

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING
2 APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION
3 BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY
4 SPRING ROADS, ON THURSDAY, FEBRUARY 23, 2012 AT 9:00 A.M.,
5 NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH
6 FEBRUARY 6, 2012 AND FEBRUARY 13, 2012.
7

Members Present: R. A. Wright, Acting Chairman
Greg Baka
Gentry Bell
James W. Nunnally

Member(s) Absent: Helen E. Harris

Also Present: David D. O'Kelly, Jr., Assistant Director of Planning
Benjamin Blankinship, Secretary
Paul Gidley, County Planner
R. Miguel Madrigal, County Planner
Kim Vann, Henrico Police

8
9 Mr. Wright - Welcome to the February 2012 meeting of the
10 Henrico County Board of Zoning Appeals for Henrico County. I ask that you
11 please stand and join me as we **Pledge of Allegiance** to the flag of our Country.
12 Thank you.
13

14 Mr. Blankinship, would you please read our rules.
15

16 Mr. Blankinship - Good morning, Mr. Chairman or Acting Chairman,
17 members of the Board, ladies and gentlemen. The rules for this meeting are as
18 follows. Acting as secretary, I will call each case. And as I'm speaking, the
19 applicant is welcome to come down to the podium. We will than ask everyone
20 who intends to speak to that case to stand and be sworn in. Then the applicant
21 will present their testimony. Then anyone else who wishes to speak will be given
22 the opportunity. After everyone has spoken then the applicant, and only the
23 applicant, will have an opportunity for rebuttal.
24

25 After the Board has heard all of the testimony and asked any questions, they will
26 move on to the next case on the agenda. They will render all of their decisions at
27 the end of the meeting. So if you wish to know their decision on a specific case,
28 you can either stay until the end of the meeting, or you can check the Planning
29 Department website this afternoon—we usually get it updated within about half
30 an hour after the end of the meeting—or you can call the Planning Department
31 this afternoon.
32

33 This meeting is being recorded, so we'll ask everyone who speaks to speak
34 directly into the microphone on the podium, state your name, and please spell
35 your last name so that we get it correct in the record.

36
37 Finally, there's a binder in the foyer that includes the staff report for each case,
38 including the conditions that have been recommended by the staff. For those of
39 you who are the applicants on use permit cases, it's particularly important that
40 you be familiar with the conditions that staff has recommended for your case.

41
42 Mr. Wright - I'd like to state at this point that I'm sitting in for our
43 chairperson, Mrs. Helen Harris, who is ill today. I'm pinch-hitting for her. Are
44 there any withdrawals?

45
46 Mr. Blankinship - Do you want to mention the four?

47
48 Mr. Wright - Oh yes, let's do that. It's our custom that when we're
49 short a Board member to permit any applicant to defer the case to the next
50 meeting because it takes three affirmative votes to approve any application for a
51 variance or for a use permit. So if anyone here desires to have your case
52 deferred, please let us know at this time.

53
54 Mr. Blankinship - We do have one request for deferral this morning,
55 which is Westhampton Memorial Park.

56
57 **CUP2012-00005 WESTHAMPTON MEMORIAL PARK** requests a
58 conditional use permit pursuant to Section 24-52(h) of the County Code to
59 expand an existing cemetery at 10000 Patterson Avenue (Parcel 744-742-5871)
60 zoned R-1, One-Family Residence District and A-1, Agricultural District
61 (Tuckahoe).

62
63 Mr. Wright - Would you please raise your right hand and be
64 sworn.

65
66 Mr. Blankinship - Do you swear the testimony you're about to give is
67 the truth and nothing but the truth so help you God?

68
69 Mr. Hawkins - I do.

70
71 Mr. Wright - Please state your name and spell your last name for
72 the record.

73
74 Mr. Hawkins - My name is Dean Hawkins, landscape architect. My
75 last name is H-a-w-k-i-n-s.

76
77 Mr. Wright - Thank you, sir.

79 Mr. Hawkins - I'm here representing Westhampton Memorial Park.
80 We are requesting a 30-day deferral this morning after consultation with
81 Planning Staff due to an inaccurate notification of adjacent landowners. There
82 have been three landowners which have only recently—since the application was
83 submitted—who have taken possession of adjacent properties. There was no
84 way for us to know by County records who those people were. We do know who
85 they are now, and I have made contact with them, hand-delivering a package of
86 information to their homes yesterday. And the homeowners' association next
87 door representing the subdivision, there's been a change in their address and we
88 do know that. So Planning staff and I are coordinating our work to submit
89 notifications to them, and we look forward to being back here next month to
90 discuss our case.

91
92 Mr. Wright - Since the notice is defective, this Board would not
93 have the authority to proceed to hear the case anyhow.

94
95 Mr. Hawkins - That's right. We did want to appear to be sure that we
96 let you know that we have tried in good faith to contact all the owners. I have
97 personally sent out letters to thirty adjacent landowners or so, even though we
98 were not required to do so. The County has also followed up with their process
99 and we find that there is a deficiency that we need to look at.

100
101 Mr. Wright - All right. Do I hear a motion that we defer this case?

102
103 Mr. Baka - I make a motion, Mr. Chairman, that this be deferred.

104
105 Mr. Nunnally - Second.

106
107 Mr. Wright - Motions made. Any discussion? Hearing none, all in
108 favor say aye. All opposed say no. The ayes have it; the motion passes.

109
110 After an advertised public hearing and on a motion by Mr. Baka, seconded by
111 Mr. Nunnally, **CUP2012-00005, WESTHAMPTON MEMORIAL PARK**, has been
112 deferred until the March 22, 2012 meeting.

113
114
115 Affirmative: Baka, Bell, Nunnally, Wright 4
116 Negative: 0
117 Absent: Harris 1

118
119
120 The case will be deferred. I guess it will be the first case on our next agenda, will
121 it not?

122
123 Mr. Blankinship - Yes sir, it will. There is one question about this case
124 that I'd like you to be thinking about. I wanted to show this plan while we could

125 talk about it a little bit. I'm sorry; that's not really legible. The code provides any
126 grave to be setback 50 feet from any property line and 250 feet from any
127 dwelling, except that if there are existing graves within that setback the new
128 graves may be approved as close as the closest existing grave.

129
130 The question arises because the language doesn't clarify exactly how that's
131 measured. In this case, if you look at the house—I have to see if I can get it a
132 little sharper.

133
134 Mr. Wright - That's better.

135
136 Mr. Blankinship - If you look at the house slightly to the right of the
137 center and you see the graves of that little grid just to the right of the house, that
138 house is about 113 feet, I believe, from the existing graves. So it would seem
139 that you could build new graves or create new graves as close to that house as
140 113 feet. But then if you look at the house to the left, two lots to the left right
141 under the word "Westhampton," there are no graves anywhere near that house.
142 So the question is do you have to stay the full 250 feet from that house even
143 though you can be as close as 113 feet from this house. Or does that provision
144 mean that because there is a grave within 113 feet of a house, then 113
145 becomes the new setback for any house in the subdivision?

146
147 Mr. Baka - But the code currently says you have to be set back
148 250 feet from a house.

149
150 Mr. Blankinship - Unless there is an existing grave closer than that, in
151 which case new graves can be as close as the closest existing grave.

152
153 Mr. Baka - And Lot 31 is currently vacant?

154
155 Mr. Blankinship - Yes. And Lot 31 is the one in the middle.

156
157 Mr. Baka - The one in the middle.

158
159 Mr. Wright - The grave that is closest to the house to the right, you
160 know, is 113 feet.

161
162 Mr. Blankinship - I believe that's right.

163
164 Mr. Wright - But if you take that language literally, those graves
165 are more than 150 feet to the lot to the left.

166
167 Mr. Blankinship - Right. And that's the question. And I don't need to
168 resolve it this morning, but I wanted to point it out to you graphically while we had
169 the opportunity. Then you can be thinking about that when you read the staff
170 report this month and we'll hear the case next month.

