 1027 Langley Hill Drive, 22-3((1))44, (1 acre), Dranesville District, RE-1, V-143-76. (Deferred from 7/20/76 at request of applicant.)

(Hearing began at 2:35 p.m.)

John Aylor, attorney for the applicant, had submitted notices previously at the original scheduled date for this hearing.

Mr. Aylor stated that Mrs. McCormick in 1972 acquired five acres of land. In June, 1975, she recorded a division of her property into two parcels, one of which contains an acre which is on the plat before the Board. On this one acre tract there was only one building and that is a barn that was built in the 1900's. Its use as a barn was discontinued in 1942. Mrs. McCormick wants to convert the barn into her home. She has had an architect advise her that this can be done. He stated that he has letters from several of the neighbors in support of this request. Mrs. McCormick has attempted to acquire additional land from the adjoining property owner and entered into a contract just this past July when this case was originally scheduled. However, it was found that there were four judgments against that property and the sellers could not go through with the sell because they did not have enough money to pay off the judgments.

He submitted some additional photographs of the property to the Board.

There was no one else to speak in favor of the application.

There was no one to speak in opposition to the application.

Mr. Durrer made the following motion:

R E S O L U T I O N

WHEREAS, Application V-143-76 by Dorothy B. McCormick under Section 30-6.6 of the Zoning Ordinance to permit use of existing structure as single family dwelling closer to side property line than allowed by the Zoning Ordinance, (11.9' from side, 20' required), 1027 Langley Hill Lane, 22-3((1))44, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 19, 1976, (originally scheduled for July 20, 1976 and deferred at the applicant's request); and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 1 acre.
4. That the Board finds that the applicant's property has an existing building too close to the property line to convert to dwelling; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

OCTOBER 19, 1976
AFTER AGENDA ITEM:

OUT OF TURN HEARING REQUEST BY WILLIAM CUNNANE.

The Board considered the request and granted an out of turn hearing for November 30, 1976, which is the next advertising date.

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OCTOBER 19, 1976
AFTER AGENDA ITEM:

DOUGLAS MCKINLEY, Variance to permit construction of greenhouse 33.45' from front property line, V-201-76, Granted September 17, 1976.

The Board considered a request from Mr. McKinley for clarification of limitation no. 3 in the motion granting the variance which stated that "the addition shall have a front wall of brick". He stated in his letter that the composition of the wall had not been a subject of controversy in the hearing, except that it be of solid construction. He enclosed copies of his plan and section views of the greenhouse. He stated that the plans show a substantial 8" thick wall, the inside wall is brick and the outside wall is frame. He stated that the construction of the greenhouse is proposed as brick on the inside and frame on the outside for maximum insulation and heat retention qualities. The existing house is frame and a brick/wood exterior would not be as aesthetically attractive.

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Mr. Swetnam, the maker of the motion granting the variance, stated that it was his intention that this be a brick wall. He stated that a variance from that would require a new hearing. There was a lot of opposition to this application. The greenhouse was solely in the setback area, he stated.

Mr. Barnes stated that he felt the greenhouse addition should be brick.

The Board members all agreed that this was the intent of the motion and the understanding of the Board that the greenhouse exterior wall should be of brick, and that any change would necessitate a new application and a new hearing.

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OCTOBER 19, 1976 - AFTER AGENDA ITEM
APPROVAL OF MINUTES FOR SEPTEMBER 17 AND SEPTEMBER 21, 1976.

Mr. Swetnam moved that the minutes for September 17 and 21 be approved as written.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

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The Clerk submitted to the Board the minutes for September 28, 1976.

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The meeting adjourned at 3:15 p.m. by motion of Mr. Swetnam, second by Mr. Durrer, passed unanimously.

" Jane C. Kelsey
JANE C. KELSEY, CLERK TO THE
BOARD OF ZONING APPEALS

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the BZA on Nov. 1, 1976

APPROVED Nov. 9, 1976
DATE

Submitted to the Bd. of Supervisors,
Planning Commission and other Depts.
on _____.

The Regular Meeting of the Board of Zoning Appeals Was Held In The Board Room of the Massey Building on Tuesday, October 26, 1976. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam; and John DiGiulian.

The meeting was opened with a prayer by Mr. Barnes.

The meeting began at 10:15 a.m.

10:00 - ARTHUR & ANNA PRICE appl. under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision of lot with 74' frontage at building setback line, 80' required, 8236 Frye Road, 101-3((12))Parcel 1, Lot 1-A, proposed, 21,780 sq. ft., Lee District, R-12.5, V-217-76

Mr. John Kephart with the engineering firm of Copeland and Kephart, 510 Montgomery Street, Alexandria, Virginia, represented the applicant before the Board. He submitted the required proof of notification to property owners to the Board. The notices were in order.

Mr. Kephart stated that Mrs. Price, who owns the property, plans to give her daughter title to one-half acre for her daughter to build her house. When his office originally submitted a sketch plan to the office of Preliminary Engineering, they had divided the lots equally with 70.5' lot width for each lot. However, Preliminary Engineering suggested that they redraw the subdivision showing the need for a variance on only one lot, instead of two.

There was no one to speak in favor other than Mr. Kephart.

There was no one to speak in opposition.

October 26, 1976 R E S O L U T I O N BOARD OF ZONING APPEALS

Mr. Swetnam made the following motion:

WHEREAS, Application V-217-76 by Arthur and Ann Price under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit the subdivision of a lot with 74' width at the building setback line (80' required), 8236 Frye Road, 101-3((12))Parcel 1, Lot 1-A proposed, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 26, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 21,780 sq. ft.
4. That the Board finds that the applicant's property is exceptionally irregular in shape.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location indicated on the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

10:10 - DIANE BOTZUM appl. under Sec. 30-6.6 of the Zoning Ordinance to permit enclosure of carport 5' from side property line with 10.4' total, (8', total of 20' required), 8002 Lake Pleasant Drive, Saratoga Subd., 98-2((6))222, 8,799 sq. ft., R-12.5 Cluster, Springfield District, V-218-76.

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(The hearing began at 10:25 a.m.)

Ms. Botzum submitted proof of notification to property owners of this hearing to the Board. The notices were in order.

Ms. Botzum stated that she wishes to convert her present carport into a garage. This change will not enlarge the perimeter of the present structure. Her lot narrows toward the rear. There is no other place on the property where a garage could be constructed. She stated further that the same type materials will be used for this enclosure as is on the existing house. She has owned the property for four years and plans to continue to reside there.

There was no one else to speak in favor of the application and no one to speak in opposition.

October 26, 1976

R E S O L U T I O N

Board of Zoning Appeal

Mr. Durrer made the following motion:

WHEREAS, Application V-218-76 by Diane Botzum under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit enclosure of carport 5' from side property line with 10.4' total, 8002 Lake Pleasant Drive, 98-2((6))222, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 26, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 8,799 sq. ft.
4. That the Board finds that the applicant's property is exceptionally narrow.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No. He stated that he was voting No because this is a new subdivision and the applicant stated that the builder is building single car garages at the present time. Therefore, this would be precedent setting he felt.

10:20 - LOREN & CYNTHIA KITT appl. under Sec. 30-6.6 of the Zoning Ord. to permit construction of addition 6.4' from side property line (15' required), 4022 Pinebrook Road, Wilton Woods Subd., 82-4((2))10, 23,357 sq. ft., R-17, Lee District, V-219-76.

(Hearing began at 10:35)

Mr. Paul Helsen, Vice-President of the construction company that proposes to construct this addition with offices in Capital Heights, Maryland, 857 Ashwood Drive, submitted the required proof of notification to property owners of this hearing. The notices were in order.

He stated that Mr. and Mrs. Kitt are unable to be present today as they are out of town. He stated that their house is an impressive Cape Code with dimensions of 57' by 24'. The house is centered, however, in measurements 34' x 24'. Wings on either side of it are comprised of eight foundations. When viewed from the front, those wings appear to be a slightly elevated brick terraces. When viewed from the back of the house, they appear to be standard one-story, eight foot out of the ground, wings on the building. The proposal is that, as one faces the house, the wing to the left be enclosed as a glass music room for the family. It will be finished in cedar shakes identical to the exterior of the structure and will have a matching federalist period door, which will be attractive. This addition will not occupy land not already holding a substantial foundation. This addition will be on a structure completely enclosed from the back, but it looks as if it were a concrete deck from the front. There is an 8' drop from the front to the rear. This is the only place where this addition can be added. Mr. Swetnam stated that he is raising a room on a concrete deck.

There was no one to speak in favor of the application.

There was no one to speak in opposition to the application.

October 26, 1976 RESOLUTION Board of Zoning Appeal

Mr. DiGiulian made the following motion:

WHEREAS, Application V-219-76 by Loren and Cynthia Kitt under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of addition 6.4' from side property line (15' required), 4022 Pinebrook Road, 82-4((2))10, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 26, 1976; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 23,357 sq. ft.
4. That the Board finds that the applicant's property has exceptional topographic problems, and has an unusual condition in the location of the existing building on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

- 1. This approval is granted for the location and the specific structure indicated in the plats with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. The architecture of the addition is to be compatible with the existing structure.

Mr. Barnes seconded the motion. The motion passed unanimously.

Page 478, October 26, 1976

10:40 - MB IMPORTS, INC. appl. under Sec. 30-7.2.10.5.4 of the Zoning Ord. to permit sale of autos (used), 8230 Leesburg Pike, Apple Grove Subd., 29-3(1)81 and pt. of 82, 44,951 sq. ft., Dranesville District, C-G, S-220-76.

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(The hearing began at 10:55 a.m.)

Mr. Bruno Klespis stated that his attorney, Mr. Jack Hanson, could not be present and he wished to have this case deferred.

Mr. Smith stated that this case is under a violation notice and the Board cannot defer this case and allow the violation to continue. He suggested to Mr. Klespis that he contact his attorney and get the proper notices and come back in the afternoon and present the case.

The case was recessed until later in the afternoon.

Mr. Bruno Klespis, 2601 Bolling Green Drive, Vienna, Virginia, again appeared before the Board. He stated that Mr. Kerr, an attorney with Jack Hanson, was going to represent him.

Mr. Kerr explained to the Board that there was confusion as to who was supposed to send out the required notices to property owners. The notices were not sent out. He requested a deferral until such time as they could get out the required notices.

Mr. Smith stated that the violation notice was issued in March. The applicant has not cleared the violation. He stated that the Board cannot allow the violation to continue any longer.

Mr. Durrer moved that this case be deferred in order for the applicant to send out the proper notices and that no special consideration as to scheduling be given this applicant. The Zoning Administrator should be instructed to carry on with the necessary legal process as to the violation.

Mr. Douglas Leigh, Zoning Inspector, testified before the Board concerning the violation notice. He stated that the violation notice was signed at 8230 Leesburg Pike. Mr. Klespis, at that time, stated to him that he was signing papers over at 8240, which was his office, that he was just storing cars at the 8230 location. Therefore, the violation notice was issued to the address at which Mr. Klespis stated that he was doing business. Another violation notice was issued two weeks later to correct the first one.

Mr. Kerr stated that he would agree that Mr. Klespis has put the County out, but this motion is suggesting that this man cease earning his living.

Mr. Smith stated that Mr. Klespis has had every opportunity to correct this violation and he has not. The Board schedules cases about 60 days after an application is accepted in the Zoning Office, and this case has been in violation since March. Mr. Klespis is now operating a used car business without a special use permit.

Mr. Swetnam stated that the applicant is not being deprived of making a living. There are things that he can do at that location by right to make his living.

The motion passed unanimously with all members present and voting.

Mr. Smith stated that this motion means that he is to cease all operations that he is doing without a special use permit and he is to comply with the Fairfax County Codes. The Board will hear the case just as soon as it is rescheduled and the proper notices are sent. He stated that this hearing will either be December 7 or December 14. The applicant will be notified of the exact time, date and place of the hearing.

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11:00 - WILLIAM & GERALDINE SMITH appl. under Sec. 30-6.6 of Ord. to permit subdivision of parcel into 2 lots, one of which has less lot width at bldg. setback line than required by Ord., (93.26' lot width, 100' required) and to permit house to remain on the other lot 8.6' from side property line, 7914 Old Falls Road, McLean Hunt Subd., 29-2((1))7, (1.227 acre), Dranesville District, RE0.5, V-221-74.

William
Mr./Smith, 7914 Old Falls Road, McLean, submitted the required proof of notification to property owners to the Board. The notices were in order.

He stated that he also had letters from all of the people notified that support the request and also a letter from the owner of the property across the street from the subject property indicating their support for this request.

Daniel
Mr./Smith stated that for the record, since the applicant has the same name as he, that he is not related to the applicant, nor does he know the applicant personally.

Mr. William Smith confirmed this.

Mr. William Smith stated that he and his wife reside in the house located on the property. The property was rezoned in May, 1976 to one-half acre. They are requesting this variance in order to subdivide this lot and make 2 lots. They plan to dedicate over 3,000 square feet to the County. This dedication makes the lot width at the building setback line less than the required amount.

The existing house is ideally situated on the lot for the proposed subdivision as the house is located in the upper-most corner of the lot. The new lot size would be more compatible with both the surrounding neighborhood and with the existing house. This proposed subdivision of the 1.227 acre lot would more effectively utilize the entire lot for the existing house and the proposed one to be built on the newly divided, unbuild section of the lot.

Mr. Smith stated that he did not feel a variance for the existing house would be needed.

Assistant Zoning Administrator
Mr. Covington/confirmed that a variance for the existing house would not be needed.

There was no one else to speak in favor of the application and there was no one to speak in opposition to the application.

October 26, 1976 R E S O L U T I O N Board of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, Application V-221-76 by William and Geraldine Smith under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit subdivision of property into two lots, 7914 Old Falls Road, 29-2((1))7, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 26, 1976; and

- WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
 2. That the present zoning is RE-0.5.
 3. That the area of the lot is 1.227 acres.
 4. That the Board finds that the applicant's property has more than the required land area for two lots and the frontage at the property line does meet the setback requirements. This is only a 6.74' variance to the 100' requirement.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application and is not transferable to other land.
 2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
- Mr. Barnes seconded the motion. The motion passed unanimously.

11:10 - GENERAL ELECTRIC CREDIT CORP. appl. under Sec. 30-7.2.6.1.1 of the Zoning Ord. to permit community swimming pool, 6815 Newington Road, Pinewood Station Subd., 99-4((1))19, 20 & 21, (2.5535 ac.), Lee District, RT-10, S-222-76.

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Mr. Bernard Fagelson, attorney for the applicant with offices in Alexandria, Virginia, submitted the required proof of notification to property owners. The notices were in order.

Mr. Fagelson stated that what General Electric Credit Corp. had planned was to develop this recreation facility just as it had been previously granted to Pinewood Development Corporation December 5, 1973, Special Use Permit No. S-217-73. However, they have just found that there are some possible problem with the way the original Special Use Permit was granted. The people from the adjoining subdivision of Newington had been given permission at the time of the rezoning of this property, to use the swimming pool. General Electric Credit Corp. has agreed to go along with this agreement, even though it had nothing to do with it. That agreement was made with Mr. Sampson, the owner of the property at the time of the rezoning. The previous owner, however, was unable to carry forward the development and General Electric Credit Corp. has to take it over. Newington has 70 or more families in that subdivision. There are only 30 families that are expressing interest in joining this pool. General Electric will agree to allow 30 families that were families at the time the original agreement was made in 1973, the time of the rezoning, residing in the Newington subdivision, to join this pool. This membership will be on an annual basis. Should these families move, then the membership is not transferable.

Mr. Fagelson stated that there are 150 families in this proposed subject subdivision. They are providing 15 parking spaces. This project is very closely knit, however, and the families in this subdivision will be within easy walking distance of this pool. General Electric is requesting the Newington members not to drive to this pool and they have agreed. This would put a burden, not only on this pool, but also the residents of this proposed community.

Mr. Harvey Mitchell from the Zoning Office staff stated that the Board granted the previous Special Use Permit to Pinewood Development Corp. and there was nothing said about this arrangement with Newington residents. Subsequently, the Board received a letter concerning this and the applicant was called in to discuss it. There is a copy of the January, 1974 minutes of the Board in the file. It was the Board's conclusion that in granting the Special Use Permit, the Board had not contemplated that there would be membership outside the project. It was left at that.

Mr. Fagelson stated that the plan before the Board is the same plan that the previous Special Use Permit granting was based on. This pool will be owned by the homeowner's association, which General Electric Credit Corp. controls at the present time since there are no homes constructed at this time.

In answer to Mr. Durrer's question, Mr. Fagelson stated that given a choice General Electric Credit Corp. would prefer to have everything just the way it was granted previously. However, since this question of membership for the Newington residents has been raised and since it was a binding agreement that they could be members of this pool, General Electric feels that it is the honorable thing to carry through the agreement.

Mr. Durrer stated that he felt this proposed pool is large enough for 30 additional families. Also, he stated that he felt 15 parking spaces would probably be sufficient since most of the residents of this proposed subdivision would probably walk to and from the pool.

Mr. Frank Murray, 6712 Buckley Road, spoke in support of the application. He stated that he is a member of the Newington Civic Association. He stated that the subject agreement was made and the lawyer for the previous owner did describe this agreement in writing. General Electric had no control over the project at that point. The actual commitment was made October 19, 1972 and the rezoning of the subject property took place in 1973. He requested the Special Use Permit be granted with the conditions as described by Mr. Fagelson.

There was no one to speak in opposition to this application.

R E S O L U T I O N

In application S-222-76 by General Electric Credit Corp. under Sec. 30-7.2.6 .1.1 of the Zoning Ordinance to permit community swimming pool, 6815 Newington Road, Pinewood Station Subdivision, 99-4((1))19, 20 and 21, County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public and a public hearing held by the Board on October 26, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RT-10.
3. That the area of the lot is 2.5535 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family membership shall be 150. The Pinewood Station Civic Association will make an additional 30 memberships available to the residents of Newington subdivision that were residents at the time of the agreement that these memberships would be made available in 1972. Such* members will be reduced by attrition as these members move or choose not to remain a member. (*by amendment by motion of Mr. Swetnam, seconded by Mr. Durrer)
7. The hours of operation shall be from 10:00 a.m. to 9:00 p.m.
8. Any after-hours parties shall be limited to 6 per year and shall require the prior written approval of the Zoning Administrator.
9. The minimum number of on-site parking spaces shall be 13.
10. Landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
11. The maximum number of employees shall be 3.
12. The effects of all lighting and/or loudspeakers shall be confined to the said property.
13. No swim metes shall be allowed until such time as additional parking has been provided.

Mr. Durrer seconded the motion. The motion passed unanimously with all members present and voting. *The amendment also passed unanimously.

