

# ALBEMARLE COUNTY BOARD OF ZONING APPEALS

COUNTY OFFICE BUILDING

401 MCINTIRE ROAD – LANE AUDITORIUM

TUESDAY, MARCH 6, 2012 – 2:00 P.M.

Board Members: David Bass, Chairman  
Lloyd (L.F.) Wood, Vice-Chairman  
Randy Rinehart, Secretary  
David Bowerman

Staff Members: Amelia McCulley  
J.T. Newberry  
Ron Higgins  
Carla Harris  
Stewart Wright

County Attorney: Andy Herrick, Assistant County Attorney

## 1. Call to Order

The meeting was called to order at 2:00 p.m. by Board Chairman David Bass, who stated that if someone was aggrieved by a decision of the Board they had a right to appeal to circuit court within 30 days of their decision.

## 2. Establish a Quorum

A quorum was established, and the meeting proceeded.

## 3. Matters Not on the Agenda

None were presented, and the meeting proceeded.

## 4. Matters Deferred from Previous Hearing

None were presented, and the meeting proceeded.

## 5. Variance Hearing

### VA 2012-00002 Regal Cinemas Signage

**Mr. Wright:** Good afternoon, Board members. I'm here to present the staff side of Variance 2012-0002, the Regal Cinemas in Stonefield. You received the staff report a while back. One thing that I will note from the staff report, one change has been made, the applicant in working with the County and exploring other options for signage on this particular site has been able to reduce the amount of signage that they are requesting down to 313 ¾ square feet as opposed to the original 497. But it still requires a variance of 113 ¾ square feet. The location of Stonefield, as you can see on the PowerPoint – or the Regal Cinema – located right beside Hydraulic Road near the intersection of Hydraulic and Route 29. And there's the zoning map...zoned Neighborhood Model Development. The parcel just to the north of it is the Northrop Grumman site, which is zoned LI, and this is an overview map of the Stonefield development as far as where buildings will be. And if you all have any questions later about what is what, I'll be happy to answer that.

The variance request – the original request – was an increase from 200 to 497 square feet. And as I said, on February 28 the applicant has revised their request to 313.75 square feet. These are some sign views as far as

where the signage will be placed on the building. The variance criteria in part of the Virginia Code...I won't bother reading it to you. Qualifying conditions, the variance in part of the Virginia Code relate to the exceptional conditions of the property, and the applicant's argument is more about how the zoning regulations are creating a hardship for signage on the building. To change the sign regulations as far as wall signage on a building, that would be better handled through a zoning text amendment.

The first criteria in undue hardship, the applicant states that the ordinance allows for a sign area up to 200 square feet. But due to the strict application of the ordinance this creates an undue hardship just because of the size and scale of the Regal Cinema building and the mixed-use nature of the building with patron parking located underneath the cinema. Staff's response – the relevant history on this: August 4, 2010, the Board of Supervisors did approve a modification to change the allowable sign regulations for this development from Neighborhood Model district up to highway commercial and planned development shopping center regulations and that is a significant change. Neighborhood Model district sign regulations are fairly restrictive, and the highway commercial/planned development sign regulations are the largest allowance that you can possibly get in the sign ordinance. So because of that we are unable to find evidence of undue hardship.

The uniqueness of hardship, the applicant states that this hardship is not shared by other buildings in the area as this building's size and scale are unique to this area and there are no other cinemas or buildings housing large areas over an open parking garage, such as this structure. Staff's response: because we are not able to find an undue hardship, it is difficult to find the uniqueness of hardship. The applicant has not provided evidence that such a hardship is not shared generally by other properties in the same zoning districts and in the same vicinity.

The third criteria, impact on the character of the area: the applicant states the authorization of this variance will not deter from the adjacent property as the adjacent property on the same side of Hydraulic Road is also owned by Albemarle Place and is part of the Shops at Stonefield – a mixed-use development based on the Neighborhood Model district code of development. The proposed variance will not deter from the property across Hydraulic Road because these properties are commercial in nature and use. Staff's response: one could argue that additional signage can create a further distraction to drivers and has an additional impact on the Entrance Corridor; the applicant has not provided evidence that authorization of such variance will not be a substantial detriment to adjacent property, and that the character of the district will not be changed by granting the variance. Therefore, staff's recommendation, because all three criteria are not met, staff is not able to recommend approval.

**Mr. Bass:** Questions of Stewart, or do we need to hear from the applicant next? Would the applicant come forward please and address the Board? We ask you to state your name for the record.

**Mr. Gallagher:** Good afternoon, Tom Gallagher with Edens, the developer of the Stonefield property. With me is Chris Haine, who is also with Edens and Bill Lockett, who is with Seaman Network – the direct consultant to Regal. He's down from Philadelphia, Chris and I are out of our mid-Atlantic office. Thank you for your time today. What I'd like to do is have Chris walk through quickly a presentation, to provide a little bit of additional information, and then I'd like to take a moment to address some of the points that Stewart made with respect to the criteria.

**Mr. Haine:** Good afternoon, my name is Chris Haine. I've put together a quick PowerPoint presentation, which summarizes some of the elements involved with this application. First is just a general orientation of our site that we are here today to speak about – the Regal Cinema. I've highlighted that building in blue as shown in the fully developed Phase I plan that we're currently working on, as it sits in context with all of the other developments. One thing I'd like to point out here is its siting within what is named "Bond Street" but is functioning as kind a Main Street element, and the plaza that is the main cinema plaza that we are pulling off of

that functions as the main entrance to the cinema. So when we started working on the signage we did a code analysis, and we put together this small demonstration just to show some scale and proportion. Our code analysis, we created kind of a prototype example of Building A. And based on the current code calculations, if this Building A were approximately 130 linear feet of frontage and 100 feet deep, that would allow a sign area of approximately 200 square feet on those walls – that would represent the maximum allowable sign area per the current code. The building we're working on is significantly larger. We've kind of drawn a prototype Building B, shown as two stories, 154,000 square feet – which would reflect a similar square footage from our construction documents. And what we wanted to demonstrate with this simple diagram was the scale and proportion issues associated with the current zoning language. It may appear that those black signs that are representative are smaller, but in fact they are the same size; it's just one of the visual elements involved with proportion and scale. So that is representing 200 square feet of sign on a building that is much larger in scale and proportion.

When we originally came with our application, our original application proposed a number of signs around the building as staff mentioned. It is summarized on the right: total sign area square footage of just under 500 square feet. The diagram above shows on the right the proportion and scale of the proposed signs that were in our original application. You can see that they've gotten a little bit longer, but not necessarily massive by any means. Finally, we updated our application at the end of the month of February, resubmitted it. As staff mentioned, we determined a number of ways to minimize the signage as we move around the building. So, we've removed one sign off of the south elevation and we've added a sign on the north elevation that was associated with that cinema plaza I showed earlier.