171
 172 Mr. Wright - And also that would give the applicant an opportunity
 173 to think about it and to address that issue.
 174
 175 Mr. Blankinship - Yes. He and I have been discussing it. All right. Well,
 176 the case has been deferred.
 177
 178 Mr. Wright - It's been deferred. Thank you very much for
 179 appearing.
 180
 181 Mr. Hawkins - Thank you.
 182
 183 Mr. Wright - Thank you, sir.
 184
 185 **VAR2012-00002** **CALVIN PIERCY** requests a variance from Section
 186 24-95(b)(6) of the County Code to build a one-family dwelling at 5917 Amherst
 187 Street (EDGEHILL LAWN) (Parcel 806-709-3814) zoned R-4, One-Family
 188 Residence (Varina). The lot width requirement is not met. The applicant
 189 proposes 46 feet lot width, where the Code requires 50 feet lot width. The
 190 applicant requests a variance of 4 feet lot width.
 191
 192 Mr. Wright - Raise your right hand and be sworn.
 193
 194 Mr. Blankinship - Does anyone else intend to speak to this case? Okay.
 195 Do you swear the testimony you're about to give is the truth and nothing but the
 196 truth so help you God?
 197
 198 Mr. Piercy - Yes.
 199
 200 Mr. Wright - Please state your name for the record and spell your
 201 last name.
 202
 203 Mr. Piercy - My name is Calvin Piercy—P-i-e-r-cy.
 204
 205 Mr. Wright - All right, sir, please present your case.
 206
 207 Mr. Piercy - Yes. I'm here today asking for the variance on a lot
 208 that I own. The code says that it has to be fifty feet wide to build a single-dwelling
 209 home on it. The lot is only 46-1/2 feet, so I'm asking for the variance of 3-1/2 feet
 210 in order to get a building permit.
 211
 212 Mr. Nunnally - Are you planning on building this house for yourself?
 213
 214 Mr. Piercy - No sir, I'm selling the lot. I would like to sell it as a
 215 buildable lot.
 216

217 Mr. Nunnally - Do you have a contract on the lot subject to the
 218 variance?
 219
 220 Mr. Piercy - Yes.
 221
 222 Mr. Blankinship - He actually owns the lot.
 223
 224 Mr. Piercy - Yes, I own the lot myself.
 225
 226 Mr. Nunnally - Are you going to build a house or—
 227
 228 Mr. Piercy - No, I'm selling it to a contractor.
 229
 230 Mr. Wright - Are there any other lots on that street with forty-six
 231 feet lot width?
 232
 233 Mr. Piercy - Yes sir. There are four lots on my end of the block
 234 that are 46-1/2 feet. Three lots are built on. Mine is the only remaining one that
 235 does not have a house built on it.
 236
 237 Mr. Wright - Mr. Blankinship, any house constructed on that lot
 238 would have to meet the setbacks for the side lot, front yard lot, and other
 239 requirements of the County ordinance. Is that correct?
 240
 241 Mr. Blankinship - Yes sir. He has not applied for a variance from the
 242 setbacks or anything, just the lot width.
 243
 244 Mr. Wright - Just the lot width.
 245
 246 Mr. Piercy - Yes sir.
 247
 248 Mr. Baka - And you feel confident you could place a house on
 249 there meeting both the side yard setbacks. It would be a long and narrow house.
 250
 251 Mr. Piercy - Yes sir.
 252
 253 Mr. Baka - Okay.
 254
 255 Mr. Wright - Are there any other questions?
 256
 257 Mr. Baka - I have one other question; it deals with the adjacent
 258 lot. I realize Louisa Street is a public right-of-way to the south. 5913, is that lot
 259 greater than 104 feet in lot width? Or what's that lot width?
 260
 261 Mr. Piercy - My neighbor's lot, he owns two lots. Each lot is fifty
 262 feet wide. I have asked if he would sell me part of his lot in order to make mine

263 wide enough, and he said he would have to decline because it would put him in
 264 the same situation that I'm in; it would make his lots too small to sell.
 265
 266 Mr. Blankinship - That's exactly what the neighbor told us when we
 267 were on site.
 268
 269 Mr. Wright - Is that 5913? What's the width of the frontage on that
 270 lot?
 271
 272 Mr. Blankinship - It's two fifty-foot lots.
 273
 274 Mr. Baka - Exactly a hundred feet. It's not a situation where it's a
 275 104 feet or greater. It might a different situation then.
 276
 277 Mr. Piercy - He said if the two lots were over a hundred feet he
 278 would have no problem selling me some.
 279
 280 Mr. Wright - He's right. If he sold off a little of that, that would
 281 cause him to lack adequate width.
 282
 283 Mr. Piercy - You need his lot to be nine feet longer than it is.
 284
 285 Mr. Nunnally - All right. Well the house built directly in back of you
 286 towards Darbytown Road, that's only 46.6 feet, isn't it?
 287
 288 Mr. Piercy - That's correct. There's one on Darbytown Road and
 289 one directly across the street on Edgelawn from me that's built on the same size
 290 lot.
 291
 292 Mr. Wright - There are two conditions that have been suggested
 293 by the staff if this is approved. Have you reviewed those conditions?
 294
 295 Mr. Piercy - Yes sir.
 296
 297 Mr. Wright - Okay. And you're in accordance with them.
 298
 299 Mr. Piercy - Yes. Are you talking about the County water and
 300 sewer hookups?
 301
 302 Mr. Wright - Yes sir. Any other questions by members of the
 303 Board? Is anyone here in opposition to this request? Hearing none, that
 304 concludes the case.
 305
 306 Mr. Piercy - Thank you.
 307
 308 Mr. Wright - Thank you very much for appearing.

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Mr. Piercy - Thank you.

[After the conclusion of the public hearings, the Board discussed the case and made its decision. This portion of the transcript is included here for convenience of reference.]

Mr. Wright - Do I hear a motion?

Mr. Nunnally - I move we approve this variance because I don't think it will be detrimental to the neighborhood because they already have three or four houses in that section right there that are on lots forty-six feet wide. I don't think it will be detrimental to the neighborhood or change the character of the neighborhood. And the only way the lot can be used is if you put a house on it.

Mr. Wright - Motion by Mr. Nunnally. Do I hear a second to that?

Mr. Bell - Second.

Mr. Wright - All right, Mr. Bell. Any further discussion on this case? Hearing none, all in favor say aye. All opposed say no. The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Bell, the Board **approved** application **VAR2012-00002, CALVIN PIERCY's** request for a variance from Section 24-95(b)(6) of the County Code to build a one-family dwelling at 5917 Amherst Street (EDGEHILL LAWN) (Parcel 806-709-3814) zoned R-4, One-Family Residence District (Varina). The lot width requirement is not met. The Board approved the variance subject to the following conditions:

1. This variance applies only to the lot width requirement for one dwelling only. All other applicable regulations of the County Code shall remain in force.
2. Any dwelling on the property shall be served by public water and sewer.

Affirmative:	Baka, Bell, Nunnally, Wright	4
Negative:		0
Absent:	Harris	1

[At this point, the transcript continues with the public hearing on the next case.]

354 **CUP2012-00004** **REITHOFFER SHOWS** requests a conditional use
355 permit pursuant to Section 24-116(c)(1) of the County Code to hold a carnival at
356 3000 Mechanicsville Turnpike (Parcel 800-731-0125) zoned B-1, Business
357 District and M-1, Light Industrial District (Fairfield).

358
359 Mr. Wright - Would the applicant please come to the microphone?
360 Please raise your right hand and be sworn. If anyone else here desires to speak
361 on this case, either for or against it, please stand at this time and be sworn so
362 that when you come forward we won't have to do that. All right.

363
364 Mr. Blankinship - Do you swear the testimony you're about to give is
365 the truth and nothing but the truth so help you God?

366
367 Mr. Wright - All right. Please state your case. State your name and
368 spell your last name.

369
370 Mr. Hagan - My name is Mark Hagan and it's H-a-g-a-n. I'm
371 booking Reithoffer Shows over at The Showplace April 5th through to the 15th.
372 They have some nice rides. I'd like to show you this if I can. They have admitted
373 they have out there with them Mid-Cities Service Center, a non-profit
374 organization.

