

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE BOARD ROOM OF THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE HENRICO COUNTY GOVERNMENT**
4 **COMPLEX, ON THURSDAY, JANUARY 26, 2006, AT 9:00 A.M., NOTICE HAVING**
5 **BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH ON JANUARY 5 AND 12,**
6 **2006.**
7

Members Present: **James W. Nunnally, Chairman**
 Richard Kirkland, CBZA, Vice-Chairman
 Elizabeth G. Dwyer,
 Helen E. Harris
 R. A. Wright

Also Present: **David D. O’Kelly, Assistant Director of Planning**
 Benjamin Blankinship, Secretary
 Paul M. Gidley, County Planner
 Priscilla M. Parker, Recording Secretary

8
9 Mr. Nunnally - Good morning, Ladies and Gentlemen. Welcome to our first
10 meeting of 2006 of the County of Henrico Board of Zoning Appeals. Please stand and
11 join us for the **Pledge of Allegiance to the Flag of Our Country.** Mr. Secretary,
12 would you read the rules, please.
13

14 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies and
15 gentlemen. The rules for this meeting are as follows. Acting as Secretary, I will
16 announce each case. Then at that time, the applicant should come to the podium. I
17 will ask everyone who intends to speak on that case, in favor or in opposition, to stand
18 and be sworn in. The applicants will then present their testimony. After the applicant
19 has spoken, the Board will ask them questions, and then anyone else who wishes to
20 speak will be given the opportunity. After everyone has had a chance to speak, the
21 applicant, and only the applicant, will have an opportunity for rebuttal. After hearing the
22 case, and asking questions, the Board will take the matter under advisement. They will
23 render all of their decisions at the end of the meeting. If you wish to know their decision
24 on a specific case, you can either stay until the end of the meeting, or you can call the
25 Planning Office later this afternoon, or you can check the website. The vote on each
26 case will be posted to our website within about half an hour after the end of the meeting.
27 This meeting is being tape recorded, so we will ask everyone who speaks, to speak
28 directly into the microphone on the podium, to state your name, and to spell your last
29 name please. And finally, out in the foyer, there are two binders, containing the staff
30 report for each case, including the conditions that have been recommended by the staff.
31 Mr. Chairman, we have one withdrawal from the 9:00 o’clock agenda, which is A-1-
32 2006, Shirley Turnage. They found out that they had some opposition in the
33 neighborhood and chose to withdraw the case.
34

35 **Beginning at 9:00**

36

37 **A-106-2005** **LOUIS A. AND MARIE C. MARTINETTE** request a variance from
38 Section 24-94 to allow an addition to remain at 2818 Waterford
39 Way West (Waterford) (Parcel 735-756-6916), zoned R-4, One-
40 family Residence District (Three Chopt). The rear yard setback is
41 not met. The applicants have 27 feet rear yard setback, where the
42 Code requires 35 feet rear yard setback. The applicants request a
43 variance of 8 feet rear yard setback.
44

45 Mr. Nunnally - Is anyone else here interested in this case, for or against? If
46 so, would you please stand and raise your right hand?
47

48 Mr. Blankinship - Do you swear that the testimony you are about to give is the
49 truth, the whole truth, and nothing but the truth, so help you God?
50

51 Mr. Martinette - I do. My name is Louis Martinette. We need a rear yard
52 setback for an existing structure. Having built the structure with what we understood to
53 be the proper guidance of the County, we discovered at the eleventh hour that part of
54 the structure, one corner, did not meet the rear yard setback. We need a setback of
55 eight feet in order to do that.
56

57 Mr. Nunnally - Did this come in the form of a complaint, Mr. Blankinship?
58 Do you remember when you received that complaint?
59

60 Mr. Blankinship - It was the latter part of October.
61

62 Ms. Dwyer - Mr. Marinette, when you presented your documents to the
63 County for the building permit, was it represented that the building setback had been
64 met?
65

66 Mr. Martinette - Not by us. We approached the County for guidance in this
67 area, and in addition, before going for our building permits, we sat down with the
68 appropriate people, and they ran some calculations and assured us that we had more
69 than enough space, so we then proceeded to the building permit section.
70

71 Ms. Dwyer - Right, but the County doesn't go out and measure. It's the
72 applicant who brings in the measurements.
73

74 Mr. Martinette - We brought the original plat that we had with our property,
75 and we asked for guidance. If we were to go out and measure, it was not our
76 understanding that we needed to, at that point. Believe me, that's all been explained to
77 us after the fact. We would not be standing here today, had we been able to make that
78 confirmation ahead of time. It was our understanding that we had, not only did we meet
79 the setback, but we had additional space, based on what we were told, and based on
80 our original plat.

81
82 Ms. Dwyer - But no one in the County ever said you needed fewer than
83 thirty-five feet.
84
85 Mr. Martinette - Not to my knowledge, no.
86
87 Ms. Dwyer - You were never told that?
88
89 Mr. Martinette - No, we were not told that. We were told that we could build
90 a bigger addition than what we were proposing though.
91
92 Ms. Dwyer - Assuming you had the thirty-five foot setback.
93
94 Mr. Martinette - Based on what they saw, yes.
95
96 Mr. Blankinship - It's in the packet, the plat they submitted is in your packet.
97
98 ***(Female voice, unintelligible)***
99
100 Ms. Harris - Mr. Martinette, I know you've seen the summary that the
101 County has given to you when you walked in. This said, "The Martinettes have
102 negotiated with the neighbors to adjust the property line." I notice that you have quite a
103 few neighbors' letters or correspondence here. The neighbors who you would negotiate
104 with to adjust the property line, do you have any correspondence from them?
105
106 Mr. Martinette - Yes, in fact they are here today.
107
108 Ms. Harris - They are your next-door neighbor?
109
110 Mr. Martinette - Behind us; we are on a corner lot, sort of at an angle, and
111 they are behind us or beside us, depending on how you define the layout.
112
113 Ms. Harris - What is that address?
114
115 Mr. Martinette - Abbey Lane, 2814.
116
117 Ms. Harris - What about the other side?
118
119 Mr. Martinette - That would be on the same street as us, 2820 Waterford
120 Way West. We have letters from all contiguous neighbors, including the complainant.
121
122 Mr. Nunnally - Any further questions of the Board or staff? Is anyone here
123 in opposition?
124
125 Mr. Wright - Maybe someone here wants to speak for him.
126