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11:30 - EUGENE CULLINANE, appl. under Sec. 30-6.6 of Ord. to permit pool to be constructed 4' from side property line (20' required), 4752 Neptune Drive, 110-3(4)(M)1, (21,870 sq. ft.), Yacht Haven Estates Subd., RE-0.5, Mt. Vernon District, V-223-76.

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(The hearing began at 11:30)

Mr. Kephart with the engineering firm of Copeland and Kephart stated that he had just been asked this morning to represent the applicant in this case. He stated that he did not have a letter of authorization, nor the letters of notification. He stated that he had called Mr. Cullinane and requested that those be sent as soon as possible.

There were two people in the audience who were present to speak in opposition to this application. They agreed to wait until afternoon to allow Mr. Kephart to obtain the necessary papers.

Later in the afternoon, Mr. Kephart returned with the necessary letter of authorization authorizing him to act as agent for Mr. Cullinane. He also submitted the required proof of notification to property owners. However, the applicant had neglected to include the time of the hearing.

Mr. Covington stated that the time should not make much difference in this case, since Mr. Kephart and the neighbors have been here all day.

Mr. Swetnam moved that the Board go ahead with the hearing in this case.

Mr. Barnes seconded the motion.

The motion passed 3 to 2 with Messrs. Smith and Durrer voting No.

Mr. Kephart submitted an architect's rendering of the proposed pool. He stated that the existing structure is located 50' from the property line, which is in accordance with the zoning laws. Beyond the existing structure, Mr. Cullinane is constructing an extension to the house fifteen feet in depth. Beyond that extension immediately is a concrete sea wall. That sea wall is approximately 15 to 20 feet in height. This leaves no room in the yard for a pool except the side yards. Both side yards would require a variance in order to construct the pool.

Mr. Smith stated that the new extension to the house does not show on the plats and a pool could be placed in that location.

Mr. Kephart stated the extension is now under construction. The application for this variance was made August 26. The extension does not show because it was not started at the time of the application, perhaps.

Mr. Swetnam stated that the sea wall is the problem. That takes up a great portion of the man's property, about three-fifths.

Mr. Smith stated that he would like to remind the Board that this applicant was well aware of this sea wall when he purchased the property.

Mr. Kephart in answer to Mr. Smith's question, stated that Mr. Cullinane has not moved into this property as yet. It is being renovated. He stated that his firm did the survey on June 15 of this year and Mr. Cullinane probably took title to the property within a week after that.

Mr. Durrer stated that he felt the applicant is trying to do too much on this small lot.

There was no one else to speak in favor of the application.

Mr. L. G. Wyland, 4609 Neptune Drive, contiguous property owner on the side next to the pool, spoke in opposition. He stated that he had reviewed the code on this variance law and has found that there are three criteria that this Board must consider. "(1) That the applicant's acts do not result in his own unusual circumstance." Mr. Cullinane purchased the property knowing the restrictions of it and then he proceeded to construct an addition in the only area that could be legally used for this pool without a variance. He submitted photos of Mr. Cullinane's addition to the Board. Therefore, Mr. Cullinane created his own unusual circumstances that now necessitates a variance. There is (2) an unusual condition of the land there that would cause this granting to be injurious to the use of land and buildings in the vicinity. That condition is the bank of Dogue Creek that runs along the rear of his property and the neighbors properties. That bank is eroding and

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CULLINANE (continued)

this is why the former owner of the subject property put in the concrete cap. He was a concrete contractor and had plenty of concrete. He stated that he had tried to persuade him not to do this. This pool will invade his family's privacy. This additional invasion to the earth at that location may also cause his bank to start to erode. This is a problem all along this bank in this area. He stated that he has four giant, 150 year old, oak trees on his property right on the bank. Should this pool cause the bank to begin to give way, those trees will be lost.

He stated that living so near the water also is a problem because noise carries. He stated that the former owner of the subject property moved because of the pool that was put in on the other side of him. Mr. Cullinane would have been more thoughtful to put his pool on the other side near the pool that has been constructed in his neighbor's yard. Then they can listen to each other's noise.

In answer to Mr. Barnes' question, he stated that he did not know whether the other neighbor's pool necessitated a variance or not.

In answer to Mr. Durrer's question, Mr. Wyland stated that he would not oppose a variance to construct a pool on the other side of the applicant's house.

Mr. Kephart in rebuttal stated that the denial of this application will deprive the applicant having recreation on his own property.

Mr. Smith stated that this appears to infringe upon the rights of the neighbor and the applicant can still use his property. It was the applicant's decision to construct an addition in the rear of his house where the pool could have been constructed by right.

Mr. Swetnam told Mr. Kephart that he had a resolution prepared to deny this application, but he would give Mr. Kephart the opportunity to withdraw the case and see if the pool could be redesigned on the other side of the house. If it can be there, then the applicant can reapply for that location. If the case is denied, however, the applicant could not reapply for a variance on this property for one year.

Mr. Smith stated that if the applicant's withdraws this application and resubmits an application for a variance on the other side, that does not mean that that variance will be granted. He stated that he did not know if he would vote for it or not.

Mr. Barnes stated that he felt he could put the pool in without a variance.

Mr. Kephart stated that he would then feel it his duty to withdraw the application, with the knowledge that it would probably not be approved. In answer to Mr. Smith's question, he stated that he understood that an alternative location might also not be approved.

Mr. Durrer moved that the applicant's agent be allowed to withdraw this application without prejudice.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

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11:50 - DONALD W. KELLERMAN appl. under Sec. 30-6.6 of the Zoning Ord. to permit enclosure of existing carport 7.51' from the side property line (12' required) and 24' from the rear property line (25' required), 1111 Alden Road, 111-2((6))(26)13, Waynewood Subd., 10,958 sq.ft., Mt. Vernon District, R-12.5, V-224-76.

(The hearing began at 11:50 a.m.)

Mr. Kellerman submitted the required proof of notification to property owners to the Board. The notices were in order.

Mr. Kellerman stated that he wished to enclose his present carport and extend it rearward to the full width of the house. He stated that he needs about a 4' variance on the side and 1' in the rear.

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After questioning by the Board members about the physical condition of the land that might cause the applicant to be deprived of the reasonable use of his land if this variance is denied, it would be determined that the lot is irregular in shape since there is a slight angle to the rear lot line. Because the carport is located where it is now, it is necessary to enclose it rather than put it any other place on the lot since there is no other place on the lot to put it.

Mr. DiGiulian stated that with the lot line converging like it does, there is two and one-half degrees where those lot lines come together at the rear of the house. If these lot lines were parallel, it is conceivable that the house would be another 4' from the property line, which would give the applicant 12'.

In answer to Mr. Barnes' question, Mr. Kellerman stated that he had owned the property for 3 1/2 years and plans to continue to live there.

There was no one else to speak in favor of the application and no one to speak in opposition to the application.

October 26, 1976 R E S O L U T I O N Board of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, Application V-224-76 by Donald W. Kellerman under Section 30-6.6 of the Zoning Ordinance to permit the applicant to lengthen, realign and enclose an existing carport at his residence at 1111 Alden Road, 111-2((6))(26)13, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 26, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-2.5.
3. That the area of the lot is 10,958 sq. ft.
4. That the Board finds that the applicant's property has an irregular shape.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

12:10 - ALVIN & RENATE MAHER appl. under Sec. 30-6.6 of Ord. to permit enclosure of pool 4' from rear; 3' from side property lines; (12' min. total of 40' required - side; 25' required for rear), 8301 Weller Avenue, 22,400 sq. ft., Dranesville District, RE-1 Cluster, 20-3((11))40, V-227-76.

(Hearing began at 12:10 p.m.)

Mr. Maher submitted the required proof of notification to property owners which were in order.

Mr. Maher stated that he had previously received a variance in order to construct the pool earlier this year. He did not realize at the time that he would not be able to enclose it. The pool enclosure that he proposes will be mostly glass with some brick with a dark brown framing material. The hardship, he stated, is that this land is zoned RE-1, but is developed under the cluster concept and, therefore, is closer to the side property lines than the normal RE-1 zoning would be. The house is also set back on the lot which means he has a smaller back yard. This house has a septic field which occupies the front yard. There are 41 houses in the development and his is set back farther from the/property line than any other house.

Mr. Smith stated that he felt these ^{/front} 41 property owners in this development have similar problems.

Mr. Smith stated that the plats do not show the septic field.

Mr. Maher stated that apparently the surveyor did not realize these houses were on septic fields.

Mr. Barnes stated that there is park land in the rear. This pool enclosure should not affect anyone. The enclosure is very attractive, also.

In answer to Mr. Barnes' question, Mr. Maher stated that his pool is about 35' from the neighbor's house. It is 15' up the bank and 20' over to the structure for a total of 35'.

There was no one else to speak in favor of the application.

There was no one to speak in opposition.

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WHEREAS, Application V-227-76 by Alvin and Renate Maher under Section 30-6.6 of the Zoning Ordinance to permit enclosure of pool 4' from rear; 3' from side property lines (12' minimum, total of 40' required - side; 25' required for rear), 8301 Weller Avenue, 20-3((11))40, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 26, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1 Cluster.
3. That the area of the lot is 22,400 sq. ft.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing building on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. The enclosure is to be constructed in accordance with the rendering presented.

Mr. Swetnam seconded the motion. He requested that he be allowed to add an amendment that the owner send these plats back to Greenborne & O'Mara, Inc.

for correction as to the lack of the septic field and have him put the area of the septic tank on the plats and resubmit these plats. It should have been on the plats in the first place, he stated. It is their error.

Mr. Smith stated that he agreed that these are very poor plats. He stated that he almost ruled that the case would not be heard because of the incorrect plats.

The motion passed 4 to 1. Mr. Smith voted No.

The Board recessed for lunch at 12:30 and returned at 1:45 p.m.

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2:00 - VULCAN QUARRY ANNUAL REVIEW
P.M.
(Began at 2:10 p.m.)

Mr. Jack Maize had earlier submitted a written report to the Board dated October 18, 1976. In the report, he stated that generally all conditions are being met, without exception. This has been true during the entire year. Earlier in the year, there had been a landslide on the south rim of the quarry, which did violate the conditions, condition no. 5. This landslide was not caused by a blast.

He stated that Mr. J. J. Nelson from the County's Air Pollution Control Office and Mr. R. M. Stewart, Environmental Engineer of Vulcan Materials Company are present today to present and assess the data collected under the current study effort.

Mr. Maize had submitted earlier a dust study report dated October 19, 1976 submitted by Vulcan Materials Company and an annual summary from the County's Air Pollution Control office.

Mr. Nelson explained to the Board that his office is monitoring on a ten day per month basis, for 24 hour periods. This monitoring is collected on a filter and they bring the filter back to the office and analyse it.

Mr. Swetnam stated that the last time he was down there, he went from the entrance up to the dam. The road was dirt.

Mr. Nelson stated that they have been doing extensive work on that area. They are now in the final stage of that dirt removal work in that area.

Mr. Swetnam stated for the record that there is local interference created by the Water Authority and Vulcan has not been totally responsible for all the dust.

Mr. Nelson stated that his office is aware of that. He stated that in addition to his office's normal inspections, he personally visits the site at random during the year to satisfy himself that no physical changes have been made that would make the data not as accurate. The inspector must visit the site every third day to pick up the samples. They also have enforcement personnel who roam the county and the person who is responsible for that area drives by there to touch base with all emission sources.

Mr. Swetnam stated that he would refrain from commenting on the last statement regarding the roving inspector.

Mr. Nelson, in answer to Mr. Smith's question, stated that he had not observed a malfunction of the Johnson-Marsh dust control equipment during the period of high particle content down there. He stated that they ran an experiment down there last fall where they turned off the equipment in order to assess the difference. There is an obvious increase in dust particles when it is off. He stated that he wanted to insist that the current procedures, all of them be maintained with the same diligence throughout the coming year that has been used in the past year.

The Board asked Mr. Stewart to forego his report by formal presentation since the Board has his written report and has reviewed it. He stated that the Board is looking forward to an even better year in 1977.

INSURE

Mr. Swetnam stated that he wished to thank the gentlemen from Vulcan Materials Company. He stated that he thought that they have done a very excellent job and he wished to also thank them on behalf of the citizens of Fairfax County.

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DEFERRED CASES: OCTOBER 26, 1976

1. LARRY ATTIG appl. under Sec. 30-7.2.8.1.2 of the Zoning Ord. to permit operation of riding stable, 16009 Lee Highway, 63((1))9 & 11, (91.5 acres) Springfield District, RE-1, S-176-76. (Deferred from 9-14-76 for proper notices and from 10-19-76 for insurance policy.)
2. BULL RUN JOINT VENTURE & LARRY ATTIG appl. under Sec. 30-6.6 of Ord. to permit waiver of requirement for dustless surface, 16009 Lee Highway, 63((1))9 & 11, (91.5 acres), Springfield District, (RE-1), V-177-76. (Deferred from 9-14-76 for proper notices and from 10-19-76 for proof of insurance.)

Mr. Larry Thomas represented the applicants in these two cases. He submitted a binder from the insurance company certified that the applicant had ordered the proper insurance and that it would be valid as soon as the applicant's payment was received. He also submitted a telegram received just this morning confirming that the deposit had been received and the policy was valid. The binder number was BA 54311. \$500 had been paid and the annual premium is \$1800.

Mr. Barnes stated that just as soon as the policy is received, Mr. Attig should forward a copy to the Board.

October 26, 1976 R E S O L U T I O N Board of Zoning Appeals

In application No. S-176-76 by Larry Attig under Section 30-7.2.8.1.2 of the Zoning Ordinance to permit the operation of a riding stable, 16009 Lee Highway, 63((1))9 & 11, County of Fairfax, Mr. Swetnam moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed; and

WHEREAS, following proper notice to the public, a public hearing was held on October 19, 1976 and deferred to October 26, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is E. W. Brandenburg and Wiley. The applicant is the lessee.
2. That the present zoning is RE-1.
3. That the area of the lot is 91.5 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. The granting of this Special Use Permit does not constitute an exemption from the various legal and established procedural requirements of this County and State. The Permittee shall be responsible for complying with these requirements. This permit SHALL NOT be valid until a Non-Residential Use Permit is obtained.

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5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The number of horses, maximum, shall be 62.
7. The hours of operation shall be from 8 A.M. to 7 P.M., 7 days a week.
8. This permit shall run for five (5) years.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

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Mr. Swetnam then made the following motion:

WHEREAS, Application V-177-76 by Larry Attig and Bull Run Joint Venture under Section 30-6.6 of the Zoning Ordinance to permit waiver of requirement for dustless surface, 16009 Lee Highway, 63((1))9 & 11, (91.5 acres), Springfield District, RE-1, V-177-76, (Deferred from 9-14-76 for proper notices and from 10-19-76 for proof of insurance.), has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 19 and deferred to October 26, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 91.5 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to expiration. This variance shall run concurrent with the Special Use Permit granted to Larry Attig for a riding stable.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

OCTOBER 26, 1976

3. CONGRESSIONAL SCHOOL, Re-Evaluation Hearing, (Deferred from previous dates to give applicant additional time to bring the busses used for the transportation of children to and from school into conformity as to lighting, lettering and painting.)

Mr. Donald Beaver, Zoning Inspector, submitted a memo to the Board dated October 26, 1976 stating that an inspection on October 17, 1976 revealed the following:

"Eight (8) van type busses in use for transporting Congressional School students. All eight have been painted, lettered and are equipped with the emergency lighting systems (red flashing).

"There are also two white van type busses on the property.

"There are no football goal posts on the Congressional School property."

Mr. Durrer moved that the Board find that the applicant is in compliance with the Special Use Permit granted by this Board. Mr. Barnes seconded the motion. The motion passed unanimously.

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4. JJS CORP. T/A COMMONWEALTH CHRISTIAN SCHOOL

The Board on October 19, 1976 approved some proposed improvements to the above captioned school with the exception of the relocation of one building. That approval was subject to new plats being submitted showing the relocation of that building in accordance with the required setback distances.

New plats had been submitted by Mr. Charles Shumate, attorney representing the applicant, showing the relocation of the subject building and meeting the required setback distances to all property lines. Mr. Covington checked the plats and determined that that building did, in fact, meet the necessary setback distances. The Board members reviewed the plat also.

Mr. DiGiulian moved that the Board approve the new plats showing the relocation of the subject building with all buildings meetings the necessary setback distances.

Mr. Swetnam seconded the motion.

The motion passed unanimously with all members present and voting.

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October 26, 1976

5. JOSEPH A. HYMAN, S-150-76, Granted for One (1) year on August 31, 1976. The granting indicated that the Special Use Permit would not be valid until the applicant submitted a new plat showing the necessary parking within the proper setback distances.

The applicant had submitted a new plat. The Zoning Administrator, Mr. Covington, indicated that the new plat met his approval as to setback distances and turnaround space necessary.

Mr. Durrer inquired of Mr. DiGiulian if cars on this property would have to back out on the street, or if they could turn around on the subject property.

Mr. DiGiulian stated that the cars on the subject property could turn around on the subject property if they have to.

Mr. DiGiulian moved that the Board accept the new plats showing the location of parking spaces.

Mr. Swetnam seconded the motion.

The motion passed 4 to 1 with Mr. Smith voting No. Mr. Durrer stated that he was voting Yes, even though he voted No on the Special Use Permit since this motion is only for the approval of plats.

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October 26, 1976

6. REQUEST FOR OUT OF TURN HEARING - RESTON HOMEOWNERS ASSOC.

Reston Homeowners Association submitted an application along with a letter requesting an out of turn hearing for their case. They hope to begin classes in early January 1977, but publicity for the activities will need to be released in late November to assure adequate time for participants to enroll.

After reviewing their schedule for the coming weeks, the Board decided that their scheduled meetings were already too heavily scheduled. The scheduled date for this hearing would be December 7, 1976 without an out of turn hearing.

Mr. Durrer moved that the out of turn hearing be denied and let the case be scheduled for December 7, 1976, since the Board's schedule was already very heavy.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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7. APPROVAL OF MINUTES FOR SEPTEMBER 28, 1976.

Mr. Durrer moved that the minutes for September 28, 1976 be approved.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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8. CHURCH OF THE NATIVITY, S-156-74, granted October 9, 1974.

Mr. LaMay representing the church came before the Board requesting the Board allow a change in the approved plats. He stated that after the Special Use Permit was granted, the Health Department determined that the septic field had to be moved from the front area toward the rear of the lot. The building remains essentially the same. They plan to have 188 parking spaces initially. 160 spaces are required, so they have more than enough. There were 220 spaces shown on the original proposal. If they do not have to put in the septic field, they will have more than 188 spaces. The original building was slightly smaller, 18,500 sq. ft. This building is approximately 19,000 sq. ft. There were no objections to the granting of the Special Use Permit for the church at the original hearing.

Mr. DiGiulian moved that the new plats be accepted for the changes indicated.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

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Mr. Barnes moved that the meeting be adjourned at 3:40 p.m.