375
376 Mr. Wright - Tell us something about this. What do you propose to
377 do?

378
379 Mr. Hagen - I'm going to turn that over to him.

380
381 Mr. Wright - And when you want to do it, and how it's to be done,
382 and all of those things.

383
384 Mr. Alberts - I am Nick Alberts—A-l-b-e-r-t-s—representing
385 Reithoffer Shows. We'd like to put on a temporary carnival for a non-profit
386 organization. We have the layout of the diagram that we're going to use with the
387 easements from the road. I think we're in accordance with all of the right people
388 to hold this event.

389
390 Mr. Wright - Tell us a little bit about the event. What will you be
391 doing there?

392
393 Mr. Alberts - It will be a temporary carnival to raise money.

394
395 Mr. Wright - When would it take place?

396
397 Mr. Alberts - April 5th through the 15th.

398
399 Mr. Wright - What hours?

400
 401 Mr. Alberts - Five p.m. to eleven p.m. on weekdays and one p.m.
 402 until eleven p.m. on weekends.
 403
 404 Mr. Wright - That would be on Saturday and Sunday one to
 405 eleven?
 406
 407 Mr. Alberts - Yes sir.
 408
 409 Mr. Wright - What will you have there? What type of equipment
 410 and so forth?
 411
 412 Mr. Alberts - Amusement rides. Some concessions. Food stands.
 413 Bingo.
 414
 415 Mr. Wright - I'm looking at the location. It fronts on Mechanicsville
 416 Pike. Just where on that parcel would this equipment be and would you be
 417 conducting these events?
 418
 419 Mr. Alberts - It's on the grass lot to the right of The Showplace.
 420
 421 Mr. Wright - How far back off of Mechanicsville Pike would that
 422 be?
 423
 424 Mr. Alberts - Fifty feet, sir.
 425
 426 Mr. Wright - How about parking?
 427
 428 Mr. Alberts - We have 300 parking spots in The Showplace
 429 parking lot and we have permission to use the church across the street for
 430 overflow parking.
 431
 432 Mr. Wright - All right. How much noise would this generate?
 433
 434 Mr. Alberts - We keep it down. We have a few rides with the
 435 merry-go-round and things like that that have music. But we stay within the
 436 standards.
 437
 438 Mr. Baka - I just have one question. What's the tallest ride that
 439 you'd utilize at this specific carnival here on this site?
 440
 441 Mr. Alberts - I'm going to say about sixty-five feet, the ferris wheel.
 442
 443 Mr. Baka - Sixty-five, okay. Would that be set back into the site
 444 of the carnival rather than right up against the fifty-foot setback along
 445 Mechanicsville Turnpike?

446
 447 Mr. Alberts - No, it would be set back.
 448
 449 Mr. Wright - Mr. Blankinship, I understand that this was referred to
 450 the Division of Police for their comments about safety, and crime, and so forth.
 451 Was their report favorable?
 452
 453 Mr. Blankinship - Yes sir. Our staff has met with them several times.
 454 And one of the people who stood up is Kim Vann, the crime prevention officer; I
 455 don't know if Kim would want to come up and answer any specific questions.
 456 You should have a copy in your packet of a memorandum from her listing the
 457 conditions and provisions that police would like to see the carnival include within
 458 their operations.
 459
 460 Mr. Alberts - Yes.
 461
 462 Mr. Blankinship - I don't know that anything has been identified that
 463 would prevent the Board from feeling comfortable approving the use permit. But
 464 once it is approved there are a lot of details that the promoter will be working out
 465 with the Division of Police, and also with the Division of Fire. Division of Fire has
 466 been in on all these conversations as well.
 467
 468 Mr. Wright - We have twenty-two proposed conditions that the
 469 staff has proposed if the Board were to approve this application for this permit.
 470 Have you reviewed all these conditions?
 471
 472 Mr. Alberts - Yes sir.
 473
 474 Mr. Wright - And you will comply with these conditions.
 475
 476 Mr. Alberts - Yes sir.
 477
 478 Mr. Wright - Has there been any indication of any opposition from
 479 anybody to your knowledge, Mr. Blankinship?
 480
 481 Mr. Blankinship - No sir, not that we have heard.
 482
 483 Mr. Wright - Okay.
 484
 485 Mr. Blankinship - Miguel, have you had any opposition?
 486
 487 Mr. Madrigal - [Off microphone.] We only received one phone call
 488 and they were concerned with respect to the noise being generated.
 489
 490 Mr. Wright - How many people do you expect to attract let's say
 491 on a weekday?

492
 493 Mr. Alberts - I would hope they would get a lot so we could
 494 generate cash, but I would say an average of a thousand on the weekdays, and
 495 weekends according to the weather.
 496
 497 Mr. Wright - Have we ever had one here before?
 498
 499 Mr. Blankinship - The same company, Reithoffer did a show two years
 500 ago at—
 501
 502 Mr. Alberts - Virginia Center Commons.
 503
 504 Mr. Blankinship - Virginia Center Commons. Yes, they've been to
 505 Virginia Center Commons several times. I was thinking in Fairfield on the—
 506
 507 Mr. Alberts - We did that last year.
 508
 509 Mr. Blankinship - Fairfield Commons Mall.
 510
 511 Mr. Wright - So they've been in the County before.
 512
 513 Mr. Blankinship - Yes they have.
 514
 515 Mr. Wright - All right. Did we have any problems?
 516
 517 Mr. Blankinship - We have had some complaints and some issues,
 518 which is part of the reason why as soon as we sent out the agenda, the Division
 519 of Police expressed interest in getting together and why they've put so much
 520 work into this upfront.
 521
 522 Mr. Wright - So you think what we've done now would pretty well
 523 take care of those complaints?
 524
 525 Mr. Blankinship - That probably would be a good question for Kim Vann
 526 to answer.
 527
 528 Mr. Wright - Yes.
 529
 530 Mr. Nunnally - What's the distance from the carnival to the
 531 subdivision across the street?
 532
 533 Mr. Alberts - I'm going to say it's at least four or five hundred feet,
 534 sir, because we're set back and then you have the divided highway, and then the
 535 church property. But I have no actual measurements myself.
 536

537 Mr. Wright - You were going to ask someone to address the
538 question of complaints.
539
540 Mr. Blankinship - Yes. Kim Vann with the Division of Police.
541
542 Mr. Wright - A little unusual, but let's get this done right at this
543 point. State your name and identify yourself.
544
545 Ms. Vann - Good morning, Kim Vann with Henrico Police. And
546 that's V as in Victor-a-n-n.
547
548 Mr. Wright - All right. Mr. Blankinship said we had some
549 complaints in prior years when they conducted some of these events in Henrico.
550 My question was, is what the staff has done working with the applicant worked
551 these complaints out.
552
553 Ms. Vann - Sure. The applicant has worked with us quite a bit.
554 We've been in contact by phone, e-mail, and in person meeting on site. So we
555 appreciate their proactive approach to this. As Mr. Blankinship referred, though,
556 there are still a number of items that we will want to get worked out if you do
557 approve the festival to go on. I know the layout is still questionable because of
558 the bingo parlor—or bingo tent needing to be moved. I believe Fire had some fire
559 lane questions as to the distances and all because of the movement of that.
560
561 I know some of the agreements that we made, that were listed in my memo, we
562 would make sure that they fully understand the need for not only private security,
563 Henrico Police off-duty, and also Henrico Fire. All three groups have met with
564 him on site and we believe they understand what we are looking for.
565
566 The other thing is the advanced arrangements for the money. We base that on
567 the festival permit and how that works. And also making sure that if this is
568 approved that there is a permit approved from the Gaming Commission for the
569 bingo.
570
571 The one thing that the Division of Police does have a concern with, though, is
572 this has not been held at The Showplace at least in many years, that I'm aware
573 of. We feel there is going to be a lot of foot traffic. I know this is nothing that they
574 have any control over, but because of the neighborhood and the closeness to
575 the city of Richmond, we're very concerned about the foot traffic across six lanes
576 of a 45-mile-an-hour roadway. We appreciate that they are looking to try to
577 create a crossing walk at Watts Lane where the traffic light is, but we all know
578 the tendency of people to just kind of cross wherever. Again, I know that's
579 nothing that they can really do anything about; it's just a concern both from police
580 and fire. The fact that there are other carnivals looking to come to this site, you
581 know, it does raise a concern for us for safety. But we will employ officers on the

582 roadway, and within the parking lot, to try to help this and mitigate any problems
583 that could occur. That that is a concern.