127 Mr. Nunnally - Excuse me. You want to speak for him. State your name.
128
129 Mr. Dougherty - My name is Edward J. Dougherty. I live at 2814 Abbey
130 Lane. The variance they're requiring comes up to my property line. They approached
131 us and discussed what they needed, and my wife and I agreed that as a last resort we
132 would re-do the property line and give him eight feet. We suggested he'd really have to
133 come here and ask for a variance, because I don't want to chop up my property line.
134 We've got a fence involved, and we have no objection to the building. It's still thirty-forty
135 feet away from our home, and all our neighbors, no one objects. We will give them the
136 additional eight feet by twenty, but it's going to chop up our property line. And there's a
137 fence involved. And I don't know if that would affect my property, if we have to sell.
138 Who wants to buy property, cut in eight feet, get down, come back, but we will do it as a
139 last resort.
140
141 Ms. Dwyer - Giving away eight feet is not going to affect your rear yard
142 property line and your setback requirements, is it? Have you made sure of that?
143
144 Mr. Dougherty - We discussed it with Mr. Blankinship.
145
146 Mr. Martinette - We've also gotten additional surveys to do that if necessary.
147
148 Mr. Blankinship - It's their side yard, so it's a lesser requirement.
149
150 Mr. Dougherty - But the property line now moves closer to my building. If
151 they would ever sell, and you get someone else in there, it would be a whole different
152 situation. That's our concern. I don't think they're going to sell. We don't plan to sell,
153 but you never know.
154
155 Mr. Nunnally - Any other questions? Any other questions from the Board or
156 staff? Hearing none, that concludes the case. Thank you sir. A-106-2005.
157
158 Mr. Wright - Move we approve it.
159
160 Mr. Nunnally - Motion by Mr. Wright that it be approved. Do we have a
161 second?
162
163 Mr. Kirkland - Second.
164
165 Mr. Nunnally - Second by Mr. Kirkland. All in favor say aye. Opposed?
166
167 Ms. Dwyer and Ms. Harris - No. No.
168
169 Mr. Kirkland - Two to three.
170
171 Mr. Blankinship - Mr. Chairman, how did you vote?
172

173 Mr. Nunnally - I voted yes.

174

175 Mr. Wright - On that one, I never have seen such a detailed outline of
176 what was done, strictly noting the people in the Planning Commission who talked with
177 them, and I know technically we may not approve it, but what are you going to do, tear
178 the house down?

179

180 Ms. Harris - No, he said he was going to work with his neighbors.

181

182 Mr. Wright - What good would that do? It's a technical thing.
183 Everything's the same; it's going to cause the neighbor to have a crazy looking yard. It
184 just doesn't make any sense to me.

185

186 Ms. Harris - But he said he would do it.

187

188 Mr. Wright - I just think that's just going so far that's unnecessary.

189

190 Ms. Harris - That's the legislation.

191

192 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
193 Kirkland, the Board **granted** application **A-106-2005** for a variance to allow an addition to
194 remain at 2818 Waterford Way West (Waterford) (Parcel 735-756-6916). The Board granted
195 the variance subject to the following conditions:

196

197 1. Only the addition shown on the plan filed with the application may remain as is
198 pursuant to this approval. Any additional improvements shall comply with the applicable
199 regulations of the County Code. Any substantial changes or additions may require a new
200 variance.

201

202 Affirmative: Kirkland, Nunnally, Wright 3

203 Negative: Dwyer, Harris, 2

204 Absent: 0

205

206 The Board granted this request, as it found from the evidence presented that, due to the unique
207 circumstances of the subject property, strict application of the County Code would produce
208 undue hardship not generally shared by other properties in the area, and authorizing this
209 variance will neither cause a substantial detriment to adjacent property nor materially impair the
210 purpose of the zoning regulations.

211

212 **A-108-2005** **GEORGE T. SPICER** requests a variance from Section 24-9 to
213 build a one-family dwelling at 11617 Patch Road (Parcel 771-778-
214 7052 (part)), zoned A-1, Agricultural District (Brookland). The
215 public street frontage requirement is not met. The applicant has 0
216 feet public street frontage, where the Code requires 50 feet public
217 street frontage. The applicant requests a variance of 50 feet public
218 street frontage.

219

220 Mr. Nunnally - Does anyone else here desire to speak on this case, for or
221 against? If so, would you please stand and raise your right hand and be sworn?
222

223 Mr. Blankinship - Do you swear that the testimony you are about to give is the
224 truth, the whole truth, and nothing but the truth, so help you God?
225

226 Mr. Spicer - Yes I do. The name is Gary Spicer, and he requests a street
227 frontage variance to build a single-family home on family property.
228

229 Mr. Blankinship - Could you tell us a little about the history of the family
230 division?
231

232 Mr. Spicer - About eight years ago, my grandmother passed away and
233 left the land to my father, his two brothers and one sister. It was equally divided into
234 what amounted to four six-acre lots.
235

236 Ms. Dwyer - As I'm looking at the plat, there are multiple lots from Patch
237 to the railroad, and they all seem to have Spicer, so I'm wondering how many lots have
238 been divided under the family division exception in the past.
239

240 Mr. Spicer - I'm the first one required to build off of the road, with no
241 street frontage. Everyone else has had public street frontage, and there's only been
242 two.
243

244 Ms. Dwyer - But I'm looking at a number of lots divided on the plat that
245 I'm looking at, December 12, 2005.
246

247 Mr. Spicer - Are you looking at just the rear of where the proposed lot for
248 me is? The center lot?
249

250 Ms. Dwyer - All these lots have the word Spicer in them, or most of them
251 do.
252

253 Mr. Spicer - The two that have existing houses on them, that are on the
254 street frontage, that are off the street, they required variances and received them some
255 time ago. One has been there for 20 years. The other one has only been there for
256 about four.
257

258 Ms. Dwyer - This is a request for six lots.
259

260 Mr. Spicer - No, a request for one lot.
261

262 Mr. Blankinship - You're requesting one today, but you submitted a plat that
263 shows six lots that, if they're to be built on, each one will need a variance.
264

265 Mr. Spicer - Yes, that would be true.

266
267 Ms. Dwyer - Tell me about the 50-foot road – how has that been
268 reserved? What legal format – has that been reserved as an easement?
269
270 Mr. Spicer - Yes, as an easement, through probate, I'm assuming in the
271 will.
272
273 Ms. Dwyer - Would you be willing to – one of the things that we could do
274 is require as a condition to the variance, that this road be, if at any time necessary in the
275 future, it could be dedicated to the County if this were ever to be made a public road
276 and turned over to the County system.
277
278 Mr. Spicer - That's in the will as well, and I would assume that would be
279 okay.
280
281 Mr. Kirkland - Mr. Blankinship, the lots that say Howard and Mary Spicer,
282 and Shawn Maxwell, did they both get variances for road frontage, or do you know?
283
284 Mr. Blankinship - I don't have that in front of me.
285
286 Mr. Spicer - Yes, I think Shawn did.
287
288 Mr. Blankinship - Mr. Spicer was just saying that one was from about 20 years
289 ago, and one was from about four years ago.
290
291 Mr. Spicer - And then Shawn Maxwell had to receive a variance.
292
293 Mr. Kirkland - He did?
294
295 Mr. Spicer - Yes.
296
297 Ms. Dwyer - Is there a maintenance agreement among the property
298 owners?
299
300 Mr. Spicer - Yes.
301
302 Ms. Harris - Are you building your home?
303
304 Mr. Spicer - Yes ma'am.
305
306 Mr. Kirkland - Have you read all the conditions of the case – are you okay
307 with them?
308
309 Mr. Spicer - Yes, absolutely.
310

311 Mr. Nunnally - Any other questions from the Board or staff? Is anyone here
312 in opposition? Thank you for appearing. That concludes the case. A-108-2005,
313 George T. Spicer.