Finally, on February 6, we did receive a positive recommendation from the ARB,. And I've cut and pasted the text from the minutes, but essentially the ARB just looking at this project from a scale and proportion architectural review concurred that the signage from just scale and proportion was appropriate. And finally, just to close that thought – these renderings are from our ARB approval process documents. We worked with the ARB over a number of months last year, and we put them in here because we think it's relevant to show how the signage was originally designed – the concepts and how it's really remained the same over the same period of time. The building has always been designed with this in mind, and we really feel like it's a compliment. I do also have, if you'd like to see, the revised application in a format we could look at on the screen if that's necessary. Thank you.

**Mr. Bass:** Thank you, Chris.

**Mr. Gallagher:** Thanks, Chris. Real quick, what I'd like to go through, kind of point by point with respect to some of the key criteria which is on the hardship side. And I think one of the things to note in terms of the property specific is that based on the design of the property...in terms of the orientation of the property itself to 29 and Hydraulic, it's really in a rectangular [position], it backs away from the property. The other unique attribute of the property, and by extension the zoning, is that under the code of development the requirements that we had to develop under called for a good amount of density – specifically that we had to hit minimum thresholds. Long term this property will continue to add square footage. But even right now we didn't have the opportunity in terms of Regal to put that down facing Hydraulic with the parking fields in front of us. So there were unique attributes that relate both to the property and the physical attributes as well as the zoning, and that reflect in the number of buildings and the sight lines that would be available for Regal. So I think there's a uniqueness to the property and the zoning that come into play here.

I think the second element with respect to the uniqueness in the hardship element, and I understand staff's comment, but connected to that is if you look at the County and try to find similar projects you really can't find one and this was the first neighborhood model district. I think the zoning administrator could certainly confirm

that. And in terms of the building and the way it was constructed to accommodate the code of development and the uniqueness of the structure – i.e. the parking underneath with the cinema on top. I think there is a uniqueness element to it that is compelling. With respect to the sight lines – and this goes kind of to staff's comment with respect to [character] as well, but it's a fine line on signage between distraction and way-finding and ensuring that people can find it. The sight lines and people that are coming to this area - I mean certainly you could make a case that people that live in the immediate locality will know where Regal is and they're not going to have any problem finding it – but this is going to be a regional draw. And right now people who want to go for this kind of theater experience frankly I think probably go to Short Pump. So there's going to be a lot of people coming from outside of Charlottesville and even the County that come here, and I think it is important from a safety and direction standpoint that the signage be as prominent as it can be. Finally, with respect to the impact on the character of the area – Chris mentioned the ARB. And certainly while it's not binding, I think in terms of what they've weighed in on and the positive recommendation we got from them, I think if one of the criteria that does apply it would be on the character. We've worked with them over the last year and a half in terms of the architecture and the signage and I think from a context and proportionality standpoint, I think that does kind of come into play.

I think that's it. I would like Bill Lockett, since he made a trip down, he's worked with Regal and he could take a minute if you would allow him, to just talk about Regal's kind of perspective on this specifically.

**Mr. Lockett:** Good afternoon, Board. Again, my name is Bill Lockett. I work with SEAMA. We are the sign consultant for Regal on a national level, and we work with Regal on a number of locations throughout the country. And I think it's important to note that Regal's philosophy is one of a true community partnership. And I think if anybody is familiar with Regal in any other communities, what they're asking for is very minimalistic in terms of having the adequate size signage in order to display to the patrons coming to the theater how to get around from a traffic safety standpoint, but also from just simply branding the building as an entertainment venue. I mean, this is Hollywood glitz and glamour – it's Regal. And so it's very understated, and as you could see coming in today there was a decrease in square footage. And so I think Regal is at the point where they are asking me to ask the Board to really take into consideration typical Regals that have neon or LED that illuminates for long distances, and larger letters with exposed neon, to a very partner-oriented, minimalistic approach to a halo-lit wash, smaller letters and something that's completely understated in comparison to what they do in other communities. Now I'm not asking the Board to be another community, but am just asking on behalf of Regal to take that into consideration. Regal truly feels that the application presented is really the minimal approach in order to properly identify the building and to safely get patrons throughout the complex. That's all I have, thank you.

**Mr. Gallagher:** That is really it, we're certainly available to take any questions.

**Mr. Bass:** We've got some questions, I know I do, I suspect the other Board members do. So let's take a minute and does anyone want to start?

OK, I guess when I first read this I thought of the fact that in Albemarle I know where all the theaters are. I don't need signage at all to be honest with you, as a local resident to find one. So, you're making a point today though that there is a way-finding issue because of your regional draw. And then I thought about the site. If I were coming from the north – say Washington, D.C. or Greene or Madison County or adjacent counties to the north – I would come down 29 North. And I believe it looks like I would turn in on something that doesn't exist today, I'd take a right turn wouldn't I?

**Mr. Gallagher:** So if you're coming from the north, let me put this in context...the challenge that we're having on signage is not only in the context of what we're talking about today but in terms of the overall

ordinance. I mean, Albemarle for a lot of good reasons has a very strict sign ordinance, so what we've got planned is that there will be a monument sign that will be located right about here [points to map].

**Mr. Bass:** Is that going to have the Regal name on it, or Stonefield?

**Mr. Gallagher:** It will be Stonefield, it will have Regal, it will have Trader Joe's, I think it will have two other small panels on it – but fairly small. So that will really be the first indication of the Regal location. So that sign will be sitting right here, kind of at an angle. You would have the opportunity to pull in off of here, but really part of the reason we put it here was to give people as much time to see that [as possible]. And really what they'll do at that point is they'll make a right turn in off of 29 onto Bond Street...so then if they're heading to Regal there will be a good amount of way-finding signage internal to the site. But then once they're in the site, they'll be directed off to – if they haven't parked over here, they'll come up here and then come into the under-structure parking at Regal.

**Mr. Bass:** Tell me that slowly. How will you get...from Bond Street, do you take a left and then a right, is that what you're saying?

**Mr. Gallagher:** Yeah, so, you certainly could pull right in here and park here. And part of the beauty of the mixed use is that the intention is that people will come earlier, will have dinner. You know, they may come and park here, but if they choose to come in on Bond Street they'll come up, head west on Bond Street, they would make a left onto Swanson, and they could pull right in here so there will be parking.

**Mr. Bass:** So stop right now for me. At that point, I haven't seen Sign A, have I? Because Sign A is a north-facing sign.