Mr. DiGiulian seconded the motion. The motion passed unanimously.

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James C. Kelsey
By James C. Kelsey, Clerk
to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED Dec. 7, 1976
DATE

Submitted to the Board of Zoning Appeals on Nov. 9, 1976

Submitted to the Board of Supervisors, Planning Commission and other Depts. on _____

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The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on Tuesday, November 9, 1976. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; and John DiGiulian. Tyler Swetnam was absent.

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The meeting opened with a prayer by Mr. Barnes.

The meeting began at 10:40 a.m. scheduled
10:00 item - RAYMOND M. MARTONE appl. under Sec. 30-6.6 of Ord. to permit a.m. addition to be constructed 9.6' from side property line, 2426 Villanova Drive, Stonewall Manor Subd., 39-4((5))299A, (21,061 sq. ft.), Providence District, R-12.5, V-226-76.

Mr. Martone submitted the required proof of notification to property owners. The notices were in order.

Mr. Martone stated that he wished to submit to the Board two letters from two contiguous property owners, Mr. and Mrs. Burger, 2425 Villanova Drive and Dr. and Mrs. William Verry, 2428 Villanova Drive. Both letters stated that they had no objection to the request and felt that the addition would enhance the neighborhood.

Mr. Martone stated that the variance is needed for an area of the addition which encompasses approximately 10 sq. ft. The lot is odd shaped. The back portion of the garage addition would be 22' from the property line which does not require a variance. Three-fourths of the lot is covered with trees that range in size from 6' to 100' tall. There are about 100 trees. In addition there is a very great slope to the property.

Mr. Martone showed charts to give the Board a better idea of the topography of the lot and the placement of the addition on the lot.

There was no one to speak in opposition to the application.
There was no one to speak in favor of the application.

November 9, 1976 R E S O L U T I O N Board of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, Application V-226-76 by Raymond and Patricia Martone under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of a garage addition 9.6' from the side property line on property located at 2426 Villanova Drive, 39-4((5))299A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 9, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 21,061 sq. ft.
4. That the Board finds that the applicant's property is exceptionally irregular in shape, and has exceptional topographic problems.

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless construction has begun or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion. The motion passed 4 to 0. Mr. Swetnam was absent.

10:20 - RICHARD J. HARDY appl. under Sec. 30-6.6 of Ord. to permit subdivision a.m. of Lot 5 into 2 lots with one lot having less than required width at building setback line, (20', 150' required), 1305 Ballantrae Court, 31-1((8))5, Ballantrae Subd., (1.936 ac.), Dranesville District, RE-1, V-228-76.

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Mr. Hardy submitted the required proof of notification to property owners. The notices were in order.

Mr. Hardy stated that this is called a pipestem variance which means that one of the resulting lots will not have ~~min frontage~~ frontage on a public street. He stated that his principal justification is that Ballantrae Court, which is a private lane, is the actual de facto frontage for all of the presently existing five homes on this court: the Smith, the Gerbers, the Hardys, the Clarks, and the Dillaways. The actual frontage for each of those homes is on Ballantrae Court. Ballantrae Court is a short private drive that is maintained by the homeowners on that court. Two of the neighbors do not have access to Ballantrae Lane. They secure access to Ballantrae either by pipestem or by separate parcel, lots 4B which is the Clark residence and lot 2 which is the residence of the Dillaways. He stated that he and his wife have been around to the neighborhood and explained to them what they plan to do.

Mr. Hardy stated that he has a barn-house on the down side of the property which faces Ballantrae Lane, which is a County maintained road. This barn-house was originally a stable which was remodeled to house his invalid mother and a couple who took care of her. The couple still live there.

Mr. Hardy stated that if the subdivision is permitted, the proposed lot 5B would have the frontage on Ballantrae Lane and lot 5A which his existing residence is now would have a pipestem frontage on Ballantrae Lane. Without the pipestem, it would have no access to Ballantrae Lane, only to Ballantrae Court.

Mr. Covington explained that this is a lot that existed in 1959. Therefore, Mr. Hardy is permitted one subdivision as long as the combined properties is more than 180 percent of the required area. The applicant is well within that. The area is 1.936 ac. However, the requirement of the ordinance is that both lots have public street frontage.

In answer to Mr. DiGiulian's question as to which of the lots in this subdivision are improved, Mr. Hardy stated that lots 5, 6, 7 and 4B. 4B faces on Ballantrae Court, 4A does not. Lot 3 is not presently improved, Lot 2 is improved, Lot 1 is not. All of the people living on those lots that are improved use Ballantrae Court.

Mr. Joseph C. Watson, 6436 West Langley Lane, McLean, President of the Ballantrae Citizens Association, stated that he had been asked by a number of the members of that association to present on behalf of those signing a petition a petition that asks a number of questions and in effect is a paper in opposition to a proposal of Mr. Hardy. It is signed by 24 persons comprising 13 domiciles and comprises a majority of persons in the area in question.

Mr. Watson read the petition and the names in opposition and submitted it to be included in the record of this case.

In answer to Mr. DiGiulian's question, Mr. Watson stated that the Gerbers who are Mr. Hardy's immediate neighbors to the east and the Dillaways who live across the street from Mr. Hardy which is lot 2 are signors of the petition. The others for the most part live along Ballantrae Lane with one or two on West Langley Lane.

In answer to Mr. Durrer's question, Mr. Watson stated that for the most part the lots in this area are two acres. There are some one acre plots, but not many and some of the plots are three acres.

Mr. Hardy in rebuttal stated that he had been a member of this community for ten years. He stated that he purchased the property in 1967 with the existing building on it. He stated that he counted well over 30 lots in the neighborhood, therefore, the majority of the neighbors did not sign. Insofar as the lot size, lot 4B next to his lot is 1 acre, lot 2 is about 1 acre and lot 6 is one and one-half acre.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, application V-228-76 by Richard J. Hardy under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit subdivision of lot 5 into 2 lots with one lot having less than required width at building setback line (20', 150' required), 1305 Ballantrae Court, Ballantrae Subdivision, 31-1 ((8))5, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 9, 1976; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the applicant.
- 2. That the present zoning is RE-1.
- 3. That the area of the lot is 1.936 acres.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is denied.

Mr. Durrer seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

10:30 - WILLS & VAN METRE, INC. appl. under Sec. 30-7.2.6.1.3 of Ord. to a.m. permit day care facility for 36 children, 2722 Arlington Drive, Mount Vernon Square, 93-3((1))5, (2.88005 ac.), Mt. Vernon District, RM-2, S-229-76.

Mr. Lee Fifer, attorney for the applicant, 4085 Chain Bridge Road, Fairfax, submitted the required proof of notification to property owners. The notices were in order.

Mr. Fifer stated that this application was before the Board in 1973 for a day care center to be operated within this same complex. He showed the Board a transparency of the building layout of the area and which building was for the day care center and which was for the proposed operation before the Board today. The original day care center is now called Little People's Place and the age group of those children are from 2 to 5 years. This proposed facility is for children 6 to 8 years of age. This facility will take care of this age group of children from the time the parents drop them off in the morning until the bus picks them up to take them to public school and again in the afternoon after school the public school bus will drop the children off at the center and the parents will pick them up when the parents return from work. They anticipate the hours will be from 7:00 a.m. until 8:00 a.m. Monday through Friday, 1:15 p.m. to 6:00 p.m. Monday and 2:45 p.m. to 6:00 p.m. Tuesday through Friday. On vacations, teachers' meeting days and snow days, the hours of operation will be from 7:00 a.m. to 6:00 p.m. The number of children will be 36, which is consistent with the square footage of the building and has been approved by the Department of Welfare and Institutions for the Commonwealth of Virginia.

Mr. Fifer stated that this use meets all the requirements of Section 30-7.2.6.1.3.1 of the Zoning Ordinance. The lot area provided is 2.88005 acres, which is shared with the existing day care facility, but which exceeds the requirements for the total of the two. In addition, for each child enrolled, indoor recreation space shall be provided in accordance with applicable regulations. This use also meets the requirements of Section 30-7.2.6.1.3.6. The majority of the children attending live within walking distance of the facility. Vehicular traffic is provided and adequate however. The location does provide for pick up and delivery of all students on site.

He submitted a resume for Patsy Toth, the director of the existing facility and the proposed facility.

Mr. Ed Fuehrer, representing Wills and Van Metre, Inc., stated that this facility is being provided by the applicants because of the demand for these services in their development of Mount Vernon Square. Mount Vernon Square consists of both apartments and townhouses.

There was no one to speak in opposition. There was no one else to speak in favor.

November 9, 1976

Board of Zoning Appeals

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application S-229-76 by Wills and Van Metre, Inc. under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit a day care center with 36 children to be operated at 2722 Arlington Drive, 93-3(1)5, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 9, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RM-2.
3. That the area of the lot is 2.88005 acres.
4. That compliance with the Site Plan Ordinance is required.
5. That the property is subject to Pro-Rata Share for off-site drainage.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this SPECIAL PERMIT and the NON-RESIDENTIAL USE PERMIT SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. All necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The maximum number of children shall be 36.
8. The hours of operation shall be from 7:00 a.m. to 6:00 p.m.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

Page 495, November 9, 1976

10:50 - FAIRFAX BAPTIST TEMPLE appl. under Sec. 30-7.2.6.1.11 of the Zoning Ordinance to permit construction of a new church with Christian school for 700 students, 69-3((1))21, 9524 Braddock Road, adjacent to Surrey Square Subd., (211,800 sq. ft.), Annandale District, RE-1, S-230-76.

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Rev. Bud Calvert submitted the required proof of notification to property owners to the Board. The notices were in order. He stated that all 18 people he had notified were contiguous property owners.
(The hearing began at 11:35 a.m.)

Rev. Calvert gave his address as 7803 Bristow Drive, Annandale, Virginia.

In answer to Mr. Smith's question he stated that he was not familiar with the Planning Commission's request to defer this case until they had had an opportunity to hear it.

Mr. Smith read the request which stated: "On Thursday, November 4, 1976, the Planning Commission voted unanimously to request that the Board of Zoning Appeals defer decision on case S-230-76 until the Commission had a chance to review the application on December 16, 1976."

Mr. Smith stated that in view of the request, the Board will, in all likelihood, hear the case and defer decision on the case.

Mr. Smith asked Rev. Calvert if he had been notified.

Rev. Calvert stated that he had not been notified.

Mr. Smith read a copy of a letter addressed to Rev. Histrand advising him that the Planning Commission would have a hearing on this case.

Rev. Calvert stated that Rev. Histrand did not receive the letter.

Mr. Durrer inquired the reason why the Planning Commission decided to pull this case for hearing before the Commission.

The Board continued with the case while the Clerk called the Planning Commission to request someone from the Commission come before the Board and explain why it was requesting this deferral, particularly in light of the time that has transpired since the receipt of the application. The application was received September 3, 1976. Mr. Smith reminded the Board that it has 60 days in which to hear and make a decision on the application unless the applicant will concur with the deferral.

Rev. Calvert explained the expansion program to the Board. He stated that because of the church's rapid growth, they were in need of a larger sanctuary. The existing church building would be used for the school that is now operating with 200 students. They wish to increase the number of students to 700. This is on five acres of land minus the amount they sold for the widening of Braddock Road.

Mr. Durrer commented that this is the church that is across from the old Good Shephard Church. He stated that it is a dangerous traffic situation on this road, particularly at this point.

Mr. Durrer inquired whether they could restrict the entrance on Braddock Road and make that the entrance only and make the exit another place.

Rev. Calvert stated that that is the way they designed their flow of traffic. The bulk of the people would exit by Nan Mill Lane which would eliminate the traffic hazard. Braddock Road would still be the entrance.

In answer to Mr. DiGiulian's question regarding how they felt about the Staff comment that Nan Mill Lane be connected from one side of the church property to the other making Nan Mill Lane a public street. He stated that the staff's comment that this would cause economy of operation of government services such as school busses and fire and rescue vehicles. He stated that he did not agree that this would help the operation of government services. For the church, it would eliminate one complete row of parking. It would completely divide the property. In the future, they would like to have a playground in the rear portion of the property. The connection of Nan Mill Lane would stop all future expansion. They also may need to add more parking spaces. The connection of this road would require that the people cross a public street to get to the church. They do plan to put chains up to block Nan Mill Lane. They are doing this because strangers are driving onto the property and loitering. They did this for the neighbors sakes.

There was no one to speak in opposition to the application.

Mr. Smith stated that the public hearing is concluded.

Ms. Karen Axtell, representative from the Planning Commission, appeared before the Board to explain to the Board why the Planning Commission wishes to hear this case. She explained that the Planning Commission representative from this district feels there are planning implications involved in this application. In addition, there are numerous planning problems, such as traffic and compatibility with the residential community in this densely populated area. A school of 700 certainly will impact the residential community.

Mr. Durrer stated that he could not understand if there were problems for the citizens in the area, why there was no one present from the citizens associations and the individuals themselves to present their opposition.

Mr. DiGiulian stated that he was ready to make a decision. Messrs. Barnes and Durrer agreed that they too were ready to make a decision in view of the time limitations set for hearing and making a decision set by the State Code.

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November 9, 1976 RESOLUTION Board of Zoning Appeals

Mr. DiGiulian made the following motion:

WHEREAS, application S-230-76 by Fairfax Baptist Temple under Section 30-7.2.6.1.11 of the Fairfax County Zoning Ordinance to permit amendment to existing Special Use Permit to permit construction of new church with Christian school for 700 students, 9524 Braddock Road, adjacent to Surrey Square Subdivision, 69-3(1)21, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 9, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 211,800 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standard for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT SHALL NOT BE VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. All necessary landscaping and screening shall be REQUIRED to the satisfaction of the Director of Environmental Management.

7. The hours of operation shall be:
 church - Sundays 8 A.M. to 10 P.M.
 Wednesdays 7 P.M. to 9 P.M.
 day school - Monday through Fridays 8 AM to 4 PM
8. The minimum number of parking spaces shall be 131, plus 28 spaces for busses.
9. The total number of students shall not exceed 700, grades 1 through 12 and kindergarten.
10. All other requirements of Special Use Permits S-83-74 and S-258-75 shall remain in effect.
11. The entrance shall be only from Braddock Road (no exit).
 (For busses and visitors to the site.)

The motion passed unanimously with the members present. Mr. Swetnam was absent.

11:10 - VINCENT & SOK HUI CUNNING appl. under Sec. 30-7.2.6.1.5 of the Zoning Ordinance to permit beauty shop in home as home occupation, (existing SUP expired), 6716 Amlong Avenue, King's Colony Subd., 92-2((12))10, (15,066 sq. ft.), Lee District, R-17, S-231-76.

(Hearing began at 12:05 p.m.)

Mr. Cunning submitted the required proof of notification to property owners. The notices were in order.

The Board discussed the violation of one of the conditions imposed in granting the Special Use Permit. The condition was that there be only two patrons on the property at any one time. The permit was granted in 1971 for three years with three extensions (one year extensions) by the Zoning Administrator. The Zoning Inspector had viewed the property prior to issuing the extension. He found three patrons on the site and, therefore, did not issue the extension. He brought the case back to the Board and the Board would not issue an extension either, in view of the violation. The application had to reapply with a new application.

The Board informed the applicants that one of the members was absent and they could request a deferral if they chose to do so.

Mrs. Cunning requested that the case be deferred until a later date in order that all Board members could be present.

The Board granted her request for deferral. The case was rescheduled for 10:00 A.M., December 21, 1976.

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11:30 - GHASSEM & LINDA ZEINALGOL appl. under Sec. 30-6.6 of Ord. to permit a.m. erection of dwelling 16.2' from side property line, (20' required), 5933 Kentia Trail, Gunston Manor Subd., V-234-76

(Hearing began at 12:20 p.m.)

Mrs. Zeinalgol submitted the required proof of notification to property owners which were in order.

Mrs. Zeinalgol stated that they have a corner lot with front setbacks on three sides. There is no place else on this property to construct a house because of the Health Department's requirements for the seepage pits for the septic system for the proposed house.

Mr. Covington stated that these are very old lots.

There was no one else to speak in favor and no one to speak in opposition to the application.

Mr. Smith stated that this is not a large house. Therefore, he did not see how the applicants could cut the size any to decrease the need for the variance.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, application V-232-76 by Ghassem and Linda Zeinalgol under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit erection of dwelling 16.2' from side property line (20' required), 5933 Kentia Trail, Gunston Manor Subdivision, 119-4((2))(16)23 - 30, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 1976; and

WHEREAS, THE Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 22,806 sq. ft.
4. That the Board finds that the applicant's property is
 - (a) exceptionally irregular in shape,
 - (b) has frontage on three streets, and
 - (c) has an unusual condition in the requirement for location of the seepage pits; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

11:40 - ALEXANDER & MARY SARRANO appl. under Sec. 30-6.6 of Ord. to permit a.m. subdivision of lot into 3 lots, one of which has less than minimum required lot width at building setback line, 92-1((1))37 and 37A, 6500 Rockaby Lane, Lee District, 2 acres, R-12.5, V234-76.

(The hearing began at 12:30 p.m.)

Mr. Joel Greenfield, attorney for the applicant with offices at 6592 Springfield Mall, submitted the required proof of notification to property owners. The notices were in order.

Mr. Greenfield stated that the applicants wish to subdivision their property into three lots. The physical conditions of the two existing lots are that they are very narrow and the proposed lot is both narrow and irregular. The two existing structures on the property prevent the usage of the rear portion of the two existing lots. The proposed subdivision would create three lots which would all be above the minimum required size for R-12.5 zoning. No other property owner in the area would be affected by this variance. No contiguous property owner has an objection to this request. The applicants have owned the property for 21 years. Rockaby is a private maintained road. It is maintained by Mr. Sarrano. It is 20' wide for the right-of-way and maintained at 16' wide.

Mr. Durrer stated that it was his understanding that this Board could not subdivide a parcel where the County requires it to be on a state maintained road.

Mr. Covington explained that this does have to go to the County Executive, but it is a question of which do you go to first. He stated that the applican

is before this Board and he then will go to the County Executive. He stated that this is not a speculative thing. This applicant has owned this property for 21 years. His son plans to construct a house on the property.

There was no one else to speak in favor of the application.

There was no one to speak in opposition to the application.

November 9, 1976

RESOLUTION

Board of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, application V-234-76 by Alexander and Mary Sarrano under Section 30-6.6 of the Zoning Ordinance to permit subdivision of lot into 3 lots, one of which has less than minimum required lot width, 6500 Rockaby Lane, 92-1((1))37 and 37A, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board on November 9, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 2 acres.
4. That the property is subject to Pro-Rata Share for Off-Site drainage.
5. That the Board has found that the applicant's property is irregular in shape and is very narrow.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

12:10 - AMERICAN STORAGE CORPORATION appl. under Sec. 30-2.2.2, Col. 2, SUP p.m. Uses in C-G zones, to permit amendment to existing Special Use Permit to construct a second story on middle building and front buildings (buildings A & B), 9915 Richmond Highway, 113-2((1))74, (93,395 sq. ft.), Springfield District, C-G, S-235-76.