314
315 Mr. Kirkland - I move we approve it.

316
317 Ms. Harris - Second the motion.

318
319 Mr. Nunnally - Motion by Mr. Kirkland that we approve; second by Ms.
320 Harris. All in favor say aye. Opposed? It's been approved.

321
322 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
323 Harris, the Board **granted** application **A-108-2005** for a variance to build a one-family
324 dwelling at 11617 Patch Road (Parcel 771-778-7052 (part)). The Board granted the
325 variance subject to the following conditions:

326
327 1. This variance applies only to the public street frontage requirement. All other
328 applicable regulations of the County Code shall remain in force.

329
330 2. Approval of this request does not imply that a building permit will be issued.
331 Building permit approval is contingent on Health Department requirements, including,
332 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
333 of a well location.

334
335 3. At the time of building permit application the owner shall demonstrate that the
336 parcel created by this division has been conveyed to members of the immediate family,
337 and the subdivision ordinance has not been circumvented.

338
339 4. The applicant shall present proof with the building permit application that a legal
340 access to the property has been obtained.

341
342 5. The owners of the property, and their heirs or assigns, shall accept responsibility
343 for maintaining access to the property until such a time as the access is improved to
344 County standards and accepted into the County road system for maintenance.

345
346 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
347 Negative: 0
348 Absent: 0

349
350 The Board granted this request, as it found from the evidence presented that, due to the
351 unique circumstances of the subject property, strict application of the County Code
352 would produce undue hardship not generally shared by other properties in the area, and
353 authorizing this variance will neither cause a substantial detriment to adjacent property
354 nor materially impair the purpose of the zoning regulations.

355
356 **A-1-2006 SHIRLEY A. TURNAGE** requests a variance from Section 24-

357 95(b)(5) to build a one-family dwelling at 500 Grayson Avenue
358 (Confederate Heights) (Parcel 793-740-1987), zoned R-3, One-
359 family Residence District (Fairfield). The lot width requirement and
360 total lot area requirement are not met. The applicant has 7,056
361 square feet lot area and 47 feet lot width, where the Code requires
362 8,000 square feet lot area and 65 feet lot width. The applicant
363 requests a variance of 944 square feet lot area and 18 feet lot
364 width.

365
366 Mr. Nunnally - A-1-2006. That was withdrawn.
367

368 Application **A-1-2006** for a variance was withdrawn by the applicant, after finding out
369 that they had some opposition in the neighborhood.
370

371 **UP-1-2006** **RIVER CITY LAND COMPANY** requests a temporary conditional
372 use permit pursuant to Section 24-116(c)(1) to locate a temporary
373 sales trailer at 4242 Creighton Road (Hillcrest Farms) (Parcel 815-
374 733-0010), zoned R-2AC and R-2C, One-family Residence District
375 (Conditional) (Fairfield).
376

377 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
378 please stand and raise your right hand?
379

380 Mr. Blankinship - Do you swear that the testimony you are about to give is the
381 truth, the whole truth, and nothing but the truth, so help you God?
382

383 Ms. Traver - I do. My name is Sharon Traver. We're requesting a
384 conditional use permit to place a sales trailer in Hillcrest, located on Creighton Road.
385

386 Mr. Wright - Have you seen the conditions for this? Are you in accord
387 with those?
388

389 Ms. Traver - We have, yes.
390

391 Mr. Wright - The last one, # 4, says the trailer shall be removed on or
392 before December 31, 2006 – does that give you enough time to do what you need?
393

394 Ms. Traver - Yes. By then we should have a model home or something in
395 place.
396

397 Mr. Wright - I just want to make sure. Sometimes when everybody thinks
398 that they can do something, and then when you could ask for a little more to be safe
399

400 Ms. Traver - If we needed an extension, we would of course, take that
401 route, but a conditional use permit's good for six months, I believe, and we're hoping we
402 can accomplish what we need to, within six months.

403
404 Mr. Wright - But if you don't meet it, then you'll have to come back to this
405 Board; that was my only concern.
406
407 Mr. Kirkland - Ms. Traver, what are you using for a bathroom facility?
408
409 Ms. Traver - We'd like to use a handicap-accessible porta-potty, right
410 outside the trailer?
411
412 Mr. Kirkland - Will that be skirted behind the trailer or the side of it?
413
414 Ms. Traver - To the side of it.
415
416 Mr. Kirkland - And you don't have any problem with putting a barrier
417 around it so it's not seen from the road?
418
419 Mr. Tarbona - That's not a problem; we'll have it screened.
420
421 Mr. Kirkland - If we added that as a condition, that wouldn't bother you,
422 would it?
423
424 Ms. Traver - No.
425
426 Ms. Harris - You're directly across the street from St. Paul's church. I
427 know they know about the proposed subdivision, right?
428
429 Mr. Tarbona - Yes, the "coming soon" sign has been up for about three
430 months now.
431
432 Ms. Harris - Have you had any complaints from the church?
433
434 Mr. Tarbona - No, a lot of interest about the homes.
435
436 Ms. Dwyer - This is an unusually shaped lot – what will this be used for
437 after the trailer is gone?
438
439 Ms. Traver - It's Lot 1 of our Section 2 plans that are still being reviewed
440 by the County, so it will be used as a residential lot.
441
442 Ms. Harris - When will the trailer be constructed?
443
444 Ms. Traver - As soon as we receive the conditional use permit. March 1
445 is our target date, as soon as possible.
446

447 Mr. Nunnally - Any other questions from the Board or staff? Is anyone here
448 in opposition? Thank you for appearing. That concludes the case. UP-1-2006, River
449 City Land Company.

450
451 Ms. Harris - Move we approve.

452
453 Mr. Kirkland - Second.

454
455 Ms. Dwyer - We're going to add a condition about the porta-potty? We
456 do want it in the side; a screened facility from the church.

457
458 Mr. Nunnally - We have a motion from Ms. Harris; second by Mr. Kirkland,
459 that it be approved. All in favor say aye. Opposed? You have the conditions, Mr.
460 Blankinship?

461
462 Mr. Blankinship - Yes.

463
464 After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr.
465 Kirkland, the Board **granted** application **UP-1-2006** for a temporary conditional use
466 permit to locate a temporary sales trailer at 4242 Creighton Road (Hillcrest Farms)
467 (Parcel 815-733-0010). The Board granted the use permit subject to the following
468 conditions:

469
470 1. Only the improvements shown on the plan filed with the application may be
471 constructed pursuant to this approval. No substantial changes or additions to the layout
472 may be made without the approval of the Board of Zoning Appeals. Any additional
473 improvements shall comply with the applicable regulations of the County Code.

474
475 2. The trailer shall be skirted on all sides with a durable material as required by the
476 building code for a permanent installation.