**Mr. Gallagher:** You're going to see Sign A when you're at the street.

**Mr. Bass:** If I'm a pedestrian, I'm going to see it. But if I'm going to park under, I'll need a sign on the east side, and you've got a Sign D. You've eliminated E, but D would be on the southeast corner.

**Mr. Gallagher:** Right, it would be right here.

**Mr. Bass:** It's not over the place that you're telling me that I would turn in though, is it?

**Mr. Gallagher:** For parking. Right.

**Mr. Bass:** I'm just asking. I'm just trying to understand it.

**Mr. Gallagher:** Right. Well, the primary purpose frankly for this sign right here is for 29 and Hydraulic.

**Mr. Bass:** Well that was going to be my next question. You've got me coming from the north, now I'm coming from the south, do I take a left on Hydraulic?

**Mr. Gallagher:** You'll take a left on Hydraulic. Say you're coming from Zion Crossroads, you're going to come up 250...you're going to be over on this side of Hydraulic, you're going to come across and make the right into here because you'll see the sign. So you'd be on Hydraulic and you'd make a right into Swanson here.

**Mr. Bass:** So I don't have to go way over to the left entrance, there's an entrance before the building.

**Mr. Gallagher:** Correct.

**Mr. Bass:** So Sign D does that for you, I presume?

**Mr. Gallagher:** Right. So that gives a sight line to 29 and Hydraulic.

**Mr. Bass:** I can see that D does a lot of work for you. I'm confused on what C does for you.

**Mr. Gallagher:** So basically you're going to have, any of the traffic coming from the west is why C is important.

**Mr. Bass:** But those won't be out of town people. They'll be locals.

**Mr. Gallagher:** Right. More so locals, but you'll still have, and even from a local standpoint, you've got people that will...avoid 29 and come in on Georgetown and make a right onto Hydraulic and come down that way.

**Mr. Bass:** You're getting to me positively with your way-finding, out of town rationale, but I can't see that people who live west of town and use Hydraulic as a feeder would not know where Regal is. So that sign to me – I'm just speaking my mind, the Board members will make up their own minds – but the size of C seems far less important to me than A, which faces the whole complex, and I think D does help you with out of town visitors.

**Mr. Gallagher:** I would agree that D is the most important of them. Having said that, the other signage is important because even people that live in town – and of course after you make a number of trips, it will become more common in terms of how you're getting in and out. But with the grid and block network, it's important that people pinpoint as close as they can where they want to go within the project.

**Mr. Bass:** Explain grid and block.

**Mr. Gallagher:** Well, the way that the project is set up is that it's on a block network. The whole idea behind this type of development and the neighborhood model district is that you've got these blocks set up and you've got multiple routes within the grid, if you will. I mean, ultimately the plan is that – we've got a reserve connection point here – but ultimately when Northrop Grumman redevelops, we have a proffer requirement so, eventually the 65 acres that we have in total, Northrop Grumman redevelops, you'll have a continuing of the block network, so it's more of an urban block network.

**Mr. Bass:** OK, I get it. OK, so A is under revision, is 83.75 square feet; C is 115; that's actually smaller than A, and D is 115. Do I have that right?

**Mr. Gallagher:** I believe that's correct. 83.75 on A, and 115 on C and D.

**Mr. Bass:** A is actually smaller the way you've requested this than D, which sounds like at least for way-finding is the more important sign.

**Mr. Gallagher:** I think there's two elements to that – and one of them is certainly Regal-centric. The way-finding is a critical aspect, especially with respect to the out of town people as well as the people from in town. For Regal, in terms of creating the product and the experience. That's why, frankly, A is important, so that

people are on the street, that they understand. It's a whole experience, so it's not just like "find your way to the theatre." When you're in that plaza, you have restaurants on either side, and so there's an importance to A that is especially important to Regal, and as we've approached this whole process with Regal, it's been very partnerial, and so we rely on them to a large degree about what they require to have a successful cinema operation.

**Mr. Bass:** Other Board members?

**Mr. Rinehart:** I'm just curious. The word "IMAX" is only in one area, or is it going to be on all three?

**Mr. Gallagher:** I think actually, I believe it's in two areas. I think it's on both C and D.

**Mr. Rinehart:** OK. And not A. OK, thank you. And that's part of the square footage.

**Mr. Gallagher:** Correct.

**Mr. Rinehart:** OK. That may be the difference right there.

**Mr. Bass:** C doesn't have it. IMAX is on D. Oh yeah, is that on C, Stewart?

**Mr. Rinehart:** It's not on A, that's the difference.

**Mr. Bass:** Oh it's so faint I can't see it, yeah, I see it now. OK.

**Mr. Gallagher:** With respect to, on the IMAX, I mean, that is part of the whole experience here, and the additional investment by Regal. The 14 screens – there's going to be one 299-seat screen theater with the IMAX. And again that's part of the huge draw that they're creating and we're creating by extension.

**Mr. Bass:** Other Board questions? Comments? Andy, then we'll ask you, but let's...

**Mr. Wood:** Did you come up with the proper square footage, Mr. Chairman?

**Mr. Bass:** Well it's 115, 115, and 83.75, right Stewart?

**Mr. Wright:** Yes, sir.

**Mr. Bass:** And that total is 113.75 more than permitted.

**Mr. Wright:** That's correct.

**Mr. Rinehart:** Stewart, let me just ask you a quick question. It's only 13 square feet but on your recommendation you have down just 300 maximum, or limited?

**Mr. Wright:** That was our original recommendation when we were looking at 497, now that we're down to 313...

**Mr. Gallagher:** Right, and if I may, Mr. Chairman. When we received and reviewed the initial staff report and notwithstanding [?], the original application frankly is what we really wanted. But in trying to accommodate and understand where staff was coming from, we went back and revised to get it down to the 313.

**Ms. McCulley:** Mr. Chairman, would it be helpful to hear about the locations of any other free-standing signs where the cinemas will be listed, because I think that Mr. Gallagher has made the point that it is a block system and people need to know where to turn to get to it. Maybe he can explain that.

**Mr. Gallagher:** Well...right now in terms of the monument signs I mentioned one here. The other monument sign that will include tenant names, which Regal will be on, will be right here. So there are literally two monument signs and these are not raised pylon signs, it's a low monument sign with Stonefield on the bottom with a raise and basically five panels. The only other sign will be a concave Stonefield sign right at the corner of 29 and Hydraulic, but that will just say "Stonefield" with a stone backing on it.

**Mr. Bass:** You see, we need to find a hardship under Virginia Code to grant a variance, and so it has to be unique to the property. And that's why my questions have related to what's different from this than other cinemas or large buildings like big-box retailers that we have in the County.