584

585 Mr. Wright - These concerns you have, they are expressed in your
586 memo?

587

588 Ms. Vann - Yes sir.

589

590 Mr. Wright - Are they all in here?

591

592 Ms. Vann - Yes sir.

593

594 Mr. Wright - Condition #10 says the applicant shall comply with
595 the Division of Police recommendations that are outlined in this number. So if it's
596 approved and this condition is approved, then they would be required to do this.

597

598 Ms. Vann - Correct, right.

599

600 Mr. Wright - So that would eliminate many of those concerns.

601

602 Ms. Vann - Right. We have tried to be very clear with them
603 upfront on what we are concerned with, and had dialogue with them both in
604 person and via e-mail. So far I believe they are supportive of what we're asking.

605

606 Mr. Wright - That sounds good. Thank you very much.

607

608 Mr. Baka - One question, if I may. Just a range. For an event of
609 this typical size what is a range of numbers of Henrico Police officers that might
610 be assigned to such an event?

611

612 Ms. Vann - We actually have tried to figure that out for this event
613 so that they would know the cost upfront before they went forward. We are
614 requiring one lieutenant, one sergeant, and ten officers. And that's just for
615 Henrico Police. And that's every day. And they are also aware that should the
616 numbers of people decline beyond what we anticipate—because this is over
617 spring break, part of this particularly eleven days will fall over spring break—they
618 are in agreement that should the numbers decline during the day on weekdays
619 or increase, it is the lieutenant's prerogative each day to either dismiss people or
620 bring additional people on, and they will need to pay for that.

621

622 Mr. Baka - Thank you.

623

624 Mr. Wright - Thank you very much for your input. Is there anything
625 else, Mr. Alberts that you wish to present?

626

627 Mr. Alberts - No sir. We're just looking forward to doing the event
628 here and hoping it goes well so we can play this County again, sir.
629
630 Mr. Wright - All right. Is anyone here in opposition to this? If you
631 will have a seat and listen to the opposition, and then you're going to have an
632 opportunity to rebut the opposition.
633
634 Mr. Blakey - Good morning, gentlemen.
635
636 Mr. Wright - Please state your name for the record.
637
638 Mr. Blakey - My name is Trustee Gerald Blakey—that's B-l-a-k-e-
639 y—of Mosby Memorial Baptist Church, which is right across the street from The
640 Showplace where they want to have this carnival. The church is not in opposition
641 to the carnival, but the gentleman stated that he had permission to park on the
642 church. At our last trustee meeting, we did not say that we gave permission for
643 anyone going to the carnival to park on the church lot. That is our concern.
644
645 Mr. Wright - If this is approved, we could put a condition in that
646 there would be no parking on the church property. That would not be something
647 they would ordinarily be doing anyway, parking on somebody else's property
648 without their permission.
649
650 Mr. Blakey - Right.
651
652 Mr. Wright - Your statement is the church does not approve—
653
654 Mr. Blakey - Yes sir.
655
656 Mr. Wright - —the use of any of the church parking.
657
658 Mr. Blakey - Property or easements.
659
660 Mr. Wright - Right. We will certainly protect that.
661
662 Mr. Blankinship - If you look at the map, you see the church is directly
663 across the road, so they definitely have a stake in this.
664
665 Mr. Baka - I just have a question or clarification. Was the
666 applicant referring to the church across the street giving permission or the church
667 next door giving permission?
668
669 Mr. Blakey - This is the only church in that area. Next door to that
670 is the Pepsi Company.
671

672 Mr. Baka - Pepsi; I'm sorry. My fault. I appreciate you bringing
673 this concern back to the Board. I think it would be great, Mr. Chairman, if the
674 applicant could address that now. Thank you.

675

676 Mr. Blakey - All right. Thank you, sir.

677

678 Mr. Wright - Anyone else in opposition who would like to speak?
679 All right. Would the applicant come back to the podium and address that
680 concern? There seems to be some misconception; the church does not approve
681 your use of their parking facilities. Do you understand?

682

683 Mr. Alberts - Yes sir. I went over to the church the day—

684

685 Mr. Blankinship - Make sure you're speaking into the microphone.

686

687 Mr. Alberts - I went over to the church where the white van was
688 parked out front and got the phone number off of it. I did call and left a message
689 on the machine. Then I went over there that following Sunday. The lady in the
690 office, her name was—I don't know her name right off the bat, but she was inside
691 the office there. I said we'd like to use your back parking lot for overflow just in
692 case; we're doing a carnival over there. She said call this number here and leave
693 a message on this man's machine, which I did. And she said we'll call you back.
694 Okay. Three days later some lady named Tina—I think her name was Tina or
695 Tonya; I have it on the machine on my house phone—said the pastor said bring
696 him some paperwork and we'll see, and then I'll call you when our next church
697 pastor meeting is and let you come to it. Okay. She did not call me back so I
698 called her back. And she said the pastor meeting is today, okay. My truck broke
699 down that day. I asked her when was the next one. I went by there and gave her
700 letter saying what we wanted to do, and she e-mailed back. I have the e-mail at
701 home. She said they said it was okay.

702

703 Mr. Wright - When you say "they," you have to be concerned
704 about who "they" is. I've been involved with my church for umpteen years. And
705 somebody will say this or that, but the Board of Trustees is the legal authority for
706 the use of church property.

707

708 Mr. Alberts - Yes sir.

709

710 Mr. Wright - And this gentleman has said—Mr. Blakely has said
711 that the trustees have voted that you cannot use the property, and that should
712 clear it up. I'm not doubting what you say, and somebody may have called you.
713 Sometimes pastors just—you know how they are; they don't want to deny
714 anybody anything, and they'll come out and say yes it's fine. But the Board of
715 Trustees evidently has met and this gentleman—we have to take him at his word
716 under oath—has said that the Board of Trustees has voted. So that should put
717 that issue to rest. If this is approved, I'm going to suggest that we put a condition

718 in the use permit that the church property or their easements cannot be used for
719 parking for this event.

720

721 Mr. Alberts - Okay. I have one more thing for you, too. The guy
722 that has that little market that I call it a farmers' market or whatever, but it's not a
723 farmers' market, it's right there. As you go down the road, right there beside him
724 to the right. That man has already said he can—he will be working the bingo tent
725 where the non-profit [unintelligible] with us. He owns that big grassy field back
726 there.

727

728 Mr. Wright - I don't understand what—where the red roof is?

729

730 Mr. Baka - Red roof?

731

732 Mr. Alberts - Yes, where the buses are. No. Let me get my
733 bearings. Go over where the church is. Right there. That right there, that whole
734 back field. He's with the group that's doing the bingo.

735

736 Mr. Wright - He says you can use that property for parking?

737

738 Mr. Alberts - Yes. He's said he's going to charge five dollars for
739 parking in his field.

740

741 Mr. Wright - Where is the light, at Watts Lane?

742

743 Mr. Blankinship - At Watts Lane, yes sir.

744

745 Mr. Wright - If they park down there, they're going to run right
746 across Mechanicsville Pike. Looks like to me that would be a dangerous
747 situation. You say you have how many parking places?