477
478 3. A detailed landscaping and lighting plan shall be submitted to the Planning
479 Department with building permit for review and approval. Approved landscaping shall
480 be installed as soon as the weather permits. All landscaping shall be maintained in a
481 healthy condition at all times. Dead plant materials shall be removed within a reasonable
482 time and replaced during the normal planting season.

483
484 4. The trailer shall be removed from the property on or before December 31, 2006,
485 at which time this permit shall expire.

486
487 5. [ADDED] If a portable toilet is placed on site, it shall be screened from view.

488
489 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

490 Negative: 0

491 Absent: 0

492

493 The Board granted the request because it found the proposed use will be in substantial
494 accordance with the general purpose and objectives of Chapter 24 of the County Code.
495

496 **A-2-2006** **MAUDE E. BROWN** requests a variance from Section 24-94 to
497 build a one-family dwelling at 8848 Varina Road (Parcel 811-679-
498 5446 (part)), zoned A-1, Agricultural District (Varina). The lot width
499 requirement is not met. The applicant has 83 feet lot width, where
500 the Code requires 150 feet lot width. The applicant requests a
501 variance of 67 feet lot width.
502

503 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
504 please stand and raise your right hand?
505

506 Mr. Blankinship - Do you swear that the testimony you are about to give is the
507 truth, the whole truth, and nothing but the truth, so help you God?
508

509 Ms. Brown - I do. Maude E. Brown, and I'm requesting a variance
510 because it does not have the required variance. They need 150 feet, and they need to
511 get 67 feet at least.
512

513 Ms. Harris - Ms. Brown, had you considered rezoning in the summary?
514 Did you notice that a remedy could be rezoning? In other words, because you are
515 zoned A-1, the lot width requirement is greater than if you use a residential zoning.
516

517 Ms. Brown - No, I didn't know that. I'm getting this variance for my
518 grandson, because it's my husband and my land, and we're giving him an acre of land
519 to build a house right beside us.
520

521 Mr. Nunnally - Is he going to build a home similar to what you have? Brick?
522

523 Ms. Brown - Yes, yes.
524

525 Ms. Dwyer - I'm looking at the plat, and I might be reading this wrong, but
526 it looks like the existing house would be left with 138 feet of road frontage, so would that
527 also be in noncompliance?
528

529 Mr. Blankinship - The road frontage is 138 feet, but measured at the setback
530 line, it's 150.5.
531

532 Mr. Kirkland - That's close.
533

534 Ms. Brown - We also have that right-of-way there, a 50-foot right-of-way,
535 and they will be on that right-of-way, and eventually people will build, because my
536 sisters and my brother and I also own land all around that right-of-way, so maybe
537 someday somebody will build on that, but right now no one is.
538

539 Ms. Dwyer - Where is that?
540
541 Ms. Brown - It's right to the side where my grandson wants to build.
542
543 Ms. Dwyer - The proposed drive?
544
545 Mr. Blankinship - It's clearest on either the aerial or the site plan.
546
547 Mr. Wright - Who owns that right-of-way?
548
549 Ms. Brown - My brother-in-law, James Simpson, and he's given all of us
550 who are on that right-of-way the right to develop it, but we all have to agree on that
551 right-of-way that goes down through there.
552
553 Mr. Wright - And that's 50 feet wide?
554
555 Ms. Brown - Yes, but it goes all the way back to Battlefield Park.
556
557 Ms. Dwyer - Is that part of the proposed lot for your grandson, or is it
558 separate?
559
560 Ms. Brown - No, separate.
561
562 Mr. Nunnally - You all have a legal right-of-way into that?
563
564 Ms. Brown - Yes.
565
566 Mr. Nunnally - You have a maintenance agreement on the road?
567
568 Ms. Brown - Yes.
569
570 Mr. Wright - You've read these conditions that have been proposed?
571
572 Ms. Brown - Yes.
573
574 Mr. Wright - And you're in accord with them?
575
576 Ms. Brown - Yes.
577
578 Ms. Dwyer - One of the conditions is that the new house will be
579 architecturally compatible, and I believe you said that it will be brick. All around, or brick
580 front?
581
582 Ms. Brown - Brick front with vinyl sides, but it does match the existing
583 house, and all of the other houses in the area are very similar too. We tried to make
584 sure that when we picked out our home, it would be very similar and blend in with the

585 rest of the neighborhood.
586
587 Mr. Nunnally - What is your house – that’s solid brick, isn’t it, all the way
588 around?
589
590 Ms. Brown - Yes. The next one over, my mom and dad’s, is just vinyl
591 siding, an old two-story house, about 100 years old.
592
593 Mr. Nunnally - Any other questions from the Board or staff? Is anyone here
594 in opposition? Thank you for appearing. That concludes the case. A-2-2006, Maude
595 E. Brown.
596
597 Mr. Kirkland - That’s the one who wanted to put the house beside the main
598 house?
599
600 Ms. Harris - And the staff talked about rezoning being the remedy,
601 rezoning from A-1.
602
603 Mr. Wright - I move we approve it.
604
605 Mr. Kirkland - I’ll second it.
606
607 Mr. Nunnally - Motion by Mr. Wright that it be approved; second by Mr.
608 Kirkland. All in favor say aye.
609
610 Mr. Blankinship - Can we have some discussion about how this fits with the
611 Cochran decision?
612
613 Ms. Dwyer - Also, there was discussion of architectural compatibility, the
614 brick front, that it was more clearly defined as a brick front house.
615
616 Mr. Nunnally - You want to change what?
617
618 Mr. Kirkland - They want to have a brick façade and a brick front on there.
619
620 Ms. Dwyer - Not change it, but just add that, any home built shall be
621 architecturally compatible and will have a brick front.
622
623 Mr. Wright - It’s utilization of land again, maybe stretching it a bit, but if
624 you take that parcel in and of itself without the variance, it can’t be used. There’s no
625 reasonable use of it. It may be a stretch back there, but it’s what, over an acre.
626
627 Ms. Dwyer - How much acreage? It doesn’t say. It’s compatible with
628 surrounding uses, which are large lots, with single houses, fronting Varina Road.
629
630 Mr. Wright - What’s the size of that lot? It’s over an acre, I believe.

631
632 Mr. Blankinship - It's almost four acres as it stands. The proposed division is
633 into about 2 ½ and about 1 ½.

634
635 Mr. Kirkland - It's 1.8440, and I think the other one's about 2.3, so that's
636 about right, so it's over an acre.

637
638 Mr. Nunnally - Any other discussion? I have a motion by Mr. Wright;
639 second by Mr. Kirkland, that it be approved. All in favor, say aye. Opposed.

640
641 Ms. Harris - No. I think we're going back to where we were before
642 Cochran.

643
644 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
645 Kirkland, the Board **granted** application **A-2-2006** for a variance to build a one-family
646 dwelling at 8848 Varina Road (Parcel 811-679-5446 (part)). The Board granted the
647 variance subject to the following conditions:

648
649 1. This variance applies only to the lot width requirement. All other applicable
650 regulations of the County Code shall remain in force.