**Mr. Gallagher:** Right, which I understand. That's why earlier when I started it was with respect to the property and the elements of the property. Right now there's not anything similar in the County. This was the first NMD in terms of the block grid network and the densities, so unlike even Giant across the street or the Kohl's up the road, we didn't have the ability to have a clear sight line from 29 going there. You've got the buildings that are going up right now, let alone the buildings as this fills in over time, will continue to obstruct some of the sight lines.

**Mr. Bass:** The sight line argument just doesn't work for me on...Sign C. And possibly if you were to reduce the size of that sign, you'd be a little closer to the 200. I'm just saying, that would make the medicine a little easier for me to swallow, because I'm not seeing the sight line and the way-finding benefit on C. Architecturally, I can understand, but we're looking for a hardship – we're a board here, so my fellow board members need to express themselves. If there are no further questions, I can close the [public hearing].

**Mr. Bowerman:** Just a question, maybe you're going to address this. In the discussion at the Board of Supervisors level, you reference at one point, it could have been dealt with a little bit better at the Board level. And it wasn't, right?

**Mr. Wright:** Somewhat. I mean, to increase the wall signage allowance that would require a zoning text amendment. Now the one thing that the Board did do at the Board level with the modifications was that they went from neighborhood model district sign regulations up to highway commercial and planned development, mixed commercial and shopping center. The other things that the Board did – you all remember the Kohl's sign, where they had to apply for a special use permit for an offsite sign? The second modification that the Board granted for Stonefield was that there would not be any special use permit requirements for any offsite signs should the parcels be subdivided; and the third modification was they increased the maximum allowable height for a wall sign from 30 feet to 58 feet.

**Ms. McCulley:** And maybe just to add onto that, the specific modification that relates to this variance request – which is all about wall sign area, with the rezoning, it was increased from 100 square foot maximum to 200 square foot maximum. And as you all may know, we're in the middle of a zoning text amendment process with amendments to our sign ordinance right now, and it's going back to the Board a week from tomorrow; in fact hopefully for the final public hearing. And they have confirmed the existing sign area requirements – the 200 square feet and the 100 square feet – they're not increasing those with the ordinance amendment that's under review right now.



**Mr. Bass:** Thank you, because we asked you to comment on that last month. I appreciate it.

**Mr. Bowerman:** One other question. Then the Board was aware of the requirements of the ordinance in terms of what would be a limitation here on signage that may be asked for? They weren't unaware of this provision with their approval; they changed the classification of it to a less intensive one, but still they must have known that the requirements are still here for the 200 maximum [square] feet.

**Ms. McCulley:** That's right, and these same requirements apply to other large buildings in the County, even this size – like Lowe's, Walmart, Sam's Club – you know those buildings have the same maximum sign area.

**Mr. Bowerman:** Thank you.

**Mr. Bass:** If there are no further Board comments, I will ask is there anyone here from the public that wants to address the Board on this matter, to speak for it or against it? Then what we'll do, Tom, is for the time being close the meeting and the matter is before the Board. We will invite the county attorney to address us also.

**Mr. Gallagher:** Thank you.

**Mr. Bass:** We may come back to you with questions or comments.

**Mr. Herrick:** Thank you, Mr. Chairman, members of the Board. We appreciate the applicant's efforts to work with the Architectural Review Board. We appreciate the fact that the sign request that they've come in with now is smaller and more limited than what it was before. But the end result – this is really the wrong request before the wrong board. The legal standard, as Mr. Chair has indicated here, is a hardship. And it's a hardship regarding the property. Is the property such that the applicant, that the property owner can't get use of his property? And I think it's very clear that there are grand designs for this property, that in fact the applicant and the owner can get a lot of use out of this property – even with the zoning the way it is. Again, it's a property-based standard, not a building-based standard. The property is not unique, and even the building is not unique; as Ms. McCulley indicated there are other large buildings right up the street that are the same size that are subject to the same sign limitations. The petitioners essentially wish to rewrite the zoning ordinance from a linear basis to square foot basis.

The argument that was made was the current standard under the zoning ordinance is the size of your sign is in proportion to the linear frontage of the building, and they're suggesting that on a building face as large as theirs, it should really be more proportional to the building size – and in fact that's why the ARB approved of the design, not necessarily the location, but the design of these signs. But that of course would be rewriting the zoning ordinance. The applicant's arguments would apply equally well countywide to large buildings in other parts of the County, not just its own, so the proper place to address this concern – if in fact that's a valid concern – would be through, as Ms. McCulley indicated, either through a zoning text amendment or rezoning of this specific property, not piecemeal and individual variances around the County. The Board of Supervisors has already spoken as to the sign limitations; as Ms. McCulley indicated, they've recently looked at the standards and whether or not they're interested in revising the standards here and they're not, and specifically as to this property, the Board of Supervisors has already spoken about it. It granted a more liberal sign allowance on this property than what would ordinarily be allowed under the neighborhood model, so we already had a larger, more increased sign standard as to this property than what would be expected.

And so the intent of the Board both as to these size signs and as to this specific property is pretty clear, and if the applicant believes that larger signs are still necessary, the proper place to do that would again either be

through a rezoning or through a zoning text amendment. But until then, we're asking that you uphold the intent of the zoning ordinance as it's currently written. I'll be happy to take any questions.

**Mr. Bass:** Thank you, Andy.

**Mr. Herrick:** Thank you, Mr. Chairman.

**Mr. Bass:** It's hard for me to visualize what Stonefield's going to be really like as a customer or consumer, a visitor. It is so unique to Albemarle. So I can see some of the logic of the arguments for this. I can't understand the need, honestly, for Sign C – certainly not a large Sign C, on the west side. But I do think that large buildings like Lowe's and the supermarkets mentioned that typically in the traditional shopping center configuration face the highway and these people are constrained in that sense by the neighborhood type development.

**Mr. Bowerman:** I don't see that there's really any course of action that I can follow that isn't already spoken to by staff. I can't find a uniqueness any more than the staff did in this application, and clearly the only way that I can see that you could do this was through a zoning text amendment which the Board has apparently signed off on anyway – that they don't want any changes. And given the guidelines under which we operate, I don't see that we have any other choice than to deny this application. And that's a motion.

**Mr. Wood:** Gentlemen, I agree with the motion, I agree with the staff report, and I second the motion. And that is for the VA2012-002 for Regal.