748

749 Mr. Blankinship - I think he underestimated. Is it in the staff report, the
750 number of parking spaces?

751

752 Mr. Wright - I thought it was and I couldn't find it.

753

754 Mr. Baka - Seven sixty?

755

756 Mr. Blankinship - That sounds more like it.

757

758 Mr. Baka - Page one at the bottom.

759

760 Mr. Blankinship - It's well over 700 parking spaces.

761

762 Mr. Wright - That's a lot of parking.

763

764 Mr. Blankinship - At the Showplace.
 765
 766 Mr. Wright - And there will be a lot of people who walk there who
 767 won't be driving.
 768
 769 Mr. Baka - I'd be more inclined to allow the parking just on the
 770 760 spaces on the northwest side of the road.
 771
 772 Mr. Blankinship - That's definitely preferable. If that fills up, then I think
 773 we want to know what they're going to use for overflow so that they don't go to
 774 any place they don't have permission to use. And certainly the people coming to
 775 the carnival will choose to park as close as they can.
 776
 777 Mr. Wright - You have ten officers, and probably one of them will
 778 be down there to direct people and prohibit them from crossing Mechanicsville
 779 Turnpike. That's a dangerous thing for somebody to try to walk across.
 780
 781 Mr. Baka - Mr. Chairman, if I may, I've driven by this property a
 782 lot and it's always vacant. I think it would be a great opportunity and a great use
 783 to have an activity there. I haven't been back inside; I'm trying to recall if the
 784 parking spaces are still striped. More often with large events if you have striped
 785 parking at least people can recognize that they're striped. You'll tend to get a
 786 whole lot more cars in there than if you just have asphalt that's not striped. You
 787 can lose 100 or 200 spaces easily.
 788
 789 Mr. Blankinship - They had been painted; it's somewhat faded. Some
 790 places you can see the lines clearly and some places you can't. That's about
 791 what it's like on the ground as well.
 792
 793 Mr. Baka - Okay, thanks.
 794
 795 Mr. Wright - All right. Anything further? Thank you very much. That
 796 concludes the case.
 797
 798 **[After the conclusion of the public hearings, the Board discussed the case**
 799 **and made its decision. This portion of the transcript is included here for**
 800 **convenience of reference.]**
 801
 802 Mr. Wright - Can I hear a motion on this case?
 803
 804 Mr. Baka - Mr. Chairman, I would make a motion that we
 805 approve the case with the suggested conditions listed in the staff report. I don't
 806 recall hearing any specific changes.
 807

808 Mr. Blankinship - I think Mr. Wright was suggesting a change to
809 Condition 12. I was going to propose in that sentence just stating that they shall
810 not use any parking for which they do not have a written agreement.

811

812 Mr. Wright - That's good.

813

814 Mr. Baka - So I recommend approval with the change that Mr.
815 Blankinship just referred to about specific approval for parking in Condition #12.
816 And there would be a total of what, twenty-two suggested conditions?

817

818 Mr. Wright - Yes, twenty-two.

819

820 Mr. Baka - That would be my motion.

821

822 Mr. Wright - Okay. Is there a second to that motion?

823

824 Mr. Nunnally - Second.

825

826 Mr. Wright - All right, seconded by Mr. Nunnally. Any discussion?
827 Hearing none, all in favor say aye. All opposed say no. The ayes have it; the
828 motion passes.

829

830 After an advertised public hearing and on a motion by Mr. Baka, seconded by
831 Mr. Nunnally, the Board **approved** application **CUP2012-00004, REITHOFFER**
832 **SHOWS'** request for a conditional use permit pursuant to Section 24-116(c)(1) of
833 the County Code to hold a carnival at 3000 Mechanicsville Turnpike (Parcel 800-
834 731-0125) zoned B-1, Business District and M-1, Light Industrial District
835 (Fairfield). The Board approved the temporary conditional use permit subject to
836 the following conditions:

837

838 1. This use permit is for the approval of a carnival to be held at the Showplace
839 exhibition venue from April 1, 2012 to April 18, 2012. Concurrent use of the
840 facilities by other show promoters or events during the scheduled event is
841 prohibited.

842

843 2. The carnival shall be limited to the following dates and times:

844

a. Set-up:

845

i. Sunday, April 1, 2012 to Wednesday, April 5, 2012.

846

ii. Hours of operation: Sunday, 12:00 noon to 5:00 pm; Monday to
847 Wednesday, 7:00 am to 5:00 pm

848

b. Carnival:

849

i. Thursday, April 5, 2012 to Sunday, April 15, 2012.

850

ii. Hours of operation: Monday through Thursday, 5:00 pm to 10:00 pm;
851 Friday and Saturday, 12:00 pm to 11:00 pm; and Sunday, 12:00 pm to
852 10:00 pm.

853

c. Break-down:

- i. Monday, April 16, 2012 to Wednesday, April 18, 2012.
- ii. Hours of operation: 7:00 am to 5:00 pm.

3. Carnival activities that generate noise, light or glare beyond the property lines shall cease one hour after closing and shall not resume until 7:00 am the following day.

4. The applicant shall locate the carnival along the northern boundary line of the property and shall not encroach further into the asphalt parking field than the first row of parking lot lights.

5. Only the improvements shown on the site plan submitted February 15, 2012, may be constructed pursuant to this approval. Any substantial changes or additions to the footprint of the carnival will require a new use permit.

6. The carnival shall maintain be set back 50 feet from the right-of-way of Mechanicsville Turnpike, and 25 feet from all other property lines. These areas shall be maintained free and clear of any obstructions for use as emergency access routes.

7. Existing fire lanes shall be marked and maintained in accordance with the Fire Prevention Code.

8. The sale of alcoholic beverages shall be prohibited during the event.

9. The applicant shall secure the perimeter of the carnival with appropriate temporary fencing to ensure safety and security during and after hours to the satisfaction of the Divisions of Police and Fire. Emergency ingress and egress shall be provided at their discretion.

10. The applicant shall comply with the Division of Police recommendations as outlined in the Inter-office Memorandum dated February 14, 2012 (see attached).

11. The existing parking lot light fixtures shall remain on during hours of darkness (dusk to dawn) for the duration of the event, including carnival set up and breakdown. At the discretion of the Division of Police, additional lighting may be required for safety and security during the carnival event.

12. Prior to the event, the applicant shall secure overflow parking agreements as part of a contingency plan in case on-site maximum parking capacity is reached. The applicant shall have a plan in place to re-direct vehicular traffic and safely assist pedestrians in crossing Mechanicsville Turnpike during the event. There shall be no carnival parking on any lot for which the promoter has not secured written permission from the owner or responsible party.

899 13. The applicant shall install a temporary pedestrian crosswalk across
900 Mechanicsville Turnpike at Watts Lane to the satisfaction of the Division of
901 Police.
902

903 14. The applicant shall designate an on-site guest loading and unloading zone
904 near the existing building. Dropping off passengers shall be discouraged on
905 Mechanicsville Turnpike.
906

907 15. The applicant shall provide adequate restroom (standard and handicap)
908 facilities throughout the carnival. These facilities shall be serviced daily.
909

910 16. The applicant shall obtain necessary building, electrical, and amusement
911 device permits and shall comply with all required County inspections.
912

913 17. The applicant and/or event sponsor shall comply with § 18.2-340.15,
914 regarding the Commonwealth's charitable gaming provisions, for the operation of
915 a Bingo tent during the carnival event.
916

917 18. All food vendors shall obtain the necessary permits, clearances, and
918 inspections required by the Health Department.
919

920 19. The applicant shall maintain the property so that debris is controlled during
921 the event. Adequate trash receptacles shall be provided throughout the carnival
922 with regular pickups.
923

924 20. Sound generated by the carnival shall not exceed 65 dB at the limits of the
925 property.
926

927 21. The applicant shall install temporary traffic barriers to discourage public
928 access and parking behind the existing building.
929

930 22. The applicant shall prohibit loitering on the property.
931

932			
933	Affirmative:	Baka, Bell, Nunnally, Wright	4
934	Negative:		0
935	Absent:	Harris	1
936			

937
938 **[At this point, the transcript continues with the public hearing on the next**
939 **case.]**
940

941 **CUP2012-00006** **WEST END ASSEMBLY OF GOD** requests a
942 conditional use permit pursuant to Section 24-116(c)(1) of the County Code to
943 allow a tent at 401 N Parham Road (Parcel 753-736-0655) zoned R-1, One-
944 Family Residence District (Tuckahoe).