Mr. James Tate, attorney for the applicant with offices at 274 Maple Avenue, Vienna, Virginia, submitted the required proof of notification to property owners. The notices were in order.

Mr. Tate stated that if the Board will look at the plats, it will find that they have not been changed substantially. Mr. Cory, the owner of the company, finds that he needs to add a second story in order to make this project work economically. The second story will be added to the middle building and the front building and will not affect the building where the Board granted the variance. This application is back before this Board because of the condition in the granting that said that any change would require approval of this Board. The proposed change will not adversely affect the neighboring properties. Hillbilly Heaven is one of the nearby property owners. Even with this added second story, the building is only about one-half the required or permitted height in a C-G zoning district.

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Mr. Smith stated that the height limitation in a C-G district is 40' and this proposed second story building is 21'.

Mr. Tate stated that construction is now underway on this project. Three of the buildings are about fifty percent complete.

Mr. John Schiller, engineer for the project, stated that he had done the site plan for the project.

Mr. Sid Cory, owner of American Storage Corp., answered some of the questions the Board had regarding the stairway to the second story and other technical questions.

There was no one else to speak in favor of the application.

There was no one to speak in opposition to the application.

November 9, 1976 R E S O L U T I O N Bd. of Zoning
Mr. DiGiulian made the following motion: Appeals

WHEREAS, application S-235-76 by American Storage Corp. under Section 30-2.2.2 of the Fairfax County Zoning Ordinance to permit amendment to existing Special Use Permit, S-71-74 to permit construction of a second story on middle building and front building (buildings A & B), 9915 Richmond Highway, 113-2((1))74, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 9, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the property.
2. That the present zoning is C-G.
3. That the area of the lot is 2.144 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Section 30-8.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plats submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. This granting does not constitute exemption from the legal and procedural requirements of this County and State. THIS SPECIAL USE PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. All necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. All other requirements of Special Use Permit S-71-74 shall remain in effect.

Mr. Barnes seconded the motion. The motion passed 4 to 0. Mr. Swetnam was absent.

Page 502, November 9, 1976, scheduled 12:40 p.m. case

METROPOLITAN CHRISTIAN SCHOOL appl. under Sec. 30-7.2.6.1.3.2 of the Zoning Ordinance to permit operation of private Christian school, Kindergarten through 12, 5411 Franconia Road, 81-4((1))66, (104,970 sq. ft.), Lee District, (R-12.5), 200 students, S-236-76.

(Hearing began at 2:30 p.m.)

The applicants did not have the proof of notification in accordance with the requirements. Therefore, the case was rescheduled for December 21, 1976.

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AFTER AGENDA ITEMS - November 9, 1976

FRANCONIA WESLEYAN CHURCH, S-68-76, Granted May 11, 1976. Request for change in the plans that were approved by the Board.

A church parsonage is permitted by right. However when it is on the same property that is under Special Use Permit, it is necessary to get approval of this Board. This church came before this Board on May 11, 1976, to request permission to construct a parsonage on the church property. The permit was granted. The church now finds that because of high construction costs, the Church is unable to go ahead with those plans. They now wish to build an addition 25' x 25' in brick veneer to the existing parsonage.

Rev. Paul Griffin, 5500 Trend Street, Alexandria, appeared on behalf of the church. He stated that the existing house is now being used as a parsonage. They will not construct the originally proposed new parsonage. The church has been in operation for about 25 years. The present building is fifteen years old.

The Board approved the new plans to construct an addition 25' x 25' to the existing parsonage.

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AFTER AGENDA ITEM - November 9, 1976

LAKE BARCROFT RECREATION CENTER, INC., Tax Map 61-3((4))Parcel A

The Board was in receipt of a memo dated November 3, 1976 from Donald W. Beaver, Zoning Inspector, stating that he had inspected the above-captioned property on November 2, 1976, and found that the 22-foot road from Lakeview Drive to be used as an alternate access has not been constructed in accordance with the Special Use Permit. He stated that he felt a "show-cause" hearing would be in order. The deadline for construction of that road was October 30, 1976. Mr. Beaver had also sent the applicant a violation notice which the Board had a copy of.

The Board was also in receipt of a letter from Rufus Brown, President, Barcroft Hills-Belvedere Citizens Association dated October 27, 1976, calling to the Board's attention the fact that the required road has not been built. He reminded the Board that the purpose for that road was for the specific benefit of his community and was intended as a compromise arising out of the extensive deliberations over the permissible use of Recreation Lane for the benefit of the housing development called Cloisters. He requested the Board take immediate action to require the Recreation Center to comply with the Board's Resolution.

After a brief discussion, Mr. Durrer moved that the Board hold a show-cause hearing on Lake Barcroft Recreation Center, Inc. for failing to comply with the plans submitted to the Board and the Special Use Permit conditions as per the Resolution. This hearing should be concurrent with the hearing now pending before the Board by Lake Barcroft Recreation Center, Inc. for 2:00 p.m., November 30, 1976.

Mr. DiGiulian seconded the motion. The motion passed unanimously 4 to 0. Mr. Swetnam was absent.

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AFTER AGENDA ITEM:

LORD OF LIFE LUTHERAN CHURCH, S-203-75, Granted November 6, 1975. Request for extension.

The Board considered the request of the applicant.

Mr. Barnes moved that the request for an extension be granted and that the Special Use Permit be extended for 6 months from November 6, 1976.

Mr. Durrer seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

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AFTER AGENDA ITEM, November 9, 1976 - YOUNG WOMEN'S CHRISTIAN ASSOC., S-65-72, Granted May 17, 1972.

The applicant contracted to sell to Child Care Properties, Inc., S-128-76, a portion of their land at Wolf Trap Road (Rt. 696) and Cedar Lane (Rt. 698). The Board granted the Special Use Permit for Child Care Properties, Inc., S-128-76, subject to the YWCA's submission of a new plat deleting the land area for the approval of the Board. The YWCA has now submitted that plat.

The Board reviewed the plat.

Mr. Durrer moved that the Board accept the plats showing a deletion of land area of 6.3261 acres leaving under Special Use Permit for the YWCA 3.7405 acres of land and all the improvements thereon.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

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APPROVAL OF MINUTES FOR OCTOBER 13 and 19, 1976.

Mr. DiGiulian moved that the minutes for October 13 and 19 be approved with corrections as noted.

Mr. Durrer seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

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The meeting adjourned at 2:55 p.m.

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By Jane C. Kelsey
Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to BZA Nov. 12, 1976

APPROVED: Nov. 7, 1976
DATE

Submitted to Bd. of Supervisors, Planning Commission and other Depts. on _____

The Special Meeting of the Board of Zoning Appeals Was Held In The Board Room Of The Massey Building On Friday, November 12, 1976. Members Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian; and Tyler Swetnam who was absent.

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The meeting was opened with a prayer by Mr. Barnes.

10:00 - PINWOOD DEVELOPMENT CORP., V-239-76 THROUGH V-249-76.
a.m. Harbor View Subdivision, Map No. 113((7))Lots 15 THROUGH 26.
THROUGH RE-1 zoning.

10:33 Mr. Jerry Fitzgerald, one of the owners of Pinewood Development Corp.,
a.m. was present to present the applications. However, the staff had found that the land was titled in the name of General Electric Credit Corporation. Mr. Fitzgerald stated that General Electric has advised Pinewood that they plan to deed the property back over to Pinewood. They have contacted General Electric and they had hoped to receive by today a letter authorizing this variance and requesting that they be joined in the application as the co-applicant. However, this authorization has not yet arrived, he stated.

There were several people in the Board Room who indicated that they were present in opposition to this application. Mr. David Sher, 1400 North Uhle Street, attorney with the firm of Lennard, Cohen and Gettings, representing one of the owners of property near the subject application, spoke before the Board relative to the problem of the Board not being able to hear the case since the proper applicant was not before the Board. The property owners who were present objected to a deferral and requested that the Board dismiss the case with prejudice.

Mr. Smith stated that he did not feel the Board should dismiss the case with prejudice, but he was concerned that the application was not proper.

Mr. Durrer moved that the Board dismiss the following cases of Pinewood Development Corp., V-238, V-239, V-240, V-241, V-242, V-243, V-244, V-245, V-246, V-247, V-248, V-249-76, without prejudice.

Mr. Barnes seconded the motion.

The motion passed unanimously (4 to 0, Mr. Swetnam was absent).

Mr. Smith stated that new applications will have to be filed by the proper applicant. The cases will have to be readvised, reposted, etc.

Mr. Mitchell advised the Board that this dismissal will constitute a withdrawal of the applications.

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10:40 - DR. ALEC WHYTE appl. under Sec. 30-6.6 of the Ord. to permit pool 5'
a.m. from side property line, (15' required), 1218 Potomac School Road,
31-1((13))32, Evermay Subd., (17,461 sq. ft.), Dranesville Post.,
R-17, V-250-76.

Mr. Vincent Gaeta, representative from Anthony Pools, 9615 Lee Highway, stated that Dr. Whyte would not be present today. He stated that he did not have the notices. He requested that the Board remove the request from the docket at this time.

Mr. Smith stated that the Board would not have been able to hear the case today anyway since the posting was improper. The Board was in receipt of a certification by the Zoning Inspections Dept. indicating that the post had been installed by the County. The following day, the post was removed and was sitting sign side in on Dr. Whyte's front porch. Therefore, the posting was improper through an act of the applicant.

Mr. Durrer moved that the application be withdrawn with prejudice.

Mr. Barnes seconded the motion.

The motion passed unanimously, 4 to 0. Mr. Swetnam was absent.

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Page 505, November 12, 1976

10:50 - EDWARD MATTHEWS appl. under Sec. 30-6.6 of Ord. to permit pool to be a.m. located 10.5' from side property line, (12' & total of 40' required), 2797 Timberline Court, 36-2((5))29, (22,584 sq. ft.), Centreville District, RE-1Cluster, V-251-76.

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(Hearing began at 11:00 a.m.)

Mr. Vincent Gaeta, representative from Anthony Pools, 9615 Lee Highway, submitted the required proof of notification to property owners. The notices were in order.

Mr. Gaeta stated that the topography of the lot is such that it is impossible to build a pool anyplace else on the property. There is about a 10' drop from the front to the back of the house. The entire lot drops rapidly. They will still have to cut the bank down in order to have a level place to put the pool. Because of cutting the bank down, the pool will be below the line of site of the neighboring properties.

There was no one to speak in opposition and no one else to speak in favor.

November 12, 1976 RESOLUTION Board of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, application V-251-76 by Edward Matthews under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit pool to be located 10.5' from side property line (12' and total of 40' required), 2797 Timberline Court, 36-2((5))29, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held November 12, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1 Cluster.
3. That the area of the lot is 22,548 sq. ft.
4. That the Board finds that the applicant's property has exceptional topographic problems.

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion. The motion passed unanimously, 4 to 0. Mr. Swetnam was absent.

11:00 - REZA SABET appl. under Sec. 30-6.6.5.4 of the Ord. to permit addition a.m. to be completed 10.8' from side property line, (12' required), 3313 Military Drive, Ravenwood Park Subd., 61-1((7))42A, (18,849 sq. ft.), Mason Dist., R-12.5, V-252-76.

(Hearing began at 11:10.)

Mr. Ed Wilcox with the building firm of Smith and Frances submitted the proof of notification to property owners for the applicants. The notices were in order. Mr. Wilcox represented the applicants before the Board. He stated that the original contractor filed an application for a building permit for addition of a finished room in the basement story and an open sun deck on the first story, to the rear of the existing residence.

Page 506, November 12, 1976
SEBET (continued)

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Filed with the application for building permit was a plat which indicated an existing open carport which is a distance of 10.1 feet from the south property line. The addition to the rear was indicated on the plat to be a distance of 12 feet from the south property line, which is the minimum side yard required. Building permit number 7604-B-0941, was issued and the addition was constructed from the footings to the open deck level. However, the new addition was aligned with the existing open carport. This resulted in the wall of the new addition being only 10.8' from the south property line, which is in violation of the zoning ordinance which requires a minimum sideyard of 12 feet.

Mr. Sabet testified that the original contractor, Mr. Hewlett, had told him that it would be a lot quicker to get the building permit, if he personally applied for it, rather than he (Mr. Hewlett), the builder. Mr. Hewlett and Mrs. Sabet came to the County. Mr. Hewlett obtained the necessary papers and Mrs. Sabet signed them. The contractor started work on the addition. Mr. Sabet stated that he suspected that the contractor was not doing some things correctly. He stated that he called the County inspector, who confirmed that there were some problems and the main problem was that the contractor did not have a license. Mr. Sabet stated that he terminated Mr. Hewlett and employed the firm of Smith and Frances to finish the work. Smith and Frances then applied for a new building permit. At that time it was found that the addition that had been started was in violation of the zoning codes. The contractor has now been taken to court and is now on probation for one year.

There was no one else to speak in favor of the application.

There was no one to speak in opposition to the application.

November 12, 1976 RESOLUTION Board of Zoning Appeals

Mr. DiGiulian made the following motion:

WHEREAS, Application No. V-252-76 by Reza Sabet under Section 30-6.6.5.4 of the Ord. to permit addition to be completed 10.8' from side property line (12' required), 3313 Military Drive, 61-1((7))42A, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 12, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit; and
2. That the Board has found that non-compliance was no fault of the applicant.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

Page 507, November 12, 1976

11:10 - COURT HOUSE COUNTRY CLUB OF FAIRFAX, INC. appl. under Sec. 30-7.2.6.1. a.m. of the Zoning Ordinance to permit construction of four additional tennis courts with lights and practice court, Springfield Dist., RE-1, S-253-76.

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Mr. Bill Donnelly, attorney with the firm of McCandlish, Lillard, Bauknight, Church and Best, 4069 Chain Bridge Road, submitted proof of notification to property owners. The notices were in order.

Mr. Donnelly stated that these courts would have a 10' chain link fence around them and the tennis court lights would be the DeVoe low type lights. The hours of operation are proposed to be the same as is on the existing courts, 7 A.M. to 11:00 P.M. There are six courts there now, one of which has lights. This would make a total of ten courts and one practice court. Mr. Barnes stated that these proposed courts will be much closer to all of the neighbors.

Mr. Donnelly stated that that is true. However, the ground slopes down away from Route 123 at that point so that the courts would probably be below the line of site for most of the people across the street. The existing lights are tall, but the proposed ones will be low and will be much less of a problem.

Mr. Barnes stated that one of the problems is that there appears to be no direct control over the operation of the lighting system as it is now. He stated that he has driven by the club at midnight and 1 A.M. and has seen the lights still on.. He stated that he has seen people playing after 11:00 p.m.

Mr. Smith stated that the court with lights is the one that has caused all the complaints there now. Those are lights on high poles. He stated that he felt those lights should be replaced by lower lights that would be less offensive. This request is doubling the amount of activity that is going on.

Mr. Donnelly stated that he would agree that at such time as the lights on the existing courts have to be replaced that they would replace them with the DeVoe type system.

There was no one else to speak in favor of the application.

Mr. Hayes Broes, 5203 Ox Road, immediately across 123 from the proposed courts spoke in opposition. He submitted a petition signed by several property owners that are located across the road from these courts in opposition to the request. He stated that at the present time there is no direct control over the operation of the lighting system. He stated that it is not unusual to have to call at 1:30 a.m. or 2:30 a.m. to have somebody turn the lights off at the present courts. They do pose a problem, especially in the fall and spring when there is no greenery. The six additional courts will only add to the problem. It is noisy enough now. These proposed courts will have a detrimental impact on the neighbors that are across the street from them. The neighbors signing the petition were: Jennie Mellender, 5201 Ox Road; May Jane Groves, 5203 Ox Road; Joanne M. Hollis, 5117 Ox Road; Carl Hollis 5117 Ox Road.

In answer to Mr. Smith's question, Mr. Donnelly stated that he was not aware of the complaints raised by Mr. Broes. He stated that he felt if the Club was made aware of these violations, they would remedy them.

Mr. Barnes suggested that there be some method of automatic turnoff and stated that he would not vote for this unless this was guaranteed. He stated that the lights are now unsupervised.

Mr. Broes stated that not only are the lights offensive, but the noise is also and six additional courts will compound the noise.

Mr. Donnelly stated that this mechanism is expensive. He stated that Design Review probably will require them to install some type of screening of these courts. They will probably also have a green canvas windbreaker on the fence. He stated that he felt it would be rather inconvenient to have coin operated lights. He suggested perhaps to have a trial period whereby the Club will strive to cut the lights off on time.

Mr. Barnes stated that he felt the lights on the existing courts should be cut off at 10:00 p.m. He stated that a trial period would do good.

Mr. Smith agreed. He stated that these lights are creating a nuisance to the neighbors.

Mr. Barnes stated that the condition is on the permit now that the gate is to be closed by midnight, but it is never closed. Therefore, the conditions do no good, if the Club is not going to enforce them.

Mr. Donnelly stated that if the automatic timer is a condition of the granting, then they will abide by it.

R E S O L U T I O N

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Mr. Durrer made the following motion:

WHEREAS, application S-253-76 by Court House Country Club of Fairfax, Inc. under Section 30-7.2.6.1.1 of the Fairfax County Zoning Ordinance to permit construction of four additional tennis courts with lights and practice court on property located at west side of Ox Road approximately one-half mile south of the City of Fairfax, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 12, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 153.2074 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT SHALL NOT BE VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. All necessary landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation SHALL BE from 7 A.M. TO 10 P.M.
8. There shall be an automatic timing device on the lights.
9. Some screening of these courts shall be done. This will be determined by Site Plan.
10. All other conditions of the previous Special Use Permits shall remain in effect with the noted change in hours for the tennis courts.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

11:30 - ARTHUR ELEFATHERIO appl. under Sec. 30-7.2.6.1.14 of Ord. to permit a.m. home professional optometrist's office, 2042 Peach Orchard Drive, S-254-76.

(Began at 12:00 Noon)

The Board was in receipt of a letter requesting withdrawal of this application by the applicant.

Mr. DiGiulian moved that the Board allow the applicant to withdraw the application with prejudice.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

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11:50 - PHILIP D. SHALLOWAY appl. under Sec. 30-7.2.6.1.14 of Ord. to permit a.m. law office in home, 4005 Lake Blvd., S-255-76.

The Board was in receipt of a letter from the attorney for the applicant, Mr. Dexter Odin, requesting that the Board allow the applicant to withdraw the application. He stated that it could be with prejudice as to the applicant, but they would appreciate it being without prejudice as to the property owner. The applicant was the contract purchaser.