**Mr. Bass:** As revised.

**Mr. Wood:** As revised.

**Mr. Bass:** OK, is the Board ready to vote?

**Mr. Rinehart:** I'm not ready to vote, not for a minute anyway. I'm not sure what I can say. I'm certainly sympathetic with the applicant, and I feel constrained within what our guidelines are – which is what our job is. But I can also understand their side in terms of signage for this building. Because each façade is a very large slab of building and for the sign that they can put on there it's going to be very small in proportion to the building and that just doesn't seem right. I hearken back to our decision back with Martha Jefferson Hospital, as we've discussed before, so I'm struggling Andy. And your point is very well taken, and I've spoken to one of the members of the ARB and we discussed this signage and I know that they have worked very hard on the building and on the signage.

**Mr. Bass:** Would a possible compromise...originally their Sign A which faces north was 24 square feet. If we granted a variance that would permit D – which is 115; A – which is 83.75. At that point those two signs do not exceed 200. But if we granted a variance for the 24-foot size sign that they wanted as A for C – where they wanted 115 – we'd have a variance of about 22 square feet. And they could have a sign on all three sides that they've requested, but they would be compromising their original request from 115 on the west side, which I think is the least important, down to 24 square feet. We'd have a variance of 22 square feet. Does that appeal to any Board member?

**Mr. Wood:** Gentlemen, wouldn't that be up to the applicant to come in and make that change? I don't know that...

**Mr. Bass:** Well he could say today yes or no, or he needs more time.

**Mr. Rinehart:** What we're now negotiating, which I guess we're not, but I am sort of...

**Mr. Bass:** Well, he did originally – Sign A was 24 square feet, so if he'd stuck with that on the C side, the west side, we'd be 22 square feet over the 200 permitted – that's 10%. I'm negotiating with you guys.

**Mr. Rinehart:** I know. [To the applicants] You all ignore it, but what if the IMAX was removed and the three signs were granted. I'm just thinking out loud to try to...I don't know how important IMAX is on the signs.

**Mr. Bowerman:** This is kind of a large [sign]; it's going to be visible from 29, will it not? I mean it's a large structure and it's got enough height.

**Mr. Wood:** Mr. Chairman, I think in seeing the drawings that the ARB saw and what we just looked at, it's so well done from our architectural point of view. The building creates your own atmosphere and truly the whole building is a sign. As large as it is, it creates your own image, so whether you've got a variance of 100 or so square feet spread between three or four different signs; I think your building offsets that and in the final analysis once it's open and business is coming in, you're going to see that building – there's the Regal theater.

**Mr. Bowerman:** That was my point.

**Mr. Bass:** It may well be true. I just cannot visualize this thing well enough to day to know if there's a hardship or not for sure. Are you confident in voting now, Randy, or do you want some more time?

**Mr. Rinehart:** Mr. Chairman, if Andy had not said what he said, I wouldn't be challenged, but I think the hardship is simply the fact that this is a very large building with a very modest sign proportion – and I walked in here with not a problem with it. But I also understand where Andy is coming from with his points, so that is a challenge. I'm not bothered by the west sign because I think there are people that will be coming, and I'm amazed at how many people in this community you mention things and they don't even know where it is, they don't even see the sign. So I think the buildings do need some signage.

**Mr. Bass:** OK, my initial concern was that I do think that Albemarle is trying to attract, encourage businesses and if we're really able to draw people from as far away as Short Pump and the northern counties, the signs are justified. I think the building, though large, still needs signage for those kinds of people, but I seem to be in a minority. Are you ready to vote? We can ask Carla to call the roll.

**Mr. Rinehart:** Yes.

**Mr. Bass:** You're ready to vote; I know you guys are. OK.

**Mr. Wood:** The reason I'm ready to vote, Mr. Chairman, the size of the building as we've spoken to, Sam's Club is a huge building and it's well off of the road and they are within the ordinance in their signage. And quite frankly, I don't recall seeing a sign on Sam's building from 29, but everybody seems to know where it is....

[sound cuts out here]

**Mr. Bass:** So the motion was made by Mr. Bowerman and seconded by Mr. Wood. Carla, would you call the roll?

**Ms. Harris:** Yes.

**Ms. Harris:** Mr. Wood?

**Mr. Wood:** Aye.

**Ms. Harris:** Mr. Bass?

**Mr. Bass:** Aye.

**Ms. Harris:** Mr. Rinehart?

**Mr. Rinehart:** No.

**Ms. Harris:** Mr. Bowerman?

**Mr. Bowerman:** Aye.

#### **VA 2012-001 Tip Top Restaurant**

**Mr. Newberry:** Good afternoon members of the Board. My name is J.T. Newberry. I'm a planner in zoning, and I'm going to be taking us through variance 2012, number 1, Tip Top Restaurant. This is a zoning map of the area. It's Tax Map 78, Parcel 10A, zoned highway commercial and entrance corridor overlay. It's approximately 1.5 acres and located at 1420 Richmond Road on the north side of Route 250 East. This is a 2010 aerial map of the property. I've labeled the relevant signs on this side of the road; to the right-hand side of the subject property, you see the CarMax sign, and to the left you see the Free Bridge Auto sign. The subject property is located there in the middle – Tip Top Restaurant. The applicant is proposing to move and change an existing 32-square foot cabinet sign from its current pole-mounted location to the edge of the front property line. This would be a variance of five feet; the current setback is five feet and they're proposing to locate the sign right at the property line.

The first variance criteria we reviewed was for undue hardship. And the applicant notes that the current required landscaping in their site plan renders their sign useless and that there's no other location along the front property to relocate it. We note that the applicant enjoys full use of the property currently and therefore has not provided evidence that strict application of the ordinance would produce an undue hardship. The second criterion was uniqueness of hardship, and the applicant notes that CarMax is the only property in its vicinity that shares this hardship. Staff notes that there are many other properties along the commercial corridor – 250, 29, etc. – that have required landscaping along the front of their property, which creates a similar circumstance. And we therefore note that there is no evidence that such hardship is not shared generally by other properties in this district and in the same vicinity. The last criteria was impact on the character of the area. And the applicant states that there will be no detriment to adjacent property or change in the character of the area, and we absolutely agree. The staff agrees with the ARB and the applicant that if approved, this would not change the character of the area. That said, however, we were unable to find evidence of two out of the three criteria outlined in the state code. And considering that in light with the Board of Supervisors recent comments on sign setbacks and sign sizes, we're unable to recommend approval at this time.

**Mr. Bass:** Mr. Grady?

**Mr. Grady:** Mr. Chairman, members of the Board, staff, my name is John Grady. I'm here to represent Terry in his request to relocate his sign at the Tip Top location. I'll just follow these as the hardship and the staff report – they mention the landscaping and the vegetation. That maybe we could choose something else that was not quite as dense or didn't block it. First of all, the landscaping – we met with Margaret Maliszewski and Brett Nelson onsite and explored the landscaping possibility. How about we cut it down or take it down and put up some low shrubs? Well that's not an option. I think staff will let you know that the ordinance itself requires street trees of a minimum size, caliper and height. There's no use in us taking down an eight-foot cherry tree and putting up an eight-foot elm tree. The landscaping itself does really block. Anybody that would go up there today and either go up that road or come down that road now that the cherries are in bloom, you can't see that sign.