945
 946 Mr. Wright - Please raise your hand to be sworn. Is there anyone
 947 else here who desires to speak to this application? All right, sir, please raise your
 948 hand to be sworn.
 949
 950 Mr. Blankinship - Do you swear the testimony you're about to give is
 951 the truth and nothing but the truth so help you God?
 952
 953 Mr. Ruhlen - I do.
 954
 955 Mr. Wright - Now sir, would you state your name and spell your
 956 last name for the record.
 957
 958 Mr. Ruhlen - My name is Terry Ruhlen. Last name is R-u-h-l-e-n.
 959 I'm standing in for Pat Brag who had to take his wife on a cruise this week to the
 960 Bahamas.
 961
 962 Mr. Wright - All right, Mr. Ruhlen, would you please state your
 963 case.
 964
 965 Mr. Ruhlen - I represent West End Assembly of God. We have an
 966 annual Christmas program that's quite large that we've conducted for about
 967 fifteen years. Last year we began an Easter program. We are requesting to erect
 968 a 30 by 30 tent for storage before and during the show for our set pieces and
 969 various pieces of equipment. It's erected behind the church and it's not visible
 970 from the roadway. There is a subdivision that is being built to the rear. And there
 971 is one home, as you can see, that is—you can almost see it, but there's a
 972 treeline and seven-foot-high fence. Our pastor has spoken to the owner of that
 973 building, and he is really comfortable with what we're doing.
 974
 975 So what we would like to do is—we're looking at maybe for two years as
 976 suggested because we come back every year, and the conditions are pretty
 977 much the same or similar that we would look for maybe two years instead of one
 978 year. So that would be two years for each of our Christmas productions in
 979 December and our Easter product around April. So that would be four different
 980 time periods.
 981
 982 Mr. Wright - Have you reviewed the suggested conditions?
 983
 984 Mr. Ruhlen - Yes sir I have, and we can meet all those conditions.
 985
 986 Mr. Wright - And you are in accord with those conditions.
 987
 988 Mr. Ruhlen - Yes we are.
 989

990 Mr. Wright - All right. Any questions from members of the Board?
991 All right. Is there anyone here in opposition to this request? Hearing none, that
992 concludes the case. Thank you very much.

993

994 Mr. Ruhlen - Thank you.

995

996 **[After the conclusion of the public hearings, the Board discussed the case**
997 **and made its decision. This portion of the transcript is included here for**
998 **convenience of reference.]**

999

1000 Mr. Wright - Do I hear a motion on this case?

1001

1002 Mr. Bell - I move that we approve it.

1003

1004 Mr. Wright - Motion made that we approve it. Is there a second?

1005

1006 Mr. Nunnally - Which one is it?

1007

1008 Mr. Wright - This is the West End Assembly of God.

1009

1010 Mr. Nunnally - I second it.

1011

1012 Mr. Wright - All right, seconded by Mr. Nunnally.

1013

1014 Mr. Blankinship - Can we have a statement on the record?

1015

1016 Mr. Baka - I'm a member of the church and I've been advised by
1017 staff and talking to counsel that there is no formal need to recuse myself from a
1018 vote. However, I still may choose to abstain.

1019

1020 Mr. Wright - Mr. Bell, would you state your basis for your motion?
1021 You made the motion. Would you state your basis for the approval of the use
1022 permit?

1023

1024 Mr. Bell - There are three things. One is it's been used in the
1025 past for one year. The difference is they are extending it to two years so they
1026 don't have to come back. There are no objections from the surrounding
1027 community. And also it certainly does not affect any light, air, or traffic problems.

1028

1029 Mr. Wright - All right. All in favor say aye. All opposed say no. The
1030 ayes have it; the motion passes.

1031

1032 Mr. Baka - I abstain.

1033

1034 Mr. Wright - Mr. Baka abstains, so it passes three to zero.

1035

After an advertised public hearing and on a motion by Mr. Bell, seconded by Mr. Nunnally, the Board **approved** application **CUP2012-00006, WEST END ASSEMBLY OF GOD's** request for a conditional use permit pursuant to Section 24-116(c)(1) of the County Code to allow a tent at 401 N Parham Road (Parcel 753-736-0655) zoned R-1, One-Family Residence District (Tuckahoe). The Board approved the temporary conditional use permit subject to the following conditions:

1. This use permit applies only to the placement of a temporary 30' X 30' storage tent at the rear of the church, adjacent to the loading and unloading zone. All other applicable regulations of the County Code shall remain in force.

2. The installation of the tent shall coincide with the following dates:

- a. March 12, 2012 through May 14, 2012;
- b. October 1, 2012 through January 31, 2013;
- c. March 9, 2013 through May 14, 2013; and
- d. October 1, 2013 through January 31, 2014.

3. The tent shall be removed within one week of the last show for each respective time period.

4. No external tent lighting is authorized by this use permit.

5. All fire lanes marked on the property shall be maintained in accordance with the current Fire Prevention Code.

Affirmative:	Bell, Nunnally, Wright	3
Negative:		0
Absent:	Harris	1
Abstain:	Baka	1

[At this point, the transcript continues with the public hearing on the next case.]

CUP2012-00007 **ROYAL DOMINION HOMES** requests a conditional use permit pursuant to Section 24-116(c)(1) of the County Code to allow a temporary sales trailer at 433 Kingsridge Parkway (KINGSRIDGE) (Parcel 809-725-3797) zoned R-5, General Residence District (Varina).

Mr. Wright - Does anyone else desire to speak with respect to this case either for or against? All right, sir, please your raise your right hand to be sworn.

1081 Mr. Blankinship - Do you swear the testimony you're about to give is
1082 the truth and nothing but the truth so help you God?

1083

1084 Mr. Bjelstrand - I do.

1085

1086 Mr. Wright - Please state your name for the record and spell your
1087 last name.

1088

1089 Mr. Bjelstrand - My name is Kenny Bjelstrand; I will spell that for you.
1090 It's B-j-e-l-s-t-r-a-n-d.

1091

1092 Mr. Wright - All right, sir, please present your case.

1093

1094 Mr. Bjelstrand - Good morning. My name is Kenny Bjelstrand. I'm
1095 here on behalf of the applicant, Royal Dominion Homes, and the owner, Mark
1096 Motley, requesting a conditional use permit for a trailer to be used as a
1097 temporary sales and marketing facility for this townhouse project. It is truly
1098 temporary. It sits at the front of the neighborhood. The construction is actually
1099 towards the rear of the neighborhood. It's really just for visibility so that we can
1100 get traffic in there while the construction is going on and the model building is
1101 being erected. Again, the trailer will come out as soon as the model home can be
1102 occupied.

1103

1104 Mr. Nunnally - Did you get permission to put that trailer there. Has
1105 that been taken care of? I know it's up there, but you had some work to do to get
1106 it in—

1107

1108 Mr. Bjelstrand - Yes sir. It's kind of a comedy of errors, and we
1109 apologize for that. We sort of plead ignorance, and then beg forgiveness and
1110 relief. The original intent was to have a construction trailer for the building guys.
1111 When they ordered the trailer, the trailer company just kind of put where they—
1112 the best location, which actually makes sense because where they put it there's
1113 a little stub road, so it's just kind of an easy place to put it. And the applicant,
1114 unfortunately, wasn't aware of the fact that he even needed a permit, much less
1115 meet any setback requirements.