651
652 2. Approval of this request does not imply that a building permit will be issued.
653 Building permit approval is contingent on Health Department requirements, including,
654 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
655 of a well location.

656
657 3. At the time of building permit application, the applicant shall submit the
658 necessary information to the Department of Public Works to ensure compliance with the
659 requirements of the Chesapeake Bay Preservation Act and the code requirements for
660 water quality standards.

661
662 4. [AMENDED] Any home built on site shall be architecturally compatible with
663 those in the surrounding area and shall have a brick front.

664
665 Affirmative: Dwyer, Kirkland, Nunnally, Wright 4
666 Negative: Harris 1
667 Absent: 0

668
669 The Board granted this request, as it found from the evidence presented that, due to the
670 unique circumstances of the subject property, strict application of the County Code
671 would produce undue hardship not generally shared by other properties in the area, and
672 authorizing this variance will neither cause a substantial detriment to adjacent property
673 nor materially impair the purpose of the zoning regulations.

674
675 **UP-2-2006** **GUMENICK HOMEBUILDING** requests a temporary conditional
676 use permit pursuant to Section 24-116(c)(1) to locate a temporary

677 sales trailer at 5203 Monument Avenue (Monument Square)
678 (Parcel 771-735-5182), zoned R-6, General Residential District
679 (Brookland).
680

681 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
682 please stand and raise your right hand?
683

684 Mr. Blankinship - Do you swear that the testimony you are about to give is the
685 truth, the whole truth, and nothing but the truth, so help you God?
686

687 Mr. Lewis - I do. My name is Monte Lewis, of C. D. Lewis and
688 Associates. I represent Gumenick Properties. I'm sorry that our landscape architect is
689 in northern Virginia and couldn't make it down today, so I'm filling in for him. We're
690 going to be building condominiums on this site that used to have the apartments that we
691 just removed. This is for a temporary sales trailer for those condominiums, which will
692 come down in January 2008. It's going to be very similar to the sales trailer that we
693 have at Grayson Hill, if you've been by that one, which has won national awards with
694 the landscaping. This will also house the scale model for the project. It's a basic sales
695 trailer, 24 by 60, but we're going to build a façade on it to kind of mimic the architectural
696 style of the units that we're building. If you'd like to see that, I brought some rough
697 plans. If you have any questions, I'd be glad to answer them. Water and sewer – we're
698 going to have bottled water, and it's going to be brought in with the water for the sewer
699 system. It will be in a tank; all the tank will be in a corral area that we're building, so it
700 will be hidden from view, and it will be a pump and a haul situation.
701

702 Mr. Nunnally - You say all the apartments have been torn down?
703

704 Mr. Lewis - Yes sir.
705

706 Mr. Nunnally - When do you plan to start on this?
707

708 Mr. Lewis - We're going to be filing a POD in probably March, so we'd
709 probably start construction this summer.
710

711 Mr. Nunnally - You want to put the trailer on there when?
712

713 Mr. Lewis - As soon as we get approval, we're ready to put it on there.
714 The application said January, but more than likely, it will be February.
715

716 Mr. Kirkland - On the entrance to the trailer site here, that's going to be
717 constructed like concrete asphalt to get into the site?
718

719 Mr. Lewis - It's going to be asphalt, yes sir. No gravel. We will not have
720 curb and gutter interior; we'll have bumper blocks so people can't drive over the asphalt,
721 but we didn't want to put curb and gutter up, because as soon as you do that, you end
722 up with storm, sewer and drop-in. Since it's a temporary situation, and all of this sheet

723 flows onto our site.

724

725 Mr. Kirkland - Will this be well lit at night?

726

727 Mr. Lewis - It will have lights; I'm not sure of the time of operation of the
728 lights, and I don't know the time of operation of the sales center. It should be very
729 similar to Grayson Hill; I think they shut down at normal hours.

730

731 Ms. Harris - Will you be making this handicap accessible?

732

733 Mr. Lewis - Yes ma'am; that is required, and we will be doing that.

734

735 Mr. Nunnally - Any further questions from the Board or staff? Is anyone
736 here in opposition? Thank you for appearing. That concludes the case. UP-2-2006.

737

738 Mr. Kirkland - Move we approve it.

739

740 Ms. Dwyer - Second.

741

742 Mr. Nunnally - Motion by Mr. Kirkland; second by Ms. Dwyer that it be
743 approved. All in favor say aye. Opposed? It's been approved.

744

745 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
746 Dwyer, the Board **granted** application **UP-2-2006** for a temporary conditional use permit
747 to locate a temporary sales trailer at 5203 Monument Avenue (Monument Square)
748 (Parcel 771-735-5182). The Board granted the use permit subject to the following
749 conditions:

750

751 1. Only the improvements shown on the plan filed with the application may be
752 constructed pursuant to this approval. No substantial changes or additions to the layout
753 may be made without the approval of the Board of Zoning Appeals. Any additional
754 improvements shall comply with the applicable regulations of the County Code..

755

756 2. The trailer shall be skirted on all sides with a durable material as required by the
757 building code for a permanent installation.

758

759 3. Approved landscaping shall be installed as soon as the weather permits. All
760 landscaping shall be maintained in a healthy condition at all times. Dead plant materials
761 shall be removed within a reasonable time and replaced during the normal planting
762 season.

763

764 4. The bathroom in the trailer shall be connected to sanitary facilities approved by
765 the Virginia Department of Health. This facility shall be screened from adjacent
766 property.

767

768 5. The trailer shall be removed from the property on or before January 15, 2008, at
769 which time this permit shall expire. This permit shall not be renewed.

770
771 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
772 Negative: 0
773 Absent: 0

774
775 The Board granted the request because it found the proposed use will be in substantial
776 accordance with the general purpose and objectives of Chapter 24 of the County Code.

777
778 Mr. Blankinship - Mr. Chairman, the next three cases are companions, the
779 division of one parcel into three.

780
781 **A-107-2005** **R. DALE GOODING** requests a variance from Sections 24-94 and
782 24-9 to build a one-family dwelling at 5503 Jefferson Street (E. S.
783 Read) (Parcel 816-725-4508 (part)), zoned R-2A, One-family
784 Residence District (Varina). The lot width requirement and public
785 street frontage requirement are not met. The applicant has 5 feet
786 lot width and 5 feet public street frontage, where the Code requires
787 80 feet lot width and 50 feet public street frontage. The applicant
788 requests a variance of 75 feet lot width and 45 feet public street
789 frontage.

790
791 **A-3-2006** **R. DALE GOODING** requests a variance from Sections 24-94 and
792 24-9 to build a one-family dwelling at 5505 Jefferson Street (E. S.
793 Read) (Parcel 816-725-4508 (part)), zoned R-2A, One-family
794 Residence District (Varina). The lot width requirement and public
795 street frontage requirement are not met. The applicant has 5 feet
796 lot width and 5 feet public street frontage, where the Code requires
797 80 feet lot width and 50 feet public street frontage. The applicant
798 requests a variance of 75 feet lot width and 45 feet public street
799 frontage.