As far as trying to move it where it's at, the pole location closer to the road, that doesn't work either. We painted a 32-square foot piece of cardboard and we've moved it all over that site. Where it's at in front, it doesn't do any good. The only thing we have possibly found is to take it off of a pole location and bring it into a monument, which that in itself makes the ARB happier. They would rather see a monument sign there on a brick base, which we've agreed to do and to move it out as close to the right of way as we possibly can. You should also note that when you go up there, the property in front of Terry's restaurant has got a decel lane in it. That decel lane when it was granted took away a lot of frontage that the sign right next door to it is out there – one foot off the right of way margin, 12 feet closer to the right of way than this sign will be if you granted a variance. It will still be 12 feet closer to the right of way. The decel lane causes some problems in itself. The staff noted that other properties along this road don't share the same hardship; I disagree. I think that if you drive up and down 29 or 250 – especially Pantops – I can't think of any other location where you don't see the sign, or you don't see a freestanding sign at these locations. Now I know that Brady-Bushey Ford and some of the others are nonconforming sites and those signs have been there for years. But Terry should still be allowed to display and have a sign viewed like everyone else along that corridor. And the current situation is, you can't see it and unless you gentlemen approve it, the situation is not going to change. We spent two months trying to have other alternatives up there to change this – nothing else has worked. We even went to VDOT and asked them to allow a sign in the right of way. Unfortunately, they changed that regulation about six months ago. They no longer allow signs to be located – you used to be able to pay a certain fee every year, but that's no longer a possibility either.

Just based on that itself, we believe that the hardship is there. I think Terry would like to say something. If you've got any questions of me, I'd be more than happy to answer anything you may have up.

**Mr. Vasilov:** Hi Board members, my name is Terry Vasilov and I own the Tip Top Restaurant. And the only complaints I have are from the visitors, or from the people that move in this town and they go in the motels and stay and they get the recommendation to come in my restaurant. They drive up and down and they cannot see the restaurant, they cannot see the sign, so they pass the restaurant and they go farther down and they call me – “Where exactly is your restaurant, we cannot see the sign?” And I explain to them how to get there and finally they get there. I'm not going to be here for any other reasons, to spend any money to move my sign if I know the visitors cannot see my sign.

**Mr. Grady:** I'll leave the Board with one final thought. I worked here for many years and worked with people with signs. And I still firmly believe that one of the primary purposes of a sign is to take the general public from a roadway and safely put them on a site. And like Mr. Vasilov, I've been asked many times myself – you know, “We've driven by the site. Where is the site?” The sign doesn't do what it's supposed to do. It should take you off of 250 and put you at your destination, and it currently doesn't do that.

**Mr. Bass:** Why can't you replace the cherry trees with boxwoods, for example?

**Mr. Grady:** We asked Margaret and Brent if they would accept lower vegetation, and she said if we were to go back to the Board and recommend that, that they would recommend denial. That the ordinance speaks to street trees of certain sizes and calipers, and that's what they want to see on the corridor. You're in a rock and a hard spot here. If you're going to go back to the Board of Supervisors, are they going to go back and change the ordinance so that now we don't have to have street trees so that sign visibility is not a problem – or is this one of those unique little circumstances where I think the street trees have just overwhelmed the sign, and we just need to bring it down and move it out? Now it technically won't be zero feet back; I've had the property line marked out there, and I intend on having it about six inches off the front right of way, and I do have to landscape the front of it, and I already have permission from VDOT for the juniper landscaping. And even moving this sign forward we have to relocate two of the trees out front so then it will be visible. One of the large cherry trees will be moved back into the landscape border, and there's a dogwood on the left-hand side that will be moved back.

**Mr. Rinehart:** John...how does this sign compare in size and scope as Free Bridge Auto, or have you ever measured that?

**Mr. Grady:** It's the same size, it's 32 square feet.

**Mr. Bass:** But that's nonconforming, Free Bridge, right?

**Mr. Grady:** Free Bridge right now is nonconforming not in size but in setback.

**Mr. Bass:** That's what I mean, yeah.

**Mr. Grady:** That sign is about 1½ feet off the right of way margin, but it was located before the 250 improvements.

**Mr. Bass:** I understand, I understand, yeah. Now also, Terry doesn't have a sign on his building.

**Mr. Grady:** No sir.

**Mr. Bass:** Would that be permitted, J.T.?

**Mr. Newberry:** Yes.

**Mr. Grady:** And we would gladly give that up for the variance. I mean, a building sign at this location is not going to do us any good. I mean, wall signs – if you can see them from a distance – they have a certain use. But in this particular case you wouldn't see a wall sign until you got right in front of the business. By that time, it's too late. People going up and down 250 are traveling 45-50 miles an hour, they're not going to...

**Mr. Bass:** Any other Board questions?

**Mr. Rinehart:** I'm assuming you've looked at sight lines from someone leaving the establishment, in terms of just being able to see up and down the road?

**Mr. Grady:** We've also had VDOT onsite, and where we propose to have this sign, VDOT has no problem with it whatsoever. Now, that's one of the reasons why we couldn't go to the other side of the property,

because that joint access with CarMax there. Mr. Seele at VDOT said he wouldn't stop the sign from going there, it still has sight problems. But he had concerns with people coming out of CarMax and making a left turn – that the sign would probably pose some problems there.

**Mr. Bass:** Can we hear from Andy?

**Mr. Herrick:** Will the Board be entertaining public comment before my [response]?

**Mr. Bass:** I haven't forgotten, but I didn't think anyone was here. We've heard from Terry, and is there anyone else who would like to address the Board?

**Mr. Herrick:** So, Mr. Chairman, again I'm sympathetic with both the applicant and the applicant's business, but I'm afraid that my remarks have to be much the same as they were with the last applicant in that the property here is not unique, or I should say, the hardship is not unique. Mr. Grady had indicated that he thought that the Tip Top should be able to have a sign like everyone else – and they do – they're able to have a sign, just like everyone else, that's within five feet of the right of way. That's the standard, a free-standing sign within five feet of the right of way. Granted, as he points out, there are other businesses that have been grandfathered as a nonconforming use. But there's a reason that the Board established a five-foot setback for these signs. And again, the analysis is, is this a hardship – can the property owner still get use out of his property, or does the zoning ordinance prevent a property owner from getting any reasonable use out of this property? And as we know, Tip Top Restaurant is a very successful restaurant, it's very well-established. This property owner is able to get good use out of his property through a successful business. And so there's not a hardship demonstrated – and that's the first and probably most important element of granting a variance. It's not met, and therefore there's no hardship, and again we'd ask you to uphold the sign ordinance as it's written and deny the variance. Thank you.