Mr. DiGiulian moved that this application be withdrawn with prejudice.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

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12:15- U-HAUL CO. OF METRO.,DC, INC. appl. under Sec. 30-7.2.10.5.4 of Ord. p.m. to permit rental and maintenance of U-Haul trucks, trailers and related equipment, 5654 Columbia Pike on property of Sun Oil Company, 61-2(1) 83C and 84, (27,141 sq. ft.), Mason Dist., C-G, S-237-76.

Mr. Grayson Hanes, 4084 University Drive, Fairfax, represented the applicant before the Board. He submitted proof of notification to property owners of this hearing. The notices were in order.

Mr. Hanes stated that this property was used by the Sun Oil Company for a gasoline station, but it has been closed over a year. This applicant is a contract purchaser. He stated that there is also a letter in the file from Sun Oil Company saying that any use that they have had for this property and any permit they have had will terminate if this permit is granted. This is commercial general zoning. The property immediately to the east is a Hess gasoline station and to the west is the Springfield Motor Lodge. They are providing 22 spaces on the site for the storing of the U-Haul trucks and trailers. There are ten customer parking spaces on the site. The staff indicates that it wishes to have a dedication of a service drive along Columbia Pike. The applicant is willing to do that. In 1961, there was an endenture entered into by the owners of the property, Sun Oil Co., recorded in deed book 1975, page 182, indicating that at whatever time the County needed that service drive, it would be constructed. The service drive is there because the Sun Oil's service station was operational, he stated. It is in existence at the present time. There will have to be a few things moved, such as a sign, from that right-of-way - the service drive. This is no problem. In addition, the County staff wants some assurances that customer parking will not be backing into the right-of-way. They will put in a bumper strip facing that travel way which will prevent customers from backing into the service drive. The hours of operation will be the normal hours that U-Haul has throughout this County: 8 A.M. to 8 P.M., Monday through Saturday and from 10 A.M. to 6 P.M. on Sunday. Customers will have to return trucks during those hours because there will be no place to turn in the keys at any other time. When they turn in the keys is when they will make payment with the attendant. The U-Haul people will not sell gasoline. There will be one pump on the site to fill up the trucks when they are returned.

Mr. Warren Albers, representative from U-Haul, confirmed this.

Mr. Hanes stated that in clarification, instead of dedication of the service drive, there will be a giving of an easement.

Mr. Hanes stated that the largest truck would be 1 1/2 ton. They will meet whatever screening is required by Site Plan. There is no necessity for screening from the service station. As far as screening for the motor lodge, there is already natural screening there which was provided by Sun Oil Co. when the service station was operational. There are three bays in this building. They propose to use these bays for such things as putting the oil in the trucks and greasing the trucks. There will be no major overhauling of the trucks from this property, just preventive maintenance.

There was no one else to speak in favor.

There was no one to speak in opposition. However, there were several letters in the file in opposition. Mr. Smith noted those for the record. One was from the LaMadeleine Beauty Shop, one from the Spring Hill Motor Lodge, one from Milton Iseu, builder and partner in the motor lodge.

Mr. Smith read the recommendation from the Planning Commission stating that on November 11, 1976, the Planning Commission voted unanimously that this Special Use Permit be approved with the changes on the site plan as recommended by the staff, with the further provision and urgent request that attention be paid to the feasibility of any screening of the parking area for the rental vehicles, trucks and trailers.

Mr. Hanes stated that he had no objection to these recommendations.

Mr. Durrer stated that the Board has been working with the special permit resolution forms. Since the Chairman has given the location, the tax map reference number and the applicant's name, he stated, that he would like to see the Board approve cutting down further on the reading of the entire resolution..

Mr. Smith stated that he would concur as long as the Clerk will include the total resolution in the minutes of the meeting. The other Board members agreed.

November 12, 1976 RESOLUTION Board of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, Application S-237-76 by U-Haul Company of Metro, D. C., Inc. under Section 30-7.2.10.5.4 of the Zoning Ordinance to permit rental and maintenance of U-Haul trucks, trailers and related equipment, 5654 Columbia Pike, 61-2 ((1))83C and 84, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 12, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is Sun Oil Company. The applicant is the contract purchaser.
2. That the present zoning is C-G.
3. That the area of the lot is 27,141 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional

uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

6. All necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

7. The maximum number of trucks and trailers shall be 22, the largest of which shall be 1 1/2 ton.

8. The hours of operation shall be from 8 A.M. to 8 P.M. weekdays and 10 A.M. to 6 P.M. on Sunday.

9. There shall be ten (10) customer parking spaces.

10. That this motion shall incorporate the suggestions of Preliminary Engineering, which will be covered under Site Plan.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

AFTER AGENDA ITEM - NOVEMBER 12, 1976

1. SHELL OIL COMPANY, S-168-74, Granted November 13, 1974 to permit relocation of pump islands, construction of driveway to rear of existing station, relocation of fence required by previous Special Use Permit and waiver of screening requirement adjacent to residential land.

BACKGROUND

The Board extended this Special Use Permit several times and also brought the applicant back to show cause why the permit should not be revoked because they had not constructed the required fence. The Board on June 8, 1976, again extended the permit, o.k.ed the screening and fencing plan, and deferred the show cause hearing to subsequent dates until the applicant could relocate the pump islands, etc.

The Zoning Inspector, John Furneisen, reports in his memo of June 16, 1976 that the fence is in and in his memo dated November 5 that the pump islands have been relocated.

The Board may now rule that Shell Oil, S-168-76, has a valid Special Use Permit.

DECISION

Mr. Durrer moved that the Board validate the Special Use Permit, S-168-74, since all the requirements have now been met and that the Board accept the new plats showing the necessary changes.

Mr. Barnes seconded the motion.

The motion passed unanimously. Mr. Swetnam was absent.

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AFTER AGENDA ITEM - November 12, 1976

2. REQUEST FOR REHEARING - FAIRFAX BAPTIST TEMPLE

The Board was in receipt of a letter from Aubrey Moore, Supervisor, Annandale District, and a letter from Mr. Tarantino, 9523 Jomar Drive, requesting the Board hold a rehearing on this application. There was also a petition signed by several people in the community. Mrs. Moore stated in her letter that the adjacent property owners were not aware of their rights to be heard. The surrounding community was under the impression that because the Planning Commission had asked the BZA to withhold decision, that another date would be set for the public hearing.

The Board after discussion decided that it should hear from the citizens in the community through Mr. Tarantino explaining why they were under the impression that the case would automatically be deferred, if it was because someone in the County had told them it would be, or just why they felt it

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necessary to have a rehearing. The Board stated that it should also notify the applicant, Fairfax Baptist Temple, of this request of the citizens. The Board decided to hear this request for the rehearing at 2:00 p.m., November 16, 1976. The Board asked the Clerk to notify the parties this afternoon.

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AFTER AGENDA ITEM - November 12, 1976

3. REQUEST FOR OUT OF TURN HEARING - THOMAS MURRAY, VARIANCE.

The Clerk explained to the Board that because of the Special Meeting today, the cases are now being scheduled for December 14 and December 21. There are six cases on December 14 and if the Board puts Mr. Murray's case on December 14, the Board will have 7 regular cases, plus whatever cases the Board might defer to that date. The advertising is now being done for December 14 also.

Mr. Barnes stated that he had read Mr. Murray's lengthy letter and felt that Mr. Murray has got himself into a bind. He stated that he would not mind staying a little later on the 14th in order to accomodate Mr. Murray.

The Board set Mr. Murray's case for December 14, 1976, on Mr. Barnes's motion Mr. DiGiulian's second. The decision was unanimous.

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AFTER AGENDA ITEM - November 12, 1976

4. CALVARY CHRISTIAN CHURCH, Special Use Permit granted September 17, 1976 with a plat showing 77 parking spaces. The requirement was 60. The church now wishes to delete the 17 extra spaces and retain the 60 spaces.

Mr. Durrer moved that in application S-200-76, Calvary Christian Church, that if the parking spaces requested (60) meet the requirement of the ordinance, that the applicant be allowed to reduce the number.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Swetnam was absent.

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The Board adjourned at 1:22 p.m.

Jane C. Kelsey
By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: Dec. 7, 1976
DATE

Submitted to the BZA on Nov 10, 1976

Submitted to Bd. of Supervisors, Planning Commission and other Depts. on _____

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The Regular Meeting of the Board of Zoning Appeals Was Held on Tuesday, November 16, 1976, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam; and John DiGiulian. No one was absent.

The meeting was opened with a prayer by Mr. Barnes. The meeting opened at 10:07 a.m.

10:00 - HENRY DEVELOPMENT COMPANY, INC. appl. under (Sec. 30-6.6.5.4 (mistake sec.) of Ord. to permit house to remain 9.3' from side property line (10' required), 2414 Albot Road, Deepwood Subd., 26-3((8))95, (2,192 sq. ft.), Centreville Dist., RTC-10, V-225-76, OTH. (Deferred from October 23, 1976 for proper notices.)

Mr. Harold Miller, attorney with offices at 11250 Roger Bacon Drive, Reston, submitted the proof of notification to property owners of this hearing. The notices were in order.

Mr. Miller stated that this error resulted from a lack of communication between the engineer at stakeout and the developer in the process of construction. The engineer referred to one side of the house as the 'side' and the developer referred to that same side of the house as the 'front'. As a result, the house was located .7 feet from the adjoining group of townhouses. This house is the end unit of a group of four townhouses. Mr. Miller further stated that he does not feel this error will adversely affect the adjoining properties. He stated that just this morning he met with a representative of the Deepwood Homeowners Association who raised objections. However, those objections were concerning the drainage problems at another location on the development site which is not within the purview of this Board. The other objection is that this error causes a crowding of the site. Even though there is a .7 foot error on this end of the row of townhouses, it is more than made up for on the other end. The row of townhouses is shifted. This error is an honest mistake and they are sorry they made it. The error did not become known until the engineer came out to do the wall check.

Mr. Miller stated that he had been presented with a long list of complaints from the citizens, but these complaints are basically subdivision site work complaints. These are not germane to this hearing.

In answer to Mr. Swetnam's question, Mr. Miller stated that the engineering firm that did this work was Rogers and Associates located in Rockville, Maryland.

There was no one else to speak in favor of the application.

Mr. Ernst Stromsdorfer, 2401 Alsop Court, Reston, spoke in opposition to this application. He brought out several other errors that this builder has made in this subdivision.

Mr. Swetnam stated that in the area where the error has been made, the houses are moved over toward the open space, not toward another set of townhouses.

Hope Andersen, 2421 Alsop Court, Reston, spoke in opposition to this application. She, too, brought out other errors and problems with this builder.

Mr. Swetnam advised her and the other citizens who were present that the problems such as drainage and site problems were problems that are not within the jurisdiction of this Board. Those problems should be addressed to the County's site plan department and drainage department. The Zoning Ordinance provides for this type mistake and gives this Board the power to grant it, if they have in fact made a mistake to the setback requirements.

Linda Payne, 2421 Alsop Court, Reston, spoke in opposition to this application. She stated that the builder has squeezed four townhouses in this area which was originally a play yard, which they were told would remain a play yard when they purchased the house directly in back of it. The lots were even sold for an additional \$950 because they backed up to what was supposed to be open space. The trees that Mr. Miller said were so lovely are dying because the developer pushed concrete and dirt all around them and compacted the dirt. They have fertilized the trees in a hopeless effort to save them. The homeowners have already had to remove several dead trees.

Mrs. Price, 2419 Alsop Court, Reston, spoke in opposition. She, too, stated that the real estate office of the developer had told them this would be open space.

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HENRY DEVELOPMENT COMPANY (continued)

Mr. Smith stated to Mr. Miller that the Board realizes that some of the complaints the citizens have raised are not problems that this Board can resolve, but it certainly would behoove the developer to take these complaints into consideration.

Mr. Swetnam advised the citizens that if they have a brochure or anything that they can nail down, they have cause for legal action against the developer for such things as promising them a certain area would be open space and then going ahead and developing that area into houses.

Mr. Miller, in rebuttal, stated that all of the units shown here were originally on the development plan that was in the model townhouses. It is the exact number of proposed townhouses, the exact size as approved by the County.

Mr. Swetnam stated that he is very critical of the engineering that has been done on this job as revealed by the plat before the Board.

November 12, 1976 R E S O L U T I O N Board of Zoning Appeals

Mr. Swetnam made the following motion:

WHEREAS, Application V-225-76 by Henry Development Company, Inc. under Section 30-6.6.5.4 of the Ord. to permit house to remain 9.3' from side property line (10' required), 2414 Albot Road, 26-3((8))95, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 16, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit; and

2. That the Board has found that non-compliance was no fault of the applicant.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

Mr. Barnes seconded the motion.

The motion passed 5 to 0. All members present and voting.

10:10 - RAYMOND & JOYCE KELLAM appl. under Sec. 30-6.6 of Ord. to permit a.m. construction of carport 12.3' from side property line, (20' required), 3521 Kirkwood Drive, Langhorne Acres, 58-2((3))20, 21,837 sq. ft., Providence Dist., RE-1, V-258-76.

Mr. Kellam presented proof of notification to property owners of this hearing. The notices were in order.

Mr. Kellam stated that he is asking for 7.5' variance according to the advertisement and agenda. However, he was under the impression that the requirement was 15' for an open carport.

Mr. Smith confirmed this, but he stated that the Ordinance gives the 5' variance and to go beyond that the Board must consider the total variance.

Mr. Kellam stated that they have a violent topographic problem and also a well on the property. This prevents them from having the reasonable use of the land. There is no place else on the property to build a carport or garage.

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There was no one present to speak in opposition to the application.

R E S O L U T I O N

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Mr. Durrer made the following motion:

WHEREAS, Application V-258-76 by Raymond and Joyce Kellam under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of carport 12.3' from side property line, 3521 Kirkwood Drive, 58-2((3))20, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 16, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 21,837 sq. ft.
4. That the Board finds that the applicant's property is exceptionally irregular in shape (narrow) and has exceptional topographic problems.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed 5 to 0.

10:20 - LESTER & ANITA STRIBLING appl. under sect. 30-6.6 of Ord. to permit a.m. construction of 2 story addition to existing building 15.2' from zoning boundary line, 8143 Richmond Highway, 35,288 sq. ft., 101-2 ((1))26, Mt. Vernon District, C-G and R-17, V-259-76.

Mr. Lester Stribling, 10645 Gunston Road, submitted the required proof of notification to property owners of this hearing. The notices were in order.

Mr. Stribling stated that they need a variance of 10.8' in order to construct this building since it is too close to the zoning boundary line. The proposed addition would be about 200' from the nearest neighbor. The R-17 land in back of their C-G land is still vacant and probably will remain vacant.

Mr. DiGiulian in answer to Mr. Smith's question stated that it looks like 15,000 sq. ft. of land that is in the R-17 zone. This plat does not propose construction in the R-17 zone.

Mr. Swetnam stated for background that when this land was zoned down along Route 1, the Board of Supervisors arbitrarily picked a 200' distance back off the edge of the highway and drew that dividing line between the commercial and the residential and it has been a dog ever since. He could not continue with his C-G development back in the residential area.

Mr. DiGiulian stated that it amounts to a 150' buffer strip which is a dead piece of ground since there is no access to it.

Mr. Smith stated that he could use it for parking for his commercial land with a special permit from the Board of Supervisors.

Mr. Swetnam stated that this came before the Board about a year ago for this same variance, but it was withdrawn when it became known that a violation existed on the property.

Mr. Stribling stated that the violation is now cleared.

There was no one to speak in opposition to this application.

R E S O L U T I O N

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Mr. DiGiulian made the following motion:

WHEREAS, Application V-259-76 by Lester and Anita Stribling under Sect. 30-6.6 of the Zoning Ordinance to permit construction of a 2 story addition to existing building 15.2' from the zoning boundary line, 8143 Richmond Highway, 101-2((1))26, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 16, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is C-G and R-17.
3. That the area of the lot is 35,288 sq. ft.
4. That the property is subject to pro-rata share for off-site drainage.
5. That compliance with the Site Plan Ordinance is required.
6. That the Board finds that the applicant's property has an unusual condition in the location of the existing buildings on the subject property, and the location of the zoning boundary line.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. Swetnam seconded the motion.

The motion passed 5 to 0.

10:30 - RON H. CREECH appl. under Sec. 30-6.6 of Ord. to permit enclosure of a.m. carport into garage 5.7' from side property line, (10' required), 3711 Trigger Court, 82-4((14))(16)15, Virginia Hills Subd., 10,213 sq. ft., Lee Dist., R-10, V-260-76.

(Hearing began at 11:07 a.m.)

Mr. Creech presented proof of notification to property owners of this hearing. The notices were in order.

Mr. Creech stated that he had torn down the old carport because the wood was rotten. He began rebuilding it and decided to make an enclosed carport out of it. An inspector came by and told him that he had to have a building permit and that he was in violation to the setback requirements. At that point he stopped construction and applied for this variance. He stated that the County did permit him to finish putting the roof on so that it would not ruin the lumber that he had already put up.

In answer to Mr. Swetnam's question if the lot was exceptionally narrow in the front, Mr. Creech stated that it is and that the house is turned at an angle on the lot.

Mr. Swetnam stated that as those property lines go back, the lot gets broader toward the back.

Mr. Creech stated that that was correct and that is the reason he needs a variance only on the corner of the enclosed carport.

Mr. George Grant, 3713 Trigger Court, next door to the subject property, spoke in opposition to the application. He stated that he felt this enclosed structure would be a fire hazard this close to his house.

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CREECH (continued)

Mr. Creech in rebuttal stated that he would think that the neighbor would prefer a garage rather than a carport. It would certainly look better and would buffer the noise of the car being started in the morning and the motorcycle's noise also.

There was no one else to speak regarding this application. Mr. Smith noted the letter in opposition that were in the file.

November 16, 1976 R E S O L U T I O N Board of Zoning Appeals

Mr. Swetnam made the following motion:

WHEREAS, Application V-260-76 by Ron H. Creech under Sect. 30-6.6 of the Zoning Ordinance to permit the enclosure of a carport into a garage 5.7' from the side property line (10' required), 3711 Trigger Court, 82-4((14))(16)15, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 16, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 10,213 sq. ft.
4. That the Board finds that the applicant's property is exceptionally irregular in shape.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
3. The enclosure shall be of aluminum siding to match the existing house.

Mr. DiGiulian seconded the motion.

The motion passed 5 to 0 with all members present and voting.

11:10 - JOSEPH V. PAVELA appl. under Sec. 30-6.6 of Ord. to permit enclosure a.m. of 2 car carport for garage 10.2' from side lot line (15' required), 8246 The Midway, Chestnut Woods, 70-2((9))1A, 18,161 sq. ft., Annandale District, R-17, V-262-76.