800
801 **A-4-2006** **R. DALE GOODING** requests a variance from Sections 24-94 and
802 24-9 to build a one-family dwelling at 5507 Jefferson Street (E. S.
803 Read) (Parcel 816-725-4508 (part)), zoned R-2A, One-family
804 Residence District (Varina). The lot width requirement and public
805 street frontage requirement are not met. The applicant has 5 feet
806 lot width and 5 feet public street frontage, where the Code requires
807 80 feet lot width and 50 feet public street frontage. The applicant
808 requests a variance of 75 feet lot width and 45 feet public street
809 frontage.

810
811 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
812 please stand and raise your right hand?

813

814 Mr. Blankinship - Do you swear that the testimony you are about to give is the
815 truth, the whole truth, and nothing but the truth, so help you God?
816

817 Mr. Spain - I do. My name is Melvin Spain. I'm with Downing Surveys,
818 and this is Mr. Dale Gooding, the owner of the subject parcel. The intent of this division
819 is for a family division. The staff report is very thorough, and all the conditions can be
820 met. Mr. Gooding or I will be glad to answer any questions that you might have.
821

822 Mr. Wright - Would you like to explain a little bit about the entrance. How
823 would you access this property?
824

825 Mr. Spain - Mr. Gooding owns the entire parcel. The intent is to have
826 one common driveway for the family, which would be a maintenance agreement
827 between all those in the family to maintain one entrance off of Jefferson Street.
828

829 Mr. Wright - This indicates it would be five feet wide.
830

831 Mr. Spain - We can make it as wide as necessary; we can make it 20
832 feet wide, because Mr. Gooding will be able to provide an access easement across all
833 three parcels, and if necessary the fourth parcel, to provide an adequate entrance to the
834 parcels.
835

836 Ms. Dwyer - Lot 12 is the fourth parcel you're talking about?
837

838 Mr. Spain - The residual of Lot 12, you mean?
839

840 Ms. Dwyer - I'm looking at a plat, and it looks like it has been registered
841 five feet with each lot, for a total of fifteen, and then you're saying you could get extra.
842 Where would you get the extra; I'm not clear on that.
843

844 Mr. Spain - You'd have a total of fifteen feet off of the three stem
845 parcels. Normally a fifteen-foot width would be adequate for providing one common
846 entrance for the three lots.
847

848 Mr. Blankinship - The way it was submitted, it shows each stem lot having a
849 five-foot stem, so you've got three five-foot parcels.
850

851 Mr. Spain - But there will be an ingress/egress easement to provide an
852 access across all three.
853

854 Ms. Dwyer - You said you could supply additional space. My question is
855 where would that come from?
856

857 Mr. Spain - If necessary, it could come off of Lot 12.
858

859 Ms. Harris - I have a question about the case A-107-2005. In the plan,

860 we said 15 feet total. Why in the submission of the application, did you not just say
861 fifteen feet? Why did you say five feet?
862

863 Mr. Spain - We provided as much road frontage as we could on
864 Jefferson Street.
865

866 Mr. Wright - It's five feet for each of those three lots; that's what he's
867 done.
868

869 Mr. Spain - But they would be using one common entrance.
870

871 Ms. Harris - So why didn't he just say fifteen feet?
872

873 Mr. Wright - Because he's allocating five feet to each lot.
874

875 Ms. Harris - We see that. Since this is adjacent, I'm looking at this plan
876 here, why couldn't we just
877

878 Mr. Wright - Look at the last page.
879

880 Ms. Harris - I haven't seen anything with just five feet lot access, so I
881 thought, since they are abutting, why didn't we just say fifteen feet?
882

883 Mr. Blankinship - It's a very unusual arrangement.
884

885 Ms. Dwyer - Five feet is not enough, I think is what Ms. Harris is getting
886 at, not enough of an access.
887

888 Mr. Spain - No ma'am, it is not. It would have to be a common
889 easement to provide access to all three lots.
890

891 Ms. Dwyer - Why did you present it that way, is the question. If five feet
892 is not enough, why was it presented, or drawn that way on the paper submitted to us?
893

894 Ms. Harris - Is that a preference?
895

896 Mr. Spain - Yes, to provide some frontage on Jefferson Street.
897

898 Ms. Dwyer - So this will be conveyed to members of Mr. Gooding's
899 immediate family?
900

901 Mr. Spain - That's correct.
902

903 Ms. Dwyer - And how long do you think that they will keep this lot in the
904 family? Is this something that will be turned over quickly?
905

906 Mr. Gooding - No ma'am. I think it will be kept with my children until the
907 time that they change their plans to get married, or so forth, to move on. I'm planning
908 that they will be there.
909

910 Ms. Dwyer - Do you live on this property?
911

912 Mr. Gooding - No ma'am.
913

914 Ms. Dwyer - So if there were a condition that required the family
915 members to whom this property were conveyed, to hold it for five years before selling it,
916 that would not be a problem?
917

918 Mr. Gooding - No ma'am, that would not be a problem.
919

920 Mr. Nunnally - How many children do you have, Dale?
921

922 Mr. Gooding - Four.
923

924 Mr. Nunnally - And you're going to build four houses back there?
925

926 Mr. Gooding - No sir, it would be for three of my children. One is not in
927 town.
928

929 Ms. Harris - If you can look at the site map, we have three cases before
930 us. We've spent a lot of time trying to decide which case is 5505. You have 5505,
931 5503, and 5507, so can we trace which parcel would be – and yet we see four parcels
932 here. We were given cases for three parcels, and I assume that's because 5505 meets
933 their requirement of public road access. Yet we have 5505 being mentioned in the
934 packet. Can you just trace which is 5505, 5503,

935

936 Mr. Kirkland - Mr. Blankinship, on the third one, on the last page, A-4-2006,
937 look at the way you've got the lots drawn there. Am I missing something? They're
938 turned the other way.
939

940 Mr. Blankinship - Ms. Harris, to answer your question, the way we had
941 advertised it, A-107-2005 goes with 5503; A-3-2006 goes with 5505; and A-4-2006 goes
942 with 5507. It looks like there's going to be a duplication of the number 5505 there, and if
943 this is approved and they start coming in for building permits, we'll probably have to
944 adjust the street numbering to make that work out, because there aren't enough odd
945 numbers between – there's an existing 5501 and an existing 5509. There's no house at
946 5509, so we'll probably have to adjust that to 5511, and then these four would then
947 become 3, 5, 7, and 9, but we'll have to work that out when building permits are applied
948 for.
949

950 Ms. Harris - Okay, so my question further is, the case that's A-3-2006, on
951 the plat 5505, our information says this is 5505 Jefferson Street