1116

1117 In the meantime, since I've been involved—I do a lot of consulting for the
1118 company, and when I became aware of what they were doing, I was the one that
1119 said they needed to get a permit. So the trailer was already there, but nothing
1120 had really been done to it. When we went in for a permit, they decided they were
1121 going to do everything they knew was going to be required for the permit, which
1122 included installing the handicap-accessible ramp, which was very nicely done.
1123 It's all been skirted and landscaped. All the conditions on the staff report are fine;
1124 they have no problems taking care of those with, unfortunately, the exception of
1125 the setback. I don't know what we can do with that. It's a bad situation because
1126 there is really no other place to put the thing without doing a tremendous amount

1127 of work. Behind the trailer there is actually a stand of trees and a pretty
1128 significant swale. So pushing it back the twelve or fifteen feet to get it in the
1129 setback requirement would be problematic at best. We're willing to do whatever
1130 you think might be appropriate; it's kind of a challenge. With the trees behind it,
1131 you can't just push the trees down and move it. It would be a lot of earthwork,
1132 which we are trying to avoid, obviously, and certainly the expense. I have
1133 pictures that are more current that show all the improvements. I'll send those up
1134 to you if you'd like to review them.

1135
1136 Mr. Wright - Yes, we would.

1137
1138 Mr. Bjelstrand - We have plenty of room on the left side of the trailer
1139 to do all the parking requirements. The lighting issue is not an issue; we'll take
1140 care of that. The real big thing is the visibility and the proximity to Laburnum is
1141 ideal for directing sales.

1142
1143 Mr. Wright - Which condition are we talking about here, Mr.
1144 Blankinship?

1145
1146 Mr. Nunnally - That portable toilet, has that been taken care of?

1147
1148 Mr. Bjelstrand - It's going to be moved. I don't have a copy of the
1149 picture, but if you look at the one that shows the actual—you can see the top of
1150 the portable toilet. There is room to move that just farther to back where it's not
1151 visible at all. And they can build a little path and the fence. All that is fine; that's
1152 easily accomplished.

1153
1154 Mr. Wright - Number 2 is the one you're talking about, Condition
1155 #2 that says the trailer should be located to—

1156
1157 Mr. Bjelstrand - Yes sir.

1158
1159 Mr. Wright - —comply with the front-yard setback of thirty-five feet.

1160
1161 Mr. Bjelstrand - Yes sir. That's the most challenging.

1162
1163 Mr. Wright - Where is it sitting?

1164
1165 Mr. Bjelstrand - The corner of the trailer sits about twenty-three or
1166 twenty-four feet off the curb. So I assume that this is not incorporating the whole
1167 right-of-way, so it's probably somewhat less than that. I'm saying it's twelve or
1168 thirteen—or, you know, ten or twelve feet to get out of the setback requirement.
1169 But it may actually be a little bit more because I'm not sure exactly where the
1170 right-of-way is. We just used the curb as a measurement. The trailer is in it, but
1171 the ramp—because it has to be so big to get the fall requirements it just sticks
1172 out a little farther. It's very visible, which is great, and it's easily utilized. It's just

1173 that the one condition of the setback is a little bit of a challenge. We have plenty
1174 of room on the other side to expand and do the parking, and additional
1175 landscaping, and whatever else we need to do; is no problem.

1176
1177 Mr. Wright - I notice that Condition #7 requires the trailer to be
1178 removed on or before March 1, 2013.

1179
1180 Mr. Bjelstrand - Yes sir. We have no reason to think that it would be
1181 there that long. Obviously we're dealing with the developer as well, and so you
1182 never know what their schedule is going to be with weather and everything. But
1183 the intent is to have the construction of the model building started as soon as the
1184 equipment can get out of the way and we're not in their way. We don't anticipate
1185 it being there more than six months tops. I think with the weather, you know, we'll
1186 be able—they'll be able to finish the development site work, and we can get
1187 started on the building, and it won't take—hopefully about four months to build
1188 the whole building. And the model building will be the first one completed.

1189
1190 Mr. Wright - Probably sometime in August you'll be removing the
1191 building.

1192
1193 Mr. Bjelstrand - Yes, worst case. We could even stipulate, or even
1194 volunteer, that come heck or high water we'll have the trailer out of there in six
1195 months if we can get some relief on the setback. If we have to take in a
1196 temporary something or other, a mobile sales center, we could do that for the
1197 short period of time before we can get an occupancy permit for the trailer. We'd
1198 be very willing to do that.

1199
1200 Mr. Baka - Just to clarify. This is a conditional use permit to allow
1201 the temporary sales trailer as a use. Suggested Condition 2 says that the BZA
1202 might be able to consider approval of the conditional use permit, but the
1203 applicant would still have to meet the thirty-five-foot setback. Correct? So this is
1204 not a request for any type of setback relief or any type of variance from that
1205 thirty-five-foot requirement. Is that correct?

1206
1207 Mr. Blankinship - I would think they would need a variance for that.

1208
1209 Mr. Baka - I thought of that. I'm just trying to separate the apple
1210 from the orange.

1211
1212 Mr. Bjelstrand - I had a discussion with the applicant about that. If we
1213 have to do another meeting with you guys for a variance on the setback, we'd be
1214 happy to that. The expense and the time is way better than—

1215
1216 Mr. Blankinship - Looking ahead, I don't see any way the Board could
1217 approve that.

1219 Mr. Baka - What we're looking at are the suggested conditions in
1220 front of us today. We're looking at whether we could approve the use in a
1221 situation where you meet this setback requirement, Condition #2. Would you be
1222 prepared to meet that?
1223

1224 Mr. Bjelstrand - I'm sorry; say that again.
1225

1226 Mr. Baka - Would you be prepared to meet Condition #2? I know
1227 you said it was twenty-three to twenty-four feet from the curb. I guess my next
1228 question is how far is it from the edge of the right-of-way. I think I heard you say
1229 you weren't certain how far it was from the edge of the right-of-way.
1230

1231 Mr. Bjelstrand - It's about twenty-four feet from the curb, and I'm
1232 assuming the right-of-way is beyond the curb, so it's somewhat less than that. So
1233 it would be fifteen feet, probably, not complying with the setback requirement.
1234

1235 Mr. Wright - Just to clarify, I was going to ask Mr. Blankinship this
1236 very question. This thirty-five-foot requirement is not something that staff has
1237 proposed as a condition; I think it's in the ordinance. Isn't that correct?
1238

1239 Mr. Blankinship - That's correct.
1240

1241 Mr. Bjelstrand - Yes sir, that's my understanding.
1242

1243 Mr. Wright - Well see, this Board would not have the authority to
1244 grant you that without a variance, in view of Cochran.
1245

1246 Mr. Bjelstrand - So I have to get the variance first and—
1247

1248 Mr. Wright - Let me say this. In view of the Cochran case, you
1249 may have heard of this famous case—if you have a reasonable use of this
1250 property without the variance, the Board would have no authority to even discuss
1251 it or question it. I'm afraid you're pretty well stuck with the thirty-five feet, the way
1252 I look at it. You can go and apply for a variance, and bring it before the Board,
1253 and do whatever you want, but I think we would be faced with that concern.
1254

1255 Mr. Baka - I generally concur with that. I think that the point I
1256 want to point out here is that if we were to approve the conditional use permit
1257 with the condition suggested by staff in the report, it's interesting to note that that
1258 approval would not necessarily—it would not approve what's there on site today.
1259