(The hearing began at 11:25 a.m.)

Mr. Pavela presented the required proof of notification to property owners to the Board. The notices were in order.

Mr. Pavela stated that he sought to develop 12 lots with houses with two car garages. He had to have six lots resubdivided in order to construct 11 of these homes with garages. Mr. Pavela stated that his house is the only house without a garage. The lot is very narrow and deep and the builder was unable to fit a 2 car garage on that particular lot. The carport detracts from the overall appearance of the property and the neighborhood.

There was no one to speak in opposition to this application.

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R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application V-262-76 by Joseph V. Pavela under Section 30-6.6 of the Zoning Ordinance to permit enclosure of existing two car carport 10.2' from side property line, 8246 The Midway, 70-2((9))1A, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 16, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 18,161 sq. ft.
4. That the Board finds that the applicant's property is exceptionally irregular in shape.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Barnes left the meeting at the beginning of this case.

 11:20 - HELGA S. MARTIN appl. under Sec. 30-7.2.6.1.3.4 of the Zoning Ord. to a.m. permit school of special education (dance and music) for 5 pupils, Saturdays, 10:00 a.m. thru 4:00 p.m., 7419 Marc Drive, Sec. 9 of Broyhill Park Subd., 50-3((2))Parcel 177, (11,866 sq. ft.), Providence Dist., R-10, S-263-76.

(Hearing began at 11:45 a.m.)

Mrs. Martin submitted the required proof of notification to property owners to the Board. The notices were in order.

Mrs. Martin stated that she wished to give classes for guitar and ballet on Saturday. She stated that she taught music in Germany and in Maryland. She has owned the property for 2 1/2 years. She stated that this work would only be supplemental to her regular job as publication manager for a company in this area.

Mrs. Walrand Larson, 4719 Parkwood Terrace, Apartment 201, Falls Church, testified that she would be the ballet teacher. She stated that she is within walking distance from Mrs. Martin's house and would walk to the property on Saturdays. The children that will be coming to take lessons for both guitar and ballet will also be within walking distance. They are all children in the area. The students are within the ages of 7 to 12. She stated that she had taught previously in Silver Spring, Maryland for three years, in Long Island, New York and New York City. She received her training in Germany and New York.

There was no one else to speak in favor and no one to speak in opposition to this application.

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R E S O L U T I O N

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Mr. DiGiulian made the following motion:

WHEREAS, Application S-263-76 by Helga S. Martin under Section 30-7.2.6.1.3.4 of the Zoning Ordinance to permit school of special education (dance and music) 7419 Marc Drive, 50-3((2))177, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 16, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is Robert and Helga Martin.
2. That the present zoning is R-10.
3. That the area of the lot is 11,866 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. That the property is subject to Pro-Rata Share for off-site drainage.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT SHALL NOT BE VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. All necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The maximum number of students shall be 5.
8. The hours of operation shall be 10 A.M. to 4 P.M. Saturdays only.
9. This permit is granted for a period of Three (3) years with the Zoning Administrator empowered to grant three (3) one (1) year extensions upon written request prior to expiration date of each year.

Mr. Swetnam seconded the motion.

The motion passed 3 to 0. Mr. Barnes had left the meeting earlier.

Mr. Smith abstained.

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11:40 - EDWIN L. BEASLEY appl. under Sec. 30-6.6 of Ord. to permit garage a.m. 25.2' from front property line (30' required), 8605 Kentford Drive, Rolling Valley, 89-3((5))344, (11,416 sq. ft.), Springfield District, R-17 Cluster, V-257-76.

520

(The hearing began at 11:55 a.m.)

Mr. Beasley submitted the required proof of notification to property owners of this hearing. The notices were in order.

Mr. Beasley stated that he had two cars and wanted to park them both in a garage. He stated that he had owned the property since 1972, but is in the military and has been overseas for part of that time and, therefore, has not been a resident of that property for all that period of time. He stated that he picked these particular dimensions for this garage because it is the same size as the garage he had previously and he needed this much space in order to open the doors of the cars. It is one of the few houses in the area that has neither a carport or garage.

Mr. Smith stated that he felt the applicant could cut down the size of the garage. He also stated that the applicant has not presented a hardship under the ordinance for this request.

Mr. Swetnam stated that the variance is 4.8 feet.

In answer to Mr. DiGiulian's question, Mr. Beasley stated that he would have a door from the garage into the house and four steps.

Mr. DiGiulian stated that those four steps would take about 4' out of the garage, cutting the room that he has to park the cars.

There was no one present to speak in favor or in opposition.

November 16, 1976

R E S O L U T I O N

Bd. of Zoning Appeals

Mr. Swetnam made the following motion:

WHEREAS, Application V-257-76 by Edwin L. Beasley under Sec. 30-6.6 of the Ordinance to permit a garage 25.2' from the property line (front), (30' required), 8605 Kentford Drive, 89-3((5))344, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 16, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-17 Cluster.
3. That the area of the lot is 11,416 sq. ft.
4. That the Board finds that the applicant's property has an unusual location of the house on the corner lot.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

Mr. DiGiulian seconded the motion. The motion passed 3 to 0. Mr. Barnes left the meeting earlier. Mr. Smith abstained because he stated that he did not feel the applicant justified his request to the Board. This is a front setback also.

12:00 - C. E. REID, JR. appl. under Sec. 30-6.6 of Ord. to permit 10' side yard setbacks in R-12.5 (12' required) for 34 lots of Beverly Manor, 30-2((4))lots 12, 14, 16, 18-30, Blk. M; lots 3-28, Blk. N; lots 9-20, Blk. O; lots 12 & 14, Blk. K; lots 26-37, Blk. S, (6,250 sq. ft. average lot size), Dranesville Dist., R-12.5, V-256-76.

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(Hearing began at 12:05 p.m.)

Mr. Walsh, attorney with the law firm of Herrell, Campbell and Lawson, submitted to the Board the required proof of notification to property owners of this hearing. The notices were in order.

Mr. Smith stated that the staff report indicates that this property is partially owned by others.

Mr. Walsh stated that Mr. Reid had just recently taken title to the land.

Mr. Smith stated that he was going to rule that the Board can only hear one of these applications on one lot. He stated that if the Board hears all these variance requests at one time, it is tantamount to rezoning.

The other Board members agreed.

Mr. DiGiulian suggested that the Board give the applicant the opportunity to withdraw the application without prejudice instead of forcing the issue.

Mr. Walsh stated that he felt that Section 30-3.4.7 of the Zoning Ordinance would permit the Board to hear all the applications. He referred the Board to that section. Mr. Smith read that section aloud. That section in the last paragraph stated that the Board of Zoning Appeals could hear similar reductions on a group of such contiguous lots in the same ownership under subsection 30-6.7, which is the Special Permit section of the Ordinance.

Mr. Walsh stated that the hardship is that the lots were divided in the 1920's and Mr. Reid has the vested right to build on this property. He wants to build what the citizens of McLean want him to build on these lots and he cannot do it without these variances.

Mr. Smith stated that all he had to do is redesign the house.

Mr. Walsh stated that that would result in undue hardship because he could not economically afford this.

Mr. Smith stated that economics is not a hardship under the County or State Code. The applicant must present a topographic problem or some physical problem with the land. The Code doesn't permit this Board to grant variances where the applicant owns contiguous land. Mr. Smith stated that this question goes back to the time when Mr. Fitzgerald was the Commonwealth's Attorney. The Board ruled that it did not have the authority to grant the number of variances requested at that time. They were 25' lots. The Commonwealth Attorney agreed with the Board. The Attorney General also agreed. It was eventually worked out where the applicant used three lots instead of two. That was a case where the applicant did not own all the lots involved, which further complicated matters. In this case, Mr. Reid owns all the lots, therefore, he can develop it. Maybe he can't develop it in the density he wants to, but it can be developed in an orderly manner, Mr. Smith stated.

Mr. Walsh requested the Board defer this case until he has had an opportunity to confer with the County Attorney on this question.

Mr. Smith stated that he would agree to a deferral, but he still felt that this type action would require a legislative action by the Board of Supervisors. This Board has very limited jurisdiction in this area of variances.

Mr. Walsh stated that even though this problem is shared with other properties, it is not a general condition and is not shared generally by large properties in this vicinity or zoning district.

Mr. Smith stated that that condition certainly is shared generally in this zoning district. He stated that if the applicant's attorney will notice, the Ordinance says "building", not "buildings".

Mr. Smith stated that he certainly would want the Board of Supervisors made aware of these requests because this is certainly infringing on their legislative authority.

Mr. Walsh stated that Mr. Reid had filed for RT-10 zoning. At that time there was citizen opposition. The citizens asked Mr. Reid to build single family buffer homes such as Mr. Reid has constructed in Kings Manor and Beverly Manor.

Mr. Durrer inquired what the purpose would be to meeting with the County Attorney. If it is in the Ordinance, the Board members can read it and interpret it.

Mr. Smith stated that he was just trying to meet the attorney's request. He stated that he just couldn't believe that the County Attorney would disagree on this. He stated that he would be willing to sit down and discuss it.

Mr. Durrer moved that the case be deferred until January 18, 1977, in order for some of these matters to be resolved.

Mr. Swetnam seconded the motion.

Mr. Walsh stated that that date would be agreeable with him.

The motion passed 4 to 0. Mr. Barnes had left the meeting earlier and had not yet returned.

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DEFERRED CASE - NOVEMBER 16, 1976

12:20 - CAROL ROBINSON, appl. under Sec. 30-7.2.6.1.7 of the Ord. to permit
p.m. antique shop in home, 10030 Colvin Run Road, 18-2((1))19,
Dranesville District, RE-1, 4.1107 acres, S-196-76.

(Began at 12:20 p.m.)

Mr. Justice Holmes, attorney for the applicant, appeared before the Board on the applicant's behalf.

Mr. Smith stated that Mr. DiGiulian, the Board member who was absent at the time of the original hearing, has studied the transcript, the records and the file on this case.

Mr. Smith stated that the Board is in receipt of some photographs that were taken on Colvin Run Road in the vicinity of this property, along with some petitions from the surrounding neighbors who have objections to the application.

Mr. Holmes looked over the photographs and requested that he be allowed to ask some questions concerning them, such as who took them, when they were taken, etc.

Mr. Robert Rogers, 1154 Robindale Drive, stated that he took the pictures over the past weekend of the 6th and 7th. He stated that in his opinion the pictures fairly represent the traffic situation at this location that exists on all weekends and holidays during the summer months.

Mr. Holmes stated that this is a two lane road and the applicant has agreed to dedicate property for road widening. The staff asked for 45' and they have agreed to that. The cars that are shown in the pictures are cars that go to Colvin Run Mill. If this application is denied, the situation will still exist. If the permit is granted, the applicant has three acres with a large circular driveway which can accommodate all the cars that should come to the applicant's property at any time.

Mr. Smith read a letter from the Great Falls Citizens Association stating that they object to a road widening along that road. The association took no stand on the application itself.

Mr. Holmes stated that the pictures were taken on the weekend of a fall festival, therefore, there are more cars there than usual, and this does not represent an average weekend.

Mr. Swetnam stated that this seems to be an unfortunate situation for Mrs. Robinson. She is not causing the traffic problems, but if the Board permits this use, it will irritate the situation that already exists. He stated that he would like to see this application postponed to allow Mrs. Robinson to meet with the Park Authority and see if there can't be something done to alleviate these problems. The Robinsons are going to be imposed on considerably.

Mr. Holmes declined to request deferral and stated that he did not know where that would help.

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R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application S-196-76 by Carol Robinson under Sec. 30-7.2.6.1.7 of the Zoning Ordinance to permit antique shop in home as community use, 10030 Colvin Run Road, 18-2((1))19, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 17, 1976; and deferred to November 16, 1976 for additional information and decision only.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.0017 acres.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is denied.

Mr. DiGiulian seconded the motion.

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The motion passed 4 to 0. Mr. Barnes had left the meeting earlier and had not yet returned.

Mr. Smith stated that he was going to support the resolution not simply because of the traffic. That is just one factor involved. This is 2200 square feet proposed to be used for antiques and this does afford considerable impact to a residential area. He stated that he did not think that the 2200 square foot area devoted to the selling of antiques is compatible with that residential area or any residential area, in addition to the fact that this is in a historic district and the Colvin Run Mill does draw large numbers of automobiles.

Mr. Swetnam stated that he regretted exceedingly having to be the parent of that motion. He stated that he thought it is a crying shame that a public entity can come in and walk on top of the neighbors without any recourse by the neighbors. He again stated that he was sorry to have to do this, but he felt it was in the best public interest.

Mr. Durrer stated that he agreed with the motion to deny and he could not have supported a motion to grant. He stated that there needs to be pressure put on the Park Authority and the Board of Supervisors to do something about the existing parking problem there, and the traffic situation.

Mr. Swetnam agreed and stated that that was the purpose of his statements, in order to allow the applicant to withdraw or request deferral so they could get back in less than a year.

Mr. Holmes thanked the Board for its consideration. He stated that they were faced with a problem that just couldn't be solved.

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BOARD OF ZONING APPEALS
AFTER AGENDA ITEM - NOVEMBER 16, 1976 MEETING.

1. MARKLEY & GWENDOLYN SEIBERT, V-209-76, Granted October 19, 1976.
When Martin's Construction Company prepared a rendering for the Board for its hearing on this case October 19, 1976, the applicants realized that the addition looked tacked on to the house. After the meeting, Martin's prepared another rendering with a two car garage which looked much more tied into the house. The variance is the same, but the garage is larger. Since it is a change, they are bringing it back to the Board to request approval.

Mr. Finch from Martin's Construction presented both renderings to the Board. The Board agreed that the two car garage looked much more attractive than the one car garage. Mr. Finch also presented new plats showing the change. Mr. Durrer moved the Board accept the new plats and rendering. Mr. Swetnam seconded the motion. The motion passed 4 to 0.

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SUGGESTION
TO BD. OF
SUPERVISORS
AND
PARK AUTH.

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Page 524, November 16, 1976, Board of Zoning Appeals Meeting
 The Board returned from lunch at 2:15 to take up FAIRFAX BAPTIST TEMPLE
 AFTER AGENDA ITEM, REQUEST FOR REHEARING.

Mr. Durrer stated that when this subject was brought up earlier, it was said that the opposition was told that they did not have to be present for the Board hearing on this case, the original hearing, because the Planning Commission had requested deferral.

Mr. Smith stated that there was never any discussion by this Board about a postponement of the hearing. There was a request from the Planning Commission for a deferral of the decision, but not the full hearing. He asked Mr. Tarantino, representative from the citizens in the area, to speak to this question.

Mr. Thomas Tarantino, 9523 Jomar Drive, Fairfax, representing Old Forge Subdivision and Surrey Square Subdivision,

Mr. Tarantino stated that just as soon as he found out a school was involved he got in touch with Aubrey Moore, Annandale Supervisor, and she was supposed to request a deferral of the hearing. He stated that he received a phone call and he was either told, or it was his understanding that there would be no hearing. This phone call came from Aubrey Moore's secretary, Sally Kahn.

Mr. Smith asked Mr. Tarantino if he realized that Mrs. Moore had no authority to commit this Board.

Mr. Tarantino stated that he was familiar with the Planning Commission and the Board of Supervisors' procedures, but he was not familiar with this Board's procedures. He stated that the citizens were led to believe that once the case was deferred that it would then go before the Planning Commission. However, they have found out how wrong they were. The letter of notification from the church that was sent to adjacent property owners notified them that a church building was to be built, not a school for 700 students. The petition stating the citizens opposition was delivered to Mrs. Moore's office on the morning of the 9th and they were led to believe that it would be delivered to the Board. Since that time they have gone out and received more signatures on the petitions. In addition, they have a letter endorsing their opposition and their position from the Braddock Road Coalition.

After reading the letter from that group, Mr. Smith stated that this is not a rezoning as stated in that letter.

Mr. Tarantino stated that this school is not in accordance with the master plan for that area

Mr. Smith inquired if there was any provision in that plan for a private school.

Mr. Tarantino stated that he did not recall. He stated that the citizens are not objecting to the church, but to the school. He stated that the traffic on Braddock Road has built up out of proportion. There is a new shopping center going in right across the street from this church and proposed school. He stated that he realized that construction will not stop, but they would like to keep it within reason.

Mr. Durrer inquired how many people Mr. Tarantino represents. He stated that he was not concerned with the Braddock Road Coalition.

Mr. Tarantino stated that everyone he had talked with was in opposition to this enlarged school, at least 99 percent. There were over 100 families represented on the petitions, at least 25 percent of both subdivisions.

In answer to Mr. Durrer's question, Mr. Tarantino stated that he and the people that he represents are officially requesting the Board hold a rehearing on this case. /that

The Board Room was completely filled with people interested in this case. Mr. Tarantino stated that he alone had been asked to appear. There were about ten people in the room who had come with him. The other people in the room indicated by raising their hands that they came to support the church. They were parents of the children that go to the church school and church members.

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Page 525, November 16, 1976
FAIRFAX BAPTIST TEMPLE (continued)

Rev. Calvert, pastor of the church, 7803 Barstow Street, represented the church to request the Board not hold a rehearing. He answered Mr. Tarantino's points of objection that he had enclosed with his letter requesting the rehearing, and to Mrs. Aubrey Moore's letter requesting the rehearing. He stated that this school is not a separate corporation, it is part of the church. This is not a new building for a school. It is a building for a church and all its related activities, one of which is a school. There already is a school within this church. There is a special permit for that school of 200 students. The property owners who received notice were well aware of their rights to be heard by this Board because they had appeared before this Board prior to that time on previous church cases. Up until November 11, Mr. Tarantino only had 25 homes represented. There are over 400 homes in that subdivision. There was a sign posted on the church property which said 700 students and stated the time and date of the hearing. He stated that he had called Mr. Webb and personally asked him if he would come into the church office and look over the plans. He stated that he spent 45 minutes showing Mr. Webb the plans. He stated that he had also tried to contact Mr. Butler and had left messages at his home and at his office to come in and see the plans.

The points for a rehearing are covered in the Zoning Ordinance, Section 30-6.11 which states that no motion for rehearing shall be entertained unless new evidence is submitted which could not reasonably have been presented at the original hearing. He stated that he had heard no evidence that could not have been heard at the original hearing. He stated that this application had been before the Board since September 3, 1976, the date of filing. The church complied with all the requirements that they were asked to comply with.

Rev. Calvert then spoke to the points of opposition in Mr. Tarantino's letter dated November 11, 1976. Those points were traffic impact, land values and need.

Mr. DiGiulian stated that he had not heard anything today that would lead him to believe that there was any new evidence or new information that would cause him to change his vote, or that would require a new hearing. He moved that the request for the rehearing be denied.

Mr. Swetnam seconded the motion.