952
953 Mr. Blankinship - Right, it looks like we have a duplication of the number 5505,
954 and that would have to be ironed out when the building permit is applied for.
955
956 Ms. Harris - 5505 on the plat does not require a variance?
957
958 Mr. Blankinship - Right. Mr. Kirkland, back to your question, the last page of
959 the package of A-4, it shows the parcel as it stands now.
960
961 Mr. Kirkland - There's no lots drawn in; it's just a straight block.
962
963 Mr. Blankinship - Right. The dashed line there is just an existing sewer
964 easement.
965
966 Ms. Dwyer - Which is also included in the other cases; it's just the other
967 cases also include the lot divisions, so that case doesn't show that.
968
969 Mr. Kirkland - Mr. Blankinship, parcel 3, which is on our first case, of
970 13,800 square feet – which case would that be on? Would that be on the A-2-2006?
971
972 Mr. Blankinship - That would be A-4-2006.
973
974 Mr. Kirkland - So you're doing three on the first one.
975
976 Mr. Blankinship - Parcel 2 would be A-3-2006, and parcel 1 would be A-107-
977 2005. In case you're curious about that, he applied in time for the December hearing,
978 but this was only possible as a family division, and at that time the property was in
979 corporate ownership, and of course, a corporation can't have family members, so we
980 had to defer for a month to transfer the property from the corporation to private
981 ownership, and then go from there.
982
983 Mr. Kirkland - On parcel 3, what size home are you going to build on
984 there? This is an R-2A zoning, is that correct?
985
986 Mr. Blankinship - Yes.
987
988 Mr. Kirkland - What size home are you planning to put on that little
989 trapezoidal pie-shaped lot?
990
991 Mr. Gooding - I don't know the exact square footage, sir, but I didn't bring a
992 plot plan with me.
993
994 Mr. Kirkland - I just wonder how it's going to be configured on that lot.
995
996 Mr. Gooding - The house is 22 by 46.
997

998 Mr. Kirkland - That's on parcel 3, correct?
999
1000 Mr. Gooding - Yes.
1001
1002 Mr. Blankinship - Is that one story or one and a half, or two?
1003
1004 Mr. Gooding - Two story.
1005
1006 Mr. Blankinship - It's 1300, so if it's two-story, he's all right.
1007
1008 Mr. Nunnally - Are they similar to the ones on Taft Street?
1009
1010 Mr. Gooding - Pretty much. All the housing in that area is about the same,
1011 and I'm going to stay with the same type of construction and material too.
1012
1013 Mr. Nunnally - And you did say that each one of these houses will be
1014 deeded over to your children, correct?
1015
1016 Mr. Gooding - Yes, they'll stay in their names for a minimum of five years.
1017
1018 Ms. Harris - Do we know the width of this pie-shaped lot?
1019
1020 Ms. Dwyer - Parcel 3 or parcel 2?
1021
1022 Ms. Harris - I'm looking on a different map; I'm looking on the site map,
1023 so that
1024
1025 Mr. Blankinship - The minimum lot width is 80 feet in that district.
1026
1027 Mr. Gooding - Parcel 1 will be 100 feet; parcel 2 will be 90 feet; and parcel
1028 3 will be 135 feet.
1029
1030 Mr. Blankinship - Across the rear. At the setback line, it will have to measure
1031 at least 80 feet.
1032
1033 Ms. Dwyer - At it's widest point. What we're concerned about is if we're
1034 going to have some building issues with the shape of this lot. It's relatively small, it's an
1035 awkward shape for building a house. We see a lot of variance requests because people
1036 can't fit houses on unusually shaped lots, so I think that's what the Board's concerned
1037 about with parcel 3.
1038
1039 Mr. Kirkland - I think if you shove it back so far, you're going to be over in
1040 one corner to meet the side yard setback requirement. I wish we had a plot plan of
1041 what the houses would look like.
1042
1043 Ms. Dwyer - We could ask for that before we make a decision.

1044
1045 Mr. Kirkland - You don't have a plot of where the houses are, do you?
1046
1047 Mr. Gooding - Yes I do; I have a tentative plan.
1048
1049 Mr. Kirkland - Would you give that to Mr. Blankinship.
1050
1051 Ms. Dwyer - You say the dimensions of the house on parcel 3 are what?
1052
1053 Mr. Gooding - I also have a tentative footprint I'd be willing to submit.
1054
1055 Mr. Kirkland - Put it on the overhead, Mr. Blankinship, if you could, the
1056 footprint.
1057
1058 Ms. Dwyer - This is the house for parcel 3? And its dimensions are
1059 what?
1060
1061 Mr. Blankinship - 24 by 46, overall, more like 26 by 46.
1062
1063 Mr. Kirkland - It'll work.
1064
1065 Ms. Dwyer - The Department of Public Works recommends a minimum of
1066 a treated surface area, that is with gravel or whatever, of 18 feet for something like this,
1067 and typically, our right-of-ways are 50 feet. Would that be something that you'd be
1068 willing to reserve for access to these three parcels, a 50-foot right-of-way?
1069
1070 Mr. Gooding - Yes. A 50-foot right-of-way?
1071
1072 Ms. Dwyer - Fifty feet.
1073
1074 Mr. Gooding - Fifty feet would be difficult.
1075
1076 Ms. Dwyer - What's the maximum you think would be appropriate for this,
1077 considering you're going to have to take land from Lot 12?
1078
1079 Mr. Gooding - It would be difficult to exceed 30 feet of width, for the
1080 easement that is. The driveway improvements, of course, wouldn't have to be that
1081 wide.
1082
1083 Ms. Harris - Mr. Gooding, had you considered not trying to squeeze a
1084 house on this last, pie-shaped lot? I know you say you have several children that you
1085 are trying to accommodate, but you do realize that you would have no problem with
1086 variances, depending on how creatively you divided the lot.
1087
1088 Mr. Gooding - Yes ma'am. That's why Mr. Spain is here, to make sure that
1089 everything is accommodating the homes to be built for my children.

1090
1091 Mr. Wright - You still have to get the variance, because it's where the
1092 building line would be, so no matter what they do back there, you've got to get a
1093 variance. That hasn't got a thing to do with the size of that lot.
1094
1095 Ms. Harris - As far as the lot width though, I'm concerned about the
1096 buildable area.
1097
1098 Mr. Wright - Is that third lot back there, by itself, forgetting the
1099 requirement where the building line is, does that meet the requirements of the Code?
1100
1101 Mr. Gooding - Yes, it meets the way that the tentative plot plan that I just
1102 submitted, it would meet the building lot requirements that way, yes.
1103
1104 Mr. Wright - Mr. Blankinship, that's what my question is, is that true?
1105
1106 Mr. Blankinship - This not being a certified survey, I can't really answer that for
1107 sure, but I'll take Mr. Spain's word for it.
1108
1109 Mr. Wright - Assuming this survey is accurate, that lot as it stands, meets
1110 the requirements of the Code.
1111
1112 Mr. Blankinship - That's his testimony; I can't really double check that without.
1113
1114 Mr. Wright - I said assuming that this survey is accurate. The problem is
1115 that where the building line would be, where you have to have your width; they couldn't
1116 meet that no matter what they did with these lots.
1117
1118 Ms. Dwyer - I think the minimum lot area for R-2A is 13,500.
1119
1120 Mr. Wright - This is 13,800. It meets the requirements.
1121
1122 Ms. Dwyer - It's very close, and it's also so oddly shaped; I think that's
1123 everyone's concern.
1124
1125 Mr. Wright - But it does meet the requirements.
1126
1127 Mr. Nunnally - Any further questions of the Board? Is anyone here in
1128 opposition? Thank you for appearing. That concludes the case. A-107-2005, R. Dale
1129 Gooding.
1130
1131 Mr. Wright - Move we approve it, the same 2 conditions as A-3 and A-4-
1132 2006.
1133
1134 Mr. Nunnally - Motion by Mr. Wright. Do I have a second?
1135

1136 Mr. Kirkland - Second.
1137
1138 Mr. Nunnally - Second by Mr. Kirkland. All in favor say aye. Opposed?
1139 Approved.