**Mr. Higgins:** Yes, sir. Something that J.T. mentioned in his presentation, it talked about the Board of Supervisors' recent comments. It's similar to what we talked about in the previous case. We've been working on some sign ordinance amendments for months, and the Board has weighed in on some standards where we're trying to...make consistent certain standards. The issue that they got for the Regal Cinema about a higher sign, that issue will be corrected with a zoning text amendment, where it will allow taller signs on taller buildings. The issue of setback – free-standing signs, depending on the zoning, are setback 10 feet or five feet. And the Board has agreed to eliminate the 10-foot setback and make all setbacks five feet. But what they've done is that they've agreed that that is a standard that they can live with for signage, so we're a little concerned about playing with even that standard. When I point you to other signs right on Pantops, that because of when they went in and the way they designed their site, not the site itself, are setback further than five feet – Kia for an example. But the Board has really said that five feet is pretty much the minimum sign setback to the extent that they'll do away with the 10-foot setback, so I thought that was kind of an important piece of their recommendation.

**Mr. Bass:** Thank you. The matter is before the Board. Mr. Grady? Stewart?

**Mr. Grady:** You know, I'll agree with the County Attorney that Mr. Vasilov has reasonable use of his property and that he has a very successful restaurant. But because of that should he be denied having a proper signage at this place? I don't think so. And Ron [?] the car dealership down the street that's setback farther; I know that sign is setback farther. But that's not a problem with setback, that's because the utilities are eating up the front of that property. I've talked with those people and they wanted me to try for a variance. And the variance was not necessary; they need to deal with the service authority because of water and sewer easements. So once again – I think there's a problem here with his property in that he should be able to advertise, and the signage should

be seen by the people trying to locate it. It's just not locals that are trying to get in this restaurant; they come from several different places around the County, different hotels and motels. People recommend the restaurant and you can't find it. I mean, if you can go out and drive up and down that mountain and tell me you see that sign, I wouldn't be here. Thank you.

**Mr. Wood:** Mr. Grady? I'm looking at this sign, and I've been up and down there four or five times just specifically to view this location as I did the others. And this illustrates the point – it just makes sense that a monument sign conforms to what's already up there better than this older sign on a taller pole. Can you put a monument sign lowered and still obtain visibility?

**Mr. Grady:** No, if you were to take the existing free-standing sign and just drop it down where it's at right now, it's the same – the trees block it exactly the way it does right now. It helps nothing. The only thing it helps is to take that sign and bring it down and you could move it forward and put it back up in the air. But the ARB would have preferred a monument sign and we went with their recommendation. They've already approved the location and design of the sign. Nothing helps that sign anywhere on that site except for to come down and come forward out toward the right of way. And I think that's the uniqueness in this situation. I mean if we could change the ordinance and cut down the trees up there, we wouldn't be here. But we can't cut down the trees either and we can't remove the trees. I mean, we've explored every possibility we've had, and this is why we're here.

**Mr. Bass:** Ron?

**Mr. Higgins:** We looked at this too, trying to figure out a solution to their problem. You know, the site is very popular – it has a lot of parking. It has probably 30% more parking than the ordinance requires, for obvious reasons – because they need it. But one option we saw is if you eliminated that parking space in front of this sign and dropped that sign to a monument sign and even left it almost in the same place – maybe a few inches closer to the road – I don't think you'd get any objection to relocating shrubs. I think it would make the sign more visible than its present location; the issue with dropping it there is that you'd have a car that could be blocking it. You could eliminate that parking space, and still have 20-some spaces more than you're required. You've also got the center island – you could do a sign that faces more toward the corridor, but you could also do two 16-square foot signs that would be more visible than just one 32. We see a lot of options here.

**Mr. Bass:** I thought there were options too, thank you Ron.

**Mr. Bowerman:** Yesterday, my wife and I were leaving the doctor's office and we came down 250. And I was talking to her about the Tip Top Restaurant and we were by it before I could tell her where it was because I didn't see the sign. I'm trying to put that in relationship to my last feeling about the last application where I didn't feel they had met the conditions for a variance. And they really didn't have...the loss of a parking spot and the relocation as a monument sign I think would work but as it sits today, I didn't see it and I was looking for it.

**Mr. Bass:** The trees are very pretty, and they do block the sign.

**Mr. Bowerman:** I think that there's some way we could deal with this in a manner that is not going to get everybody upset; I mean, I'm talking about the County Attorney's Office frankly.

**Mr. Bass:** I think it can be dealt with without a variance on this one. I think it can be dealt with by – first of all, the sign is, I'm sorry to say, dated, in my opinion. And a monument sign would be much more attractive. I like Ron's idea. And then the center island occurred to me too. The trees could be limbed up so they could be



over the height of a monument sign perhaps. But look – I'm not a landscape guy. This one I just don't see anything that warrants a variance. The hardship is not unique. We can't change the tree ordinance, and we can't change the setbacks unless there's clearly a very...there's no topographical situation here.

**Mr. Grady:** I'm not understanding [what] staff was saying, the first parking space that's adjacent to 29, if they're saying we can do away with that space?

**Mr. Bass:** This one right here.

**Mr. Grady:** That puts the sign further back into the property, and further back beyond the landscaping. That's going to block it even further than it is right now. The landscaping next door will block that.

**Mr. Higgins:** That's not what I was saying. I was saying that if you lowered that sign in the present place, obviously a car would block it because it would be so low, but if you eliminated that space and brought that sign – you have a little bit of room to move it forward, just not a lot. There's nothing that says it has to be eight feet wide; there's nothing that says it has to be 32 square feet; there's nothing that says that it has to be designed exactly where you all designed it and located it. You designed yourself into this problem. I think you've got solutions that you can design yourself out of.

**Mr. Grady:** Well I guess maybe I didn't make myself clear when I said we made a board, and we put it, we took the sign directly down where it's at to see if it was visible. There was no car parked there, so we went up to 250 and we stood in the westbound lane coming down. You could see some red corners, but you could not see a sign. So removing that parking space and bringing the sign straight down and moving it forward four feet didn't help at all. The only thing we got the visibility out of was taking the sign down, moving it up toward the right of way. And if you would look, there's a little bitty orange flag that's on that diagram up there. That would be the front of the sign that we're proposing, right there, and that's still 12 feet back from the auto sales sign. And even at that location, we had to take the trees on the next property, one of them back, and the one on his property, the cherry tree back, and put it back into the existing landscaping border to see the sign then. I don't see why there's not some type of hardship with this...maybe the hardship is that we can't get rid of the required landscaping.