1260 Mr. Wright - No.
1261

1262 Mr. Baka - That's a unique situation.
1263

1264 Mr. Wright - Well he's given until March 31st to comply.

1265
 1266 Mr. Baka - Right.
 1267
 1268 Mr. Bjelstrand - I didn't mean to dodge your question, Mr. Wright. The
 1269 original intent was to be a construction trailer. When they found out that it was so
 1270 visible and in a great location, they decided to make it a sales trailer. And again,
 1271 they didn't realize that you needed a permit, and then the setback became
 1272 another issue. I will tell you that the contractor and the developer have been kind
 1273 enough to offer the equipment to run up the road and push the trees down, and
 1274 try to make us some room so that we can meet the setback. We don't want to
 1275 take them away from their jobs building the site because it is somewhat time-
 1276 sensitive. But they are willing to do that. And if we need to do that in order to get
 1277 the approval we would make every effort to move that thing back out of that—
 1278 into the setback requirement.
 1279
 1280 Mr. Wright - What we're saying, I think, to sum it up is that if we
 1281 approve this, we will be required to approve it with Condition #2 in there, and
 1282 give you until March 31st to move the trailer.
 1283
 1284 Mr. Bjelstrand - If that's what we have to do, that's what we have to
 1285 do. There is really no place else to put it, so if we need to go back and meet that
 1286 requirement, that's what we have to do.
 1287
 1288 Mr. Blankinship - For future reference, you might pass along that a
 1289 construction trailer does not need a use permit, but it does have to meet
 1290 setbacks. So if that was a construction trailer you'd have the same—
 1291
 1292 Mr. Bjelstrand - Well, it was an R-5 and they—I went back and looked
 1293 at it; it's thirty-five. It's all there. If you look for it you can find it. It was just, again,
 1294 an ignorance issue.
 1295
 1296 Mr. Baka - One quick practical question. About how many
 1297 parking spaces are available for your employees and customers on that gravel
 1298 area?
 1299
 1300 Mr. Bjelstrand - To the left of the trailer there is all kinds of room. We
 1301 just need to gravel it and then mark it, and we can do exactly what's required in
 1302 the staff report. There will be no problem with that.
 1303
 1304 Mr. Baka - Would you say it's more than five spaces, or ten
 1305 spaces, or—
 1306
 1307 Mr. Bjelstrand - There's enough room to do as many as we need. The
 1308 five is fine. You don't usually have fifteen cars there at one time. It's scattered
 1309 throughout the day so five should be plenty.
 1310

1311 Mr. Blankinship - Five was our standard requirement when the
 1312 economy was good.
 1313
 1314 Mr. Bjelstrand - I don't that we even need that many right now.
 1315
 1316 Mr. Blankinship - You hope you need five.
 1317
 1318 Mr. Bjelstrand - We hope we do.
 1319
 1320 Mr. Wright - All right. Is anyone here in opposition to this request?
 1321 Hearing none, sir, that concludes the case. Thank you very much.
 1322
 1323 Mr. Bjelstrand - Thank you; I appreciate it.
 1324
 1325 **[After the conclusion of the public hearings, the Board discussed the case**
 1326 **and made its decision. This portion of the transcript is included here for**
 1327 **convenience of reference.]**
 1328
 1329 Mr. Wright - Do I hear a motion on this case? This is the trailer.
 1330
 1331 Mr. Nunnally - Is that one you're talking about getting a variance on?
 1332
 1333 Mr. Wright - No, no. If we approve it, we would approve it with the
 1334 condition that would require them to comply so they wouldn't need a variance.
 1335
 1336 Mr. Nunnally - I move we approve it with the condition then.
 1337
 1338 Mr. Wright - All right.
 1339
 1340 Mr. Bell - Second.
 1341
 1342 Mr. Wright - Would you state your basis for the motion, Mr.
 1343 Nunnally?
 1344
 1345 Mr. Nunnally - I just don't think it would be detrimental to the way it is
 1346 right now. I've been down there and talked with the people, and there's plenty of
 1347 space and all that.
 1348
 1349 Mr. Wright - All right. All in favor say aye. All opposed say no. The
 1350 ayes have it; the motion passes.
 1351
 1352 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
 1353 Mr. Bell, the Board **approved** application **CUP2012-00007, ROYAL DOMINION**
 1354 **HOMES'** request for a conditional use permit pursuant to Section 24-116(c)(1) of
 1355 the County Code to allow a temporary sales trailer at 433 Kingsridge Parkway
 1356 (KINGSRIDGE) (Parcel 809-725-3797) zoned R-5, General Residential District

(Varina). The Board approved the temporary conditional use permit subject to the following conditions:

1. Only the improvements shown on the plot plan and building design filed with the application, as amended by these conditions, may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new use permit.

2. No later than March 31, 2012, the trailer shall be relocated to comply with the front yard setback of 35 feet. The trailer shall be skirted on all sides with a durable material as required by the building code for a permanent installation.

3. No later than March 31, 2012, the portable toilet shall be relocated behind the trailer and screened from view by means of an opaque fence.

4. No later than March 31, 2012, the parking area shall be relocated to comply with the required setback of 10 feet from the right-of-way, and shall be expanded to provide five parking spaces, each measuring nine feet wide by 18 feet deep, with a drive aisle 24 feet wide. The parking spaces shall be delineated with stripes, bollards, wheel stops, or some other means. At least one parking space shall comply with the accessibility standards of the Americans with Disabilities Act.

5. No later than March 16, 2012, a detailed landscaping and lighting plan shall be submitted to the Planning Department for review and approval. Approved landscaping shall be installed no later than March 31, 2012. All landscaping shall be maintained in a healthy condition at all times. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting season.

6. No later than March 31, 2012, the lights affixed to the trailer shall be shielded to prevent glare from spilling onto the right-of-way.

7. The trailer shall be removed from the property on or before March 1, 2013, at which time this permit shall expire.

Affirmative:	Baka, Bell, Nunnally, Wright	4
Negative:		0
Absent:	Harris	1

Mr. Wright - Minutes of the January 26, 2012, meeting. I only have one and it's on page seven.

1403 Mr. Baka - I have one after that.
1404
1405 Mr. Wright - Page 7, line 297. The last sentence on that line. It
1406 says, "I think it would be compatible with the general plans and objections." It
1407 should have been "objectives."
1408
1409 Mr. Baka - I have one other change, Mr. Chairman. On page 11,
1410 top of the page, line 453 at the end of the sentence, "for a two-car or three-car
1411 garage to be attached." I believe I said, "to be attached to the house," to make
1412 that clear. So insert the three words, "to the house," at the end of the sentence.
1413 Thank you.
1414
1415 Mr. Wright - Okay. All right. Any others?
1416
1417 Mr. Nunnally - I think I have one here. The first one here Mrs. Harris
1418 says, "Welcome to the December 26th meeting." I think it was supposed to have
1419 been January.
1420
1421 Mr. Wright - Any other suggested corrections? Do I hear a motion
1422 that we approve the minutes as corrected?
1423
1424 Mr. Baka - So moved.
1425
1426 Mr. Wright - Mr. Baka moved. Is there a second?
1427
1428 Mr. Bell - Second.
1429
1430 Mr. Wright - Seconded by Mr. Bell. Any discussion? Hearing none,
1431 all in favor say aye. All opposed say no. The ayes have it; the motion passes.
1432
1433 On a motion by Mr. Baka, second by Mr. Bell, the Board **approved as corrected**
1434 **the Minutes of the January 26, 2012**, Henrico County Board of Zoning Appeals
1435 meeting.
1436
1437
1438 Affirmative: Wright, Baka, Bell, Nunnally 4
1439 Negative: 0
1440 Absent: Harris 1
1441
1442
1443 Mr. Wright - I think at this time we were supposed to elect a vice
1444 chair to replace Mr. Witte.
1445
1446 Mr. Baka - I nominate Mr. Wright.
1447
1448 Mr. Nunnally - Second.

1449
 1450 Mr. Baka - All in favor say aye. Opposed?
 1451
 1452 Mr. Wright - Thank you. Most efficiently done. All right. Anything
 1453 else, Mr. Blankinship, to come before this body?
 1454
 1455 Mr. Blankinship - No sir.
 1456
 1457 Mr. Wright - Then do I hear a motion that we adjourn?
 1458
 1459 Mr. Bell - So moved.
 1460
 1461 Mr. Wright - All right, Mr. Bell. Is there a second to that motion?
 1462
 1463 Mr. Baka - Second.
 1464
 1465 Mr. Wright - All right. Seconded by Mr. Baka. All in favor say aye.
 1466 All opposed say no. The ayes have it; the motion passes.
 1467
 1468
 1469 Affirmative: Wright, Baka, Bell, Nunnally 4
 1470 Negative: 0
 1471 Absent: Harris 1
 1472
 1473

1474 We are adjourned until our next meeting. Thank you.
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 1490


 R. A. Wright
 Acting Chairman


 Benjamin Blankinship, AICP
 Secretary