1140
1141 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1142 Kirkland, the Board **granted** application **A-107-2005** for a variance to build a one-family
1143 dwelling at 5503 Jefferson Street (E. S. Read) (Parcel 816-725-4508 (part)). The Board
1144 granted the variance subject to the following conditions:

1145
1146 1. This variance applies only to the road frontage and lot width requirements. All
1147 other applicable regulations of the County Code shall remain in force.

1148
1149 2. At the time of building permit application, the applicant shall submit the
1150 necessary information to the Department of Public Works to ensure compliance with the
1151 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1152 water quality standards.

1153
1154 3. [AMENDED] At the time of building permit application the owner shall
1155 demonstrate that the parcel created by this division has been conveyed to members of
1156 the immediate family, and the subdivision ordinance has not been circumvented. The
1157 property shall remain in the immediate family for at least five years.

1158
1159 4. The applicant shall present proof with the building permit application that a legal
1160 access to the property has been obtained.

1161
1162 5. [AMENDED] The property shall be served by a surface-treated driveway 18 feet
1163 wide in an access easement 30 feet wide. The owners of the property, and their heirs
1164 or assigns, shall accept responsibility for maintaining access to the property until such a
1165 time as the access is improved to County standards and accepted into the County road
1166 system for maintenance.

1167
1168 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1169 Negative: 0
1170 Absent: 0

1171
1172 The Board granted this request, as it found from the evidence presented that, due to the
1173 unique circumstances of the subject property, strict application of the County Code
1174 would produce undue hardship not generally shared by other properties in the area, and
1175 authorizing this variance will neither cause a substantial detriment to adjacent property
1176 nor materially impair the purpose of the zoning regulations.

1177
1178 Mr. Nunnally - A-3-2006.

1179
1180 Mr. Wright - Move we approve it, the same conditions as A-4.

1181

1182 Mr. Nunnally - Motion by Mr. Wright; do I have a second?
1183
1184 Mr. Kirkland - Second.
1185
1186 Mr. Nunnally - Second by Mr. Kirkland. All in favor say aye. Opposed? It's
1187 been approved.
1188
1189 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1190 Kirkland, the Board **granted** application **A-3-2006** for a variance to build a one-family
1191 dwelling at 5505 Jefferson Street (E. S. Read) (Parcel 816-725-4508 (part)). The Board
1192 granted the variance subject to the following conditions:
1193
1194 1. This variance applies only to the road frontage and lot width requirements. All
1195 other applicable regulations of the County Code shall remain in force.
1196
1197 2. At the time of building permit application, the applicant shall submit the
1198 necessary information to the Department of Public Works to ensure compliance with the
1199 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1200 water quality standards.
1201
1202 3. [AMENDED] At the time of building permit application the owner shall
1203 demonstrate that the parcel created by this division has been conveyed to members of
1204 the immediate family, and the subdivision ordinance has not been circumvented. The
1205 property shall remain in the immediate family for at least five years.
1206
1207 4. The applicant shall present proof with the building permit application that a legal
1208 access to the property has been obtained.
1209
1210 5. [AMENDED] The property shall be served by a surface-treated driveway 18 feet
1211 wide in an access easement 30 feet wide. The owners of the property, and their heirs
1212 or assigns, shall accept responsibility for maintaining access to the property until such a
1213 time as the access is improved to County standards and accepted into the County road
1214 system for maintenance.
1215
1216 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1217 Negative: 0
1218 Absent: 0
1219
1220 The Board granted this request, as it found from the evidence presented that, due to the
1221 unique circumstances of the subject property, strict application of the County Code
1222 would produce undue hardship not generally shared by other properties in the area, and
1223 authorizing this variance will neither cause a substantial detriment to adjacent property
1224 nor materially impair the purpose of the zoning regulations.
1225
1226 Mr. Nunnally - A-4-2006.
1227

1228 Ms. Harris - I believe this is the parcel three.
1229
1230 Mr. Nunnally - We have to call them each separately though.
1231
1232 Ms. Harris - I move that we deny parcel three.
1233
1234 Mr. Wright - Which one is that?
1235
1236 Ms. Harris - That's the pie-shaped parcel.
1237
1238 Mr. Wright - Which case is that?
1239
1240 Mr. Blankinship - The farthest back, A-4.
1241
1242 Ms. Dwyer - Case A-4, parcel 3.
1243
1244 Mr. Kirkland - That's the little trapezoidal tip down there at the bottom.
1245
1246 Ms. Dwyer - For all these I'm concerned about the five-foot access that
1247 doesn't make sense. I think it should at least be a 30-foot access.
1248
1249 Mr. Wright - We can put thirty feet in there, which we've gone with many
1250 times.
1251
1252 Mr. Kirkland - He said he could handle thirty feet.
1253
1254 Mr. Nunnally - Ms. Harris, what's your objection to parcel 3?
1255
1256 Ms. Harris - Because he can accommodate if we go with the division the
1257 other lots, he can accommodate divisions with his other properties, but squeezing this
1258 little house on this property.
1259
1260 Mr. Wright - But they satisfy all of the requirements. The lot is big
1261 enough to satisfy all of the zoning requirements.
1262
1263 Ms. Harris - Didn't we conclude that because of its shape, we may have
1264 to, or we leave it up to the people who would actually give the building permit. They're
1265 going to be hard pressed to find the width on both sides.
1266
1267 Mr. Wright - That wasn't brought out. I asked Mr. Blankinship, and he
1268 said they could build on the lot without any problem, with the zoning requirements.
1269
1270 Mr. Kirkland - That proposed footprint he had showed a rather large home
1271 on that little trapezoidal lot.
1272
1273 Mr. Wright - But they still met all the requirements.

1274
1275 Ms. Harris - They would check that before they gave him a permit?
1276
1277 Mr. Kirkland - Oh yes. If they don't, we'll see him again.
1278
1279 Ms. Dwyer - Then they'll come back with a variance for a sunroom.
1280
1281 Mr. Kirkland - What size house did he show on parcel 3?
1282
1283 Mr. Blankinship - They all