**Mr. Bass:** That's the hardship. The trees are the hardship, in my view.

**Mr. Grady:** But that's required by the ordinance also. So which do we do – do we do away with the trees, or do we modify some setback? You know, we'll take anything we can get to get up toward the front of the road – a foot, two foot, three foot – but I mean, the sign is basically useless the way it is right now. You can't go up because the height ordinance, that stops that.

**Mr. Rinehart:** Mr. Chairman, I'd like to move for approval...

**Mr. Newberry:** Mr. Chairman, I'm sorry to interrupt you, Mr. Rinehart. I just wanted to have an opportunity to discuss the idea of landscaping being a hardship. I wasn't there at the ARB meeting to hear all of the discussion about the required landscaping, but staff notes there could definitely be other options for replacing this landscaping. I believe that just the proposal as noted in the staff report was reviewed and approved by the ARB. If the petition was to ask if they could remove the trees, then the ordinance requires them, then they have to stay there, and maybe that could be considered a hardship. But changing the landscaping to something different, to taller trees, to something else than what's there now, I don't know that that's been fully explored, and I think that's something the ARB would be sympathetic to. I can't speak for the ARB, but...

**Mr. Wood:** Mr. Chairman, I just feel after looking at this thing three or four times, the sign that's there now – regardless of its effectiveness – is kind of out of character. A monument sign I think brings the whole area more into conformity with the other type signs that are there – lower and the type of the sign. The Free Bridge sign there looks like it's almost sitting in the street when you're going down that mountain.

**Mr. Bass:** But it's nonconforming.

**Mr. Wood:** I know it is, I'm saying regardless, if we could forget the variance for a second, the type of sign, the monument type of sign, I think dresses up the neighborhood, brings it more into conformity with the rest of it.

**Mr. Bass:** Well we agree.

**Mr. Wood:** So if there's a way to do it, I'd like to see us do it.

**Mr. Newberry:** Staff also agrees that a monument sign would look much better and would complement the character of the area; however, with the required setback it would do the same thing. And as Mr. Higgins was discussing, taking away one parking space would certainly be permitted under the ordinance and would allow visibility of that sign. We're certainly sympathetic that without a setback, the sign perhaps would be more visible, but there are probably dozens and dozens of businesses that would tell you that if their sign didn't have to conform to setback that it would be more visible. And under the state code we have to look at the criteria that are provided as to whether or not we can grant the variance. And unfortunately in this case, we weren't able to find that all three were met. A monument sign is definitely doable, and I think if this variance were denied, I hope they would apply for a monument sign and put the new cabinet sign on there – because it certainly would look better.

**Mr. Bass:** Thank you, J.T.

**Mr. Rinehart:** Mr. Chairman, I was about to move for approval of Variance 2012-001; unfortunately, the recommendations from staff – I'm not sure I understand every one of them, so I'm a little bit...

**Mr. Bass:** The conditions?

**Mr. Rinehart:** Correct, the conditions.

**Mr. Bass:** What question did you have for J.T. on the conditions?

**Mr. Rinehart:** I think they say what I am thinking.

**Mr. Wood:** I think the presentations say that in their plan, if the variance is granted, these things will be done, is what I heard.

**Mr. Rinehart:** They're going to be done anyway, so I will move for approval with these five conditions recommended by staff.

**Mr. Bass:** OK, is there a second?

**Mr. Wood:** I'd like to second the motion, Mr. Chairman.

**Mr. Bass:** OK, any further discussion? Everyone ready to vote? Carla, would you call the roll.

**Ms. Harris:** Mr. Wood?

**Mr. Wood:** Aye.

**Ms. Harris:** Mr. Bass?

**Mr. Bass:** No.

**Ms. Harris:** Mr. Rinehart?

**Mr. Rinehart:** Aye.

**Ms. Harris:** Mr. Bowerman?

**Mr. Bowerman:** No.

**Mr. Bass:** So we don't have a majority, and the variance was not approved. Andy, is that the equivalent of denial?

**Mr. Herrick:** I would suggest to the Board that the Board make an opposite motion then.

**Mr. Bass:** I thought you were going to say that. What if that doesn't carry by a majority?

**Mr. Herrick:** Then neither action would...the important thing in this case is that a variance requires three affirmative votes, and that has not been met.

**Mr. Bass:** But you think that it would be sensible for us to vote both ways?

**Mr. Herrick:** Yes sir.

**Mr. Bass:** Oh, OK.

**Mr. Rinehart:** Let me ask this question, what happens in terms of the applicant? They've made this application, what happens from here?

**Mr. Herrick:** It's been disposed of by the Board or it's been acted on by the Board.

**Mr. Rinehart:** And so they can't come back for another variance that might be similar?

**Mr. Bass:** Not for a year is it, Amelia?

**Mr. Bowerman:** We can defer it, can't we?

**Mr. Bass:** I guess Mr. Bowerman needs to make a motion then?

**Mr. Bowerman:** I was just wondering whether it could be deferred...that's how the Board does it, and the Planning Commission, I assume we do it the same way. We advertise it, we see it next month.

**Mr. Herrick:** I don't think a deferral would be in order at this point; the Board's already acted on it through its vote.

**Mr. Bowerman:** OK.

**Mr. Bass:** And there's no new information to warrant reconsideration.

**Mr. Bowerman:** Mr. Chairman, then I move that the application for Tip Top Restaurant, VA2012-001 [be denied]. No.

**Mr. Bass:** I'll second the motion. Carla, would you call the roll?

**Ms. Harris:** Mr. Wood?

**Mr. Wood:** No.

**Ms. Harris:** Mr. Bass?

**Mr. Bass:** Aye.

**Ms. Harris:** Mr. Rinehart?

**Mr. Rinehart:** No.

**Ms. Harris:** Mr. Bowerman?

**Mr. Bowerman:** Yes.

**Mr. Bass:** That motion does not carry either, and the matter is settled.

## **6. Old Business**

None was presented, and the meeting proceeded.

## **7. New Business**

Ms. McCulley stated that the County had received an appeal that was not timely filed that needed to be discussed with Mr. Herrick. She said that there was a special use permit for an offsite sign that had been deferred, and that may not be ready in time for their next month's meeting, so that meeting might be canceled.

## **8. Adjournment**

Mr. Rinehart moved to adjourn the meeting. The motion passed unanimously (6-0).