The motion passed 4 to 1. Mr. Durrer voted No. Messrs. DiGiulian, Swetnam, Smith and Barnes voted Aye.

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NOVEMBER 16, 1976 MEETING OF THE BOARD OF ZONING APPEALS
AFTER AGENDA ITEM

HOUSE OF BROKERS REAL ESTATE CORP., S-42-76, Granted May 4, 1976.

The Permittee had supplied new certified plats showing a greater number of parking spaces, the deletion of a deceleration lane, a deletion of a row of hedge, a change in the entrance which was requested by Design Review in order that the entrance be 22' wide.

Mr. Jack Chilton from Design Review had confirmed to the Clerk that his office would not require a deceleration lane on Roberts Avenue and that it could be deleted from the plan. He did, however, request that the applicant provide some screening along the parking area.

A representative for House Of Brokers was present. The Board discussed this matter and the decision was that the Permittee would be allowed to delete the deceleration lane on Roberts Avenue, that the Permittee COULD NOT increase the number of parking spaces and all parking must be on the site which might mean the Permittee might have to limit the number of patrons and employees on the site at any one time, that the Permittee would be required to install the stockade fence around the parking area and provide whatever screening Design Review might request, and that the Permittee could rearrange the entrance around the utility pole.

This was Mr. DiGiulian's motion and Mr. Swetnam's second. Mr. Smith requested the amendment requiring the stockade fence which was accepted.

The motion passed 5 to 0.
(Notes by Harvey Mitchell.)

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AFTER AGENDA ITEM:

ALVIN AND RENATE MAHER, V-227-76, Granted October 26, 1976, to permit enclosure of pool 4' from rear, 3' from side property line.

The applicants have a problem. The pool already is 4' from the rear property line and the enclosure around the pool will come to within .2' from the rear property line.

Mr. Maher was present to explain his request.

It was the Board's decision that since the rear property line abuts open space where no houses will be constructed, that this variance would not cause an adverse impact on the surrounding properties, it would grant the requested change to allow the enclosure to be .2' from the rear line.

The motion passed 4 to 1. Mr. Smith voted No.

(Notes by Harvey Mitchell).

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The meeting adjourned at 3:25 p.m.

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Jane C. Kelsey
By Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the BZA on Nov. 30, 1976

APPROVED Dec. 7, 1976
DATE

Submitted to the Bd. of Supervisors, Planning Commission and other Depts. on _____.

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The Regular Meeting of the Board of Zoning Appeals Was Held on Tuesday, November 30, 1976 in the Board Room of the Massey Building. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; Tyler Swetnam; George Barnes; and John DiGiulian.

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The meeting was opened with a prayer by Mr. Barnes.

10:00 - MELVIN L. RIDER appl. under Sec. 30-7.2.10.6.4 of the Zoning Ord. to a.m. permit 12 parking spaces on property of gasoline station, 6701 Franconia Road to be used to rent U-Haul rental equipment, 90-2((11))5, (20,181 sq. ft.), Lee Dist., C-G, S-159-76. (Deferred from October 13, 1976.)

Mr. Warren Albert, 8210 Landover Road, Lanham, Maryland, representative from the U-Haul Company, represented Mr. Rider before the Board. He submitted the required proof of notification to property owners. The notices were in order.

Mr. Albert stated that Mr. Rider leases this station from the Potomac Oil Company.

Mr. Smith stated that after reviewing the lease in the file, he found that the lease expired in 1969.

Mr. Rider testified that he has an option to renew the lease on a yearly basis. He stated that there is a letter in the file from the Potomac Oil Company giving him permission to have these U-Haul trucks on the property.

Mr. Albert stated that the size of the spaces is 20' x 10'. The length of one and one-half ton trucks varies. The largest is about 28' long and the medium size is about 20' long.

Mr. Smith stated that if they put larger trucks in there, they could not get 12 in that space. He stated that this Board has never granted a use such as this in connection with a service station operation, on the same property as the service station.

The Board discussed other locations in the County that have similar uses.

Mr. Smith stated that the operation in Merrifield is in an industrial zone and the trucks are parking all over the street. He stated that when the amendment to the Ordinance came about, there was never any indication that this use would be permitted in service stations. All service stations Special Permits have contained a condition prohibiting these uses. Most gas stations do not have enough additional land to park these trucks without causing parking problems and ingress-egress problems, he stated. Some of these trucks that Mr. Rider has had on the property have been parked in the setback, which is in violation to the Zoning Ordinance. There can be no trucks parked in the front setback area. This is down in the overlay district where the Board of Supervisors sought to put some controls. He stated that he did not feel this is a compatible use with the area.

Mr. Durrer stated that he would then retract his statements that this was a compatible use with the gasoline station.

Mr. Albert stated that the setback from the pump islands is 45'. The trucks are parked behind that. He stated that the applicant will try to work out the parking in an orderly manner.

Mr. Durrer stated that he would be willing to vote for this for a limited time to see what happens.

Nov. 30, 1976

RESOLUTION

Board of Zoning Appeals

Mr. DiGiulian made the following motion:

In application S-159-76 by Melvin L. Rider under Sec. 30-7.2.10.6.4 of the Zoning Ord. to permit 12 parking spaces (10' x 20') on property of service station for U-Haul rental equipment, 6701 Franconia Road, 90-2((11))5, County of Fairfax, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 30, 1976, application having been properly filed in accordance with all applicable requirements; and

Page 528, November 30, 1976
 RIDER (continued)

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board, the Board made the following findings of fact:

1. That the owner of the property is Reproco Inc., Philips Petroleum.
2. That the present zoning is C-G.
3. That the area of the lot is 20,181 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Sec. 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Use Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. This Special Permit is not valid until a Non-Residential Use Permit is obtained.
5. A copy of this Special Use Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The maximum number of trucks (10' x 20') on the site at any one time shall be twelve (12).
8. The hours of operation shall be 7 A.M. to 10 P.M., Monday through Saturday and 8 A.M. to 8 P.M. on Sundays.
9. This permit is granted for one (1) year with three (3) one year extensions by the Zoning Administrator.

Mr. Swetnam seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No.

10:20 - HIGHLANDS SWIM CLUB, INC. appl. under Sec. 30-7.2.6.1.1 of the Zoning Ord. to permit installation of lights (DeVoe) on four existing tennis courts and increase hours of operation from 6:00 a.m. to 11:00 p.m., 2000' north of Route 689 (Linway Terrace), 31-3((1))4A and 185A, Dranesville Dist., 9.42 ac., RE-1, S-214-76. (Deferred from 10-19-76).

(The hearing began at 10:43 a.m.)

Mr. Haugh, 4049 North 41st Street, Arlington, Virginia, registered agent for the group, submitted the required proof of notification to property owners. The notices were in order.

Mr. Haugh stated that the proposed lights would be the low unobtrusive type about 14' off the playing surface.

In answer to Mr. Smith's question regarding the comments made in the staff report that two of their courts had been constructed without permission from this Board and were in the flood plain and no permission had been received from the Board of Supervisors, Mr. Haugh stated that that was true. He stated that the courts had been constructed in good faith with the understanding that approval was not necessary. It seemed to be the best place to place the courts. The courts were constructed in 1974. The association reviewed the

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Page 529, November 30, 1976, Highland Swim Club, Inc. (continued)

geological survey maps and determined that they could build these courts entirely above the 25 year flood line.

In answer to Mr. Swetnam's question, Mr. Haugh stated that there is a 10' perimeter fence around the tennis courts.

Mr. Swetnam stated that he noted from the plats that one of the courts is constructed over a sanitary sewer line. He stated that it seemed to him that this is improper construction. The tennis court will have to be torn up if the County has to go in there and repair the line. He stated that he questioned whether the County would have permitted this court to be constructed over this line.

Mr. Haugh stated that one of the upper courts is constructed over an 8 inch water main.

Mr. Swetnam stated that the club is in as much trouble with that one too.

Mr. Smith stated that some of the required parking spaces have been deleted.

Mr. Covington stated that to his knowledge, there had been no complaints about the parking. However, the Permittee should have come back to the Board for any of these changes

Mr. Swetnam stated that the tennis courts' fence is what bothers him. The water will bring the debris up against the fence and this in turn will block the flow of water as the debris piles up.

Mr. Charles Stephan, 1801 Monza Road, McLean, President of the Board of Directors for the club, spoke in support of this application. He submitted a list of 66 signatures from members of the club and residents of the vicinity of Hardy Drive and Forest Drive to the Board.

Ms. Watkins, Chesterbrook Road, spoke in support of the application.

Mr. Tompkins, 6309 Hardy Drive, contiguous property owner, submitted a petition from 13 property owners who are adjacent to these courts expressing strong opposition to this application. He stated that he is a tennis player and a member of the club, but the lights and the usage of the courts after dark is undesirable. They already have a problem with cars parking on the street in front of the courts and in front of the homes. The courts are noisy. The lighting of these courts will have a detrimental effect on the property values of the homes that are adjacent to them. The official entrance to the courts is from Bryan Branch Road. However, the courts are near Hardy Drive and people who wish to use the courts park on Hardy Drive to use the courts.

Mr. D. L. Ferguson, President of the B & F Brick Company, 19 Winchester Street, Warrenton, Virginia, owner of lots 163 and 164 which are directly across the street from the subject property, spoke in opposition to this application. He stated that he was in the process of building two houses on these lots. He stated that in 1969 when Highland Swim Club, Inc. was granted the original Special Use Permit to construct the facilities, one of the conditions was that they provide landscaping and screening from the neighboring houses. After much discussion and delays, the club finally put in some very small evergreens and a screen on the courts. The addition of these lights to these courts will be detrimental to the whole community, he stated.

The Board was in receipt of a letter from Col. Tormey, one of the adjacent property owners, in opposition to this application.

Mr. Haugh in rebuttal stated that when Hurricane Agnes came through several years ago when almost every stream was flooded, the club had no flooding. The hours of operation have been from daylight until dark.

Mr. Durrer inquired of Dr. Tompkins if lights on the lower courts would affect him and his neighbors. Dr. Tompkins stated that they would affect them because the tennis players would still park their cars on Hardy Place in order to get to the courts.

Mr. DiGiulian moved that this case be deferred until the Board can get a drainage report from Design Review as to whether this is, in fact, in the flood plain and whether or not any hold harmless documents have been executed, and if not, why not.

Mr. Durrer seconded the motion.

The motion passed unanimously. The case was set for decision only for January 4, 1977, at around 2:00 p.m. after the regular cases have been heard.

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10:45 - JAMES R. HUNTER, V-264-76.
a.m. (Began at 11:20 a.m.)

Mr. Hunter appeared before the Board and requested that his case be deferred in order for him to meet with his architect and see if they can redesign the proposed pool so that Mr. Jenkins' property line is not affected. He stated that he had just learned that he needed a variance from that property line and Mr. Jenkins is opposed to the request. Mr. Jenkins agreed to the deferral. He is one of the contiguous prop. owners. The Board deferred the case until January 4, 1977 at 10:00 a.m. for a full hearing.

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11:00 - NICHOLAS J. LARDIS appl. under Sec. 30-6.6 of Ord. to permit carport a.m. to be enclosed 5.4' from side property line (8' and total of 20' required), 8005 Lake Pleasant Drive, Saratoga Subd., 98-2((6))165, (8,400 sq. ft.), Springfield Dist., R-12.5 cluster, V-265-76.

(The hearing began at 11:25 a.m.)

Mr. Lardis presented the proof of notification to property owners of this hearing to the Board. The notices were in order.

Mr. Lardis's justification for this variance request was because his property slopes from the front rapidly toward the rear from the north to the south property line. It would be very difficult if not impossible to construct a garage anyplace else on the property, and the carport would have to be removed in order to construct in the back at all. There are 75 houses in this section of Saratoga subdivision and only 11 have carports with three sides open, only 2 that have no garage or carport. The rest have garages. On his side of the street on Lake Pleasant Drive, there were no garages at all. He stated that since he moved there, there have been 7 houses that have constructed garages out of their carports. Three of these have obtained variances from this Board. Two of the houses that had carports, have enclosed them within the last three weeks. This will not detract from the appearance of the neighborhood, but will give it a more pleasing appearance.

There was no one else to speak in support of this application and no one to speak in opposition to it.

Nov. 30, 1976

R E S O L U T I O N

Bd. of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, application V-265-76 by Nicholas J. Lardis under Sec. 30-6.6 of the Fairfax County Zoning Ordinance to permit enclosure of existing two-car carport at his residence at 8005 Lake Pleasant Drive, 98-2((6))165, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 30, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 8,400 sq. ft.
4. That the Board finds that the applicant's property has exceptional topographic problems.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
 2. This variance shall expire 1 year from this date unless construction has started or unless renewed by action of this Board prior to expiration.
- Mr. DiGiulian seconded the motion. The motion passed 3 to 1. Mr. Smith voted No. Mr. Barnes was out of the room.

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11:20 - CHATEAU REALTY, INC. appl. under Sec. 30-7.2.9.1.7 of the Zoning Ord. a.m. to permit real estate office in older structure (Group IX) 8700 Arlington Blvd., 49-3((1))24, (3.1 acres), Providence Dist., RE-1, S-266-76.

(Hearing began at 11:50 a.m.)

Lee Fifer, attorney for the applicant, presented proof of notification to property owners of this hearing. The notices were in order.

Mr. Fifer located the property and pointed out how the surrounding property is used. He stated that this property is at the intersection of Route 50, Arlington Blvd., and Cedar Lane. To the north on Cedar Lane is the Bruen Chapel Methodist Church which also operates a montessori school, to the east is a doctor who has an office in his home, across Arlington Blvd. is another church, down the road on Arlington Blvd. is lot 19 which has a small school on it. This particular property has a home occupation in it. Mr. Covington explained that this home occupation is nothing more than a home office where there can be no storage of supplies or equipment and no customers.

Mr. Fifer stated that Chateau Realty, Inc. is under a lease agreement contingent upon approval from this Board, for the use of this property. This company is presently operating in Vienna on Maple Avenue. They will also continue to operate there. The total number of employees including part-time employees could go as high as forty. However, a lesser number will be on the premises at any one time. The average would be a small secretarial staff, about five. The agents come in in shifts and randomly during the day. Most of the clients meet the agents off-site. There will be fewer than 25 trips to this property and from this property per day. There are 16 parking spaces provided, which they feel will be more than adequate.

Mr. Smith stated that when they have a sales meeting where all the agents meet together, they will need more than 16 parking spaces.

Mr. Fifer stated that the Comprehensive Plan for this area designates 2 to 3 units per acre and the traffic generated from these units would be from 55 to 80 trips per day. The traffic generated from this proposed use will be much less and never no more than 80 per day. The peak traffic load would never be during rush hour. There will be no access from Route 50 and this use will not generate the traffic to necessitate a service drive along Route 50. They do plan to construct a deceleration lane on Cedar Lane.

In answer to Mr. Swetnam's question, Mr. Fifer stated that the driveway will be 200' from Route 50. He stated that he had asked the County staff if they felt there would be a site distance problem since the standard distance is 450', but the staff advised that there would be no problem but they would like the entrance further down on Cedar Lane.

Mr. Fifer stated that this Board granted a previous Special Use Permit for this property for the Young Americans for Freedom organization. However, that permit was never validated and never used. The Board denied the next request for a Special Use Permit for a doctor's office at this location. One of the big issues seemed to be the fact that the trees were removed from the property prior to the case coming before the Board. This applicant had nothing to do with that happening and, in fact, would prefer to have the trees back again. The applicant is willing to plant additional shrubs and maintain a manicured lawn which would greatly improve the looks of the property from what it is now. He stated that he felt this use would be much less than the use previously approved by this Board for a national headquarters building for the Young Americans for Freedom organization. Apparently, the Board felt that that group's use met the standards set forth in the Ordinance for Special Use Permit uses in R Districts. The traffic proposed for that use would be much greater than for the proposed use of a real estate office.

Mr. Fifer submitted a letter with the signatures of two families in the area in support of this application. Those families have no connection with this operation.

Mr. Smith stated that the Young Americans for Freedom organization was a non-profit community type organization, not a commercial operation. There was a requirement placed on that permit that the use will be under site plan control, and that the screening remain. That screening was subsequently removed by the owner of the property, Dr. Cay, after he obtained the property. The Young Americans for Freedom never took title to the property.

There was no one else to speak in favor of the application.

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Mrs. Jean Rowe, 3001 Cedar Lane representing several of her neighbors, Mrs. Lunsford, Eleanor Chesley, 3000 Cedar Lane, the Blanchfords, 2945 Cedar Lane, testified in opposition to this application. She stated that it seems obvious to the long time residents of that community that the owner of the property, Dr. Nuri Cay, is not interested in the community for residential purposes, but in turning this piece of property into a commercial enterprise. They wish to keep this property in a residential use and feel that a real estate office would be encroaching on their residential community.

Dave Spurway, 2924 Cedar Lane, spoke in opposition. He questioned the volume of business that might be transacted at this location that could bring a much larger number of people in and out of this property.

Herbert Hoppy, 2939 Cedar Lane, spoke in opposition. He expressed his concern with the increased traffic headed south on Cedar Lane from Lee Highway to Route 50. He stated that there is already a major problem here. If there is a turn off to the right 200' away from the intersection, this creates a safety problem. He stated that he purchased his property four years ago and plans to retire there. He wants to see the community remain residential in character and feels this use would change the residential character of the area.

Mr. Galotta, 2920 Cedar Lane, spoke in opposition. He, too, felt this use would change the residential character of the area. He had been a resident since 1948.

Mrs. Charles Walker, 3054 Cedar Lane, spoke in opposition. She stated that they live directly across the street and have lived there for 24 years. They will be the most affected property owner. She stated that any more traffic on this narrow lane would cause additional traffic problems. She stated that now that the beautiful trees have been cut down, they can see straight through this property to the adjoining doctor's property. The doctor has an office in his home, but there is never more than two or three cars there. She stated that they would like to keep their residential neighborhood and not have the traffic increased any more than it already is.

She submitted two additional letters in opposition to this application. Mr. Smith read a letter in opposition from the Mantua Citizens Association. Mr. Charles Walker, 3054 Cedar Lane, spoke in opposition. He stated that he wished to find out about the sign that would be used. He stated that every real estate agency that he has ever seen has always had a large sign and this in itself would change the residential character of the area. He stated that real estate signs have completely ruined an area of McLean along Route 123 where residences have been converted into real estate offices. All of those have large signs. It is the life blood of a real estate office. He stated that even though this property uses an Arlington Blvd. address, it actually has its entrance onto Cedar Lane and should have a Cedar Lane address.

Patrick Now, 8726 Cherry Drive, felt that this use would cause the area to be more vulnerable to commercial encroachment and was opposed to it.

James Olliff, 2928 Cedar Lane, also testified in opposition. He stated that he felt commercial businesses such as this should be located in a commercial zone and he felt that this use was not in keeping with this residential community. He stated that there are nearby commercial areas where this real estate office could go.

Carolyn Hoppy, 2939 Cedar Lane, testified in opposition. She stated that she would object to even one commercial sign in their residential neighborhood.

Mr. Covington, Assistant Zoning Administrator, stated that this use would be permitted a sign unless this Board specifically denied it in the granting, if it grants it.

Mr. Fifer spoke in rebuttal. He stated that the opposition spoke of the lack of confidence in the owner of the property, Mr. Cay. Mr. Cay is not the applicant, Chateau Realty is. Mr. Ellis, Chateau Realty's president, has said that there is about one transaction a day, ~~and three~~ or four on the weekends. The Arlington Boulevard address for this property is assigned by Fairfax County. The applicant has nothing to do with it. The trips per day will be considerably less than what it would be if this property is rezoned to 2 to 3 dwelling units per acre. This use will improve the appearance considerably, he stated.

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CHATEAU REALTY, INC. (continued)

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Mr. DiGiulian asked Mr. Fifer how the applicant would feel about sliding the entrance up so that entrance to the property could only be from the south on Cedar Lane and no one could turn left from the site.

Mr. Fifer stated that the applicant has not considered that and would probably have to get some engineering advice on that. He stated that it seemed to him that it would make it more difficult on traffic.

Mr. DiGiulian stated that it would keep the traffic from being pulled into the residential area.

Mr. Smith stated that he felt the entrance should be from Route 50 because one of the specific requirements for Group IX uses is that "the use may be established only in a dwelling with frontage on a primary highway...". This would alleviate any traffic on Cedar Lane. He stated that this would have to be done in order to meet the specific requirement as stated above. This is the reason why the ordinance requires that this use have frontage on a primary highway, to take the traffic off residential streets.

property proposed for this
Mr. Fifer stated that he feels confident that this use has frontage on Route 50.

Mr. Smith stated that if the entrance to the property is from a contiguous street other than a primary highway, then it does afford an impact and creates a hazardous condition as far as the residential area is concerned. If this use is granted, the Board is not abiding by the intent of the ordinance.

Mr. Smith stated that there is a natural driveway from the other side of the property next to the doctor.

In answer to Mr. Swetnam's question, Mr. Fifer stated that Cedar Lane carries 5,000 cars per day according to the staff report.

Mr. Swetnam stated that the applicant has stated that this use would add 40 per day.

Mr. Smith stated that the entrance to this property is too close to the intersection. There is also a right turn lane onto Cedar Lane from Route 50.

Mr. Swetnam stated that he had rather see the entrance to the property on Cedar Lane for safety reasons.

Mr. Fifer stated that of the 40 trips per day to and from this property, most would be made at times other than during rush hour.

Mr. Durrer stated that when you add 40 cars a day to an already impossible situation, you have a real problem. Anyone who has been through Cedar Lane knows what the situation is. The impact to the residential area is a concern that is equal to the traffic situation. The opposition speakers do have a point, he stated. This is not a transitional area where in some near date it will turn into a commercial area. The plan calls for this area to maintain its residential character and this Board would be remiss if it grants this use, because of the traffic and the impact to the neighborhood.

There was no one else to speak regarding this case.

Nov. 30, 1976

R E S O L U T I O N

Bd. of Zoning Appeals

Mr. DiGiulian made the following motion:

WHEREAS, Application S-266-76 by Chateau Realty, Inc. under Sec. 30-7.2.9.1.7 of the Fairfax County Zoning Ordinance to permit a real estate office in an older structure (Group 9), 8700 Arlington Blvd. 49-3((1))24, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 30, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is M. Nuri and Nemika B. Cay.
2. The applicant is the lessee, contingent upon approval of this application.
3. That the present zoning is RE-1.
4. That the area of the lot is 3.1 acres.

4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is denied.

Mr. Durrer seconded the motion.

The motion passed 5 to 0.

11:40 - WILLIAM P. CUNNANE appl. under Sec. 30-6.6 of the Zoning Ordinance
a.m. to permit erection of 6' fence in required front setback, 6919
Jenkins Lane, 40-2((32))19, (16,048 sq. ft.), Dranesville Dist.,
R-17, Southampton Subd., Sec. 5, V-267-76, OTH.

Mr. Cunnane represented himself before the Board. He submitted the required proof of notification to property owners to the Board. The notices were in order.

Mr. Cunnane stated that he is on a corner lot which means that he has to conform to two front setbacks. This leaves him very little room in the back to erect a fence for the use of his family and children to play outside. Without the fence, the children are attacked by dogs. A 4' fence does no good when it comes to keeping out dogs. In answer to Mr. Barnes' question regarding site distance, Mr. Cunnane stated that there would be 84' from the corner of the intersection of the street to the beginning of the fence. It is 75' from the end of the fence at his property line to the neighbor's driveway. Therefore, site distance would not be affected.

Mr. Cunnane stated that he had spoken to his neighbor regarding this and the neighbor has no objection. He submitted a letter from the neighbor to this effect.

There was no one else to speak in favor of the application and no one to speak in opposition.

Nov. 30, 1976 R E S O L U T I O N Bd. of Zoning Appeals

Mr. Swetnam made the following motion:

WHEREAS, Application V-267-76 by William P. Cunnane under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit the erection of a 6' fence in required front setback, 6919 Jenkins Lane, 40-2((32))19, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 30, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 16,048 sq. ft.
4. That the Board finds that the applicant's property is exceptionally irregular in shape and has exceptional topographic problems.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is B. F. Dean Estate.
2. That the present zoning is C-N.
3. That the area of the lot is .8802 acre.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
 THAT the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans submitted to and approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. This SPECIAL PERMIT IS NOT VALID until a NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. There shall be no display, selling, storing, rental, or leasing of automobiles, trucks, trailers, recreational vehicles, lawn mowers, etc. from this property.
7. There shall be no signs permitted on the canopy.

Mr. Barnes seconded the motion.

The motion passed unanimously, 5 to 0.

 12:10 - AMOCO OIL COMPANY appl. under Sec. 30-7.2.10.3.1 of the Zoning Ord.
 p.m. to permit construction of canopy over existing gas pump, 6703
 Backlick Road, 90-2((1))25A 7 25B, Springfield Dist., C-N, S-203-76,
 (Deferred from 9-17-76).

Mr. Lawrence Hayward, project manager for Amoco Oil Company, submitted the required proof of notification to property owners to the Board. The notices were in order.

Mr. Hayward stated that this request is for one canopy over one pump island. Amoco feels it is necessary to install this canopy because of the new marketing concept changing this pump island to a self-service island. This will create a more conducive atmosphere for customers who wish to service their own cars. One pump island will remain full service. There will be no other change in the equipment. He submitted a rendering of how the canopy would look.

Mr. Smith stated that the advertising would have to be eliminated from the canopy.

Mr. Hayward stated that there would be no advertising on the canopy. The photograph that he submitted was just to show the type canopy that they plan to use. He stated that this canopy will not be detrimental to the neighborhood nor will it impede the traffic flow.

There was no one else to speak in favor and no one to speak in opposition to this application.

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R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application S-203-76 by AMOCO OIL COMPANY under Sec. 30-7.2.10.3.1 of the Fairfax County Zoning Ordinance to permit construction of canopy over existing gas pump, 6703 Backlick Road, 90-2((1))25A & 25B, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 30, 1976; and

WHEREAS, the Board has made the following findings of fact:

- 1. That the owner of the property is the American Oil Company.
- 2. That the present zoning is C-D.
- 3. That the area of the lot is .832 acre.
- 4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards For Special Permit Uses in C Districts as contained in Sec. 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is granted with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.
- 2. This permit shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
- 3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
- 4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. This Special Permit is not valid until a Non-Residential Use Permit is obtained.
- 5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 6. There shall be no display, selling, storing, rental, or leasing of automobiles, trucks, trailers, recreational vehicles, lawn mowers, etc. from this property.
- 7. There shall be One (1) canopy.
- 8. There shall be no signs on the canopy.

Mr. DiGiulian seconded the motion.

The motion passed unanimously, 5 to 0.

12:20 - BERNARD C. COX appl. under Sec. 30-6.5 of the Zoning Ord. to appeal p.m. the Zoning Adm.'s decision to revoke Special Use Permit. Property located at 3801 Skyview Lane, 58-4((1))54, 8 acres, Providence Dist., RE-1, V-183-76. (Deferred from 9-21-76.)

Mr. Smith stated for the record that the Special Use Permit on this property has expired, therefore, this item will be removed from the Agenda.

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2:00 - LAKE BARCROFT RECREATION CENTER, INC. appl. under Sec. 30-7-2.6.1.1 of p.m. the Ordinance to permit amendment to Special Use Permit to permit deletion of internal road previously required under existing Special Use Permit, Recreation Lane and Whispering Lane, Lake Barcroft Subd., 61-3((14))A-3, 13.67779 acres, Mason District, R-17, S-261-76.

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Mr. Richard R. G. Hobson, attorney for the applicant, submitted the required proof of notification to property owners to the Board. The notices were in order.

In answer to Mr. Smith's question, Mr. Hobson stated that he was aware of the Show-Cause hearing on this Permittee.

For the record, Mr. Smith read that scheduled 2:00 p.m. item:

LAKE BARCROFT RECREATION CENTER, INC., S-142-74. A SHOW-CAUSE HEARING will be held to show cause why Special Use Permit for this facility should not be revoked for failure to comply with the condition set forth in the granting, that condition being the internal road that was to be completed between the north and south parking lot by October 30, 1976, facility located at Whispering Lane and Recreation Lane, Lake Barcroft Subd., 61-3((14))A-3, 13.67779 acres, Mason District, R-17.

the Board's
Mr. Hobson stated that he had no objection to hearing the two scheduled items concurrently. He stated that he did, however, wish to make a technical objection to the show-cause hearing. He stated that they object to the procedure of the Board in issuing a show-cause because under State Code 15.1, the Board does not have the power to revoke Special Use Permits.

Mr. Smith asked Mr. Hobson if he was aware of the fact that the courts have upheld the Board's revocations in the past.

Mr. Hobson stated that he was aware that the courts have ruled both ways, but it always has ruled one way in this case. Notwithstanding, he felt that the hearing could go forward and the Board could hear testimony on these two items.

Mr. Hobson stated that in 1973 he represented the Permittee before this Board after the Board had revoked the Special Use Permit. He stated that he subsequently filed a Petition which resulted in the reversal of that action by this Board. The Board passed an amendment to the Special Use Permit October 30, 1974. The court case, however, is still pending. The Board in 1975 passed another amendment to the Special Use Permit. One of the conditions to that granting was that the applicant and Permittee provide a 22' interior road from one parking lot to the other. That road was to be constructed by October 30, 1976. A bond of \$15,000 was posted to insure completion of that interior road. Prior to this Show-Cause hearing notice being issued by this Board, the Permittee had already applied for this amendment requesting the deletion of the road requirement. It is the applicant's position that there is no justification for this interior road. It has been two years since that requirement was put on by this Board and experience has indicated that there is no need for that road. The facility is no where near capacity. The construction of that road would be injurious to the environment because of the trees that would have to be removed, which trees create a buffer from the adjacent homes. The Permittee does not have the money to construct the road and the bond amount is not adequate.

Mr. Smith stated that this is quite a change from two years ago. At that time a considerable amount of time was spent negotiating and trying to come up with a solution to the problem of the Permittee changing the private road into a public road. This interior road was required in order to alleviate the impact to the residents living adjacent to what is now a public road, Mr. Smith stated. The information that the Board had was that the \$15,000 bond would be more than adequate to construct that road.

Mr. Jim Derrock, with the survey and engineering firm of Patton, Harris and Rust, 10523 Main Street, Fairfax, explained to the Board why the road is going to cost much more than \$15,000. He stated that he had never had an opportunity to speak regarding this road until this time. He stated that he has now designed a road to the west of the pool meeting Fairfax County standards. The standards for road grades is 10 percent, therefore, this road is laid out at a 10 percent grade. The road is laid out on the side of a hill which slopes from 30 to 50 percent. When you get behind the pool, you are 7' below the pool. He stated that he would hate to see blasting for the road taking place so close to the pool. He stated that he did a cost estimate for the road and the conservative estimate is \$21,000 for the excavation and a total price of \$51,000. The road is 22' wide and 520' long.

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Mr. Swetnam inquired of Mr. Derrock if there would have ever been a time in the history of this case that he could have gotten a balance on site, before any work was started.

Mr. Derrock stated that there was, there were some existing roads that came in and went down along the stream and on up through that area originally, but there was no requirement for a road at that time. As construction came along, the area that could have been used was not used.

Mr. Swetnam asked if all the design was done at one time, or if it was in sections and piecemeal.

Mr. Derrock stated that the original design was not done by him. It started out with different concepts from the word 'go' and it has had revisions from time to time. It all entered into the subdivision development, the recreation center development, the changes that came about by changing the subdivision requirements from a density cluster to a convention cluster, which sections were going to have tennis courts, and to which side that area was to be allotted. In other words, there have been a lot of changes. Even the road, Recreation Lane, was entirely different, the entire layout.

Mr. Swetnam asked again if there was a time when all this balance problem would have disappeared.

Mr. Derrock answered 'absolutely'.

Mr. Smith stated that he agreed that there have been a lot of changes. The Board had no knowledge of the subdivision at the time of the original granting.

Mr. Hobson referred Mr. Derrock to the drawing on the wall before the Board. Mr. Derrock stated that that drawing reflects the clearing and grading that will be required for this road.

In answer to Mr. Smith's question as to when he first discovered the additional cost that would be required for this road, Mr. Derrock answered 'a year ago'. He (Mr. Derrock) stated that he finalized the cost estimate last week.

Mr. Smith stated that in other words, the applicant has not pursued the construction of this road immediately after the agreement and the bond was posted.

Mr. Derrock stated that the applicant did ask him to do several feasibility studies on alternate locations for the road. This location before the Board today, even though it is not good, is the least damaging. As Mr. Swetnam was bringing out earlier, the road was not brought into the picture early enough to set the whole design around it and take care of it.

Mr. Derrock stated that October 30, 1974 at the time of the earlier hearing where the requirement for this road was imposed, he did not testify, but he was in the audience.

Mr. Swetnam stated that it really doesn't matter whether it costs \$25,000 or \$51,000, if this Board decides that that road should be constructed and calls for the bond, then it is up to the County to fill in the rest of what is needed.

Mr. Hobson stated that the Chairman has said that Lake Barcroft Recreation Center, Inc. agreed to that road. They did not appeal the Board's decision to put that as a condition, but they did not request the road requirement. They objected to the road requirement, but the Board imposed it and they felt it was a law. Now, the Permittee is back asking for the change.

Mr. Smith stated that what happened is the Permittee came back to the Board and asked for a change, for a private road to be a public road, and that was when the Board made the internal road a requirement. Now, the Permittee is again coming in at a late date. If the Permittee did not agree with the condition, then it should have been discussed at that time. The Board allowed sufficient time for construction.

Mr. Hobson stated that the two year time limit for construction of the road was put in and was necessary in order to obtain financing and other reasons. Mr. Cothran, Mr. O'Malley, Mr. King and Helen Gelster spoke in support of this request. The applicant spent 1 hour and 10 minutes in presentation of the case. The Board gave the opposition the same amount of time for the presentation of their side.

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Mr. Rufus Brown, 6506 Oakwood Drive, President of the Barcroft Woods - Belvedere Citizens Association, represented that association and other members of his community in opposition to the request for deletion of the road. He read from the verbatim testimony of the hearing before this Board two years ago. He stated that Mr. Hobson had stated at that hearing that while he did not agree with the requirement for this internal road or like the requirement, in the spirit of cooperation and compromise, it is a workable solution. Mr. Hobson requested the Board to allow the applicant two years. Lake Barcroft has now been permitted to turn what was a private road into a public road in order to gain access to their subdivision. The subdivision is progressing well, but there are a few houses or lots left unsold. But, the road that was required has not been constructed. He stated that there is traffic to that center. The traffic comes in Recreation Lane and is a burden on their community, not Lake Barcroft community. The subdivision houses have not been occupied as yet, therefore, they do not create traffic yet.

Mr. Sheps, Mr. Socony, and one other speaker spoke in opposition to the request for the deletion of the road requirement.

Ann Helfer, 5621 Jay Miller Drive, representing the neighbors on Jay Miller Drive, spoke in support of the request for the deletion of the road requirement. She stated that she was speaking as a third party, apart from the recreation center and also from Mr. Brown's community. She stated the road would affect the value of their properties adversely and hoped that the Board would delete that requirement.

Mr. Hobson, in rebuttal, stated that whatever the justification for the requirement for the proposed interior road was at a time in the past, two years ago, that justification does not exist today. The present utilization of the road is substantially below the expected amount. There are fifteen cars on the parking lot per day on the average. The people who belong to the Center walk. If this road is built, no one is going to use it. The buffer will be reduced and there will be a potential problem to the pool, he stated. This is not a reasonable requirement. It might have been two years ago, but it is not now. This requirement will pose an environmental problem and a financial hardship.

Nov. 30, 1976

R E S O L U T I O N

Bd. of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, Application S-261-76 by Lake Barcroft Recreation Center, Inc. under Section 30-7.2.6.1.1 of the Fairfax County Zoning Ordinance to permit amendment to Special Use Permit to delete internal road, Recreation Lane and Whispering Lane, 61-3((14))A-3, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 30, 1976; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 13.67779 acres.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is denied.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 1. Mr. Barnes voted No.

Mr. Smith stated that the applicant has not shown sufficient evidence for the Board to amend the conditions set previously by the Board at an earlier hearing.

Mr. Barnes stated that he is voting No because he felt this requirement would do more harm than to just leave it as it is.

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Mr. Smith stated that the Show-Cause hearing may be a factor at this point. He asked Mr. Hobson if he would like the Board to defer the Show-Cause hearing to give them some additional time to discuss this.

Mr. Hobson stated that he would like a deferral on that.

Mr. Swetnam moved that this be postponed until December 21, 1976, at approximately 2:00 p.m., after the regular agenda items have been heard.

Mr. Durrer seconded the motion.

The motion passed 5 to 0.

// NOVEMBER 30, 1976 -- AFTER AGENDA ITEM

1. KEY TO LIFE ASSEMBLY, S-234-75, Granted November 19, 1975. Request for extension dated November 18, 1975.

Mr. Barnes moved that the request be granted for a six month extension from November 19, 1976.


Mr. Durrer seconded the motion.

The motion passed 5 to 0.

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The meeting adjourned at 4:45 p.m.

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BY Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

Submitted to the Bd. of Zoning
Appeals on _____

Submitted to the Bd. of Supervisors,
Planning Commission and other
Depts. on _____


DANIEL SMITH, CHAIRMAN

APPROVED: Dec. 14, 1976
DATE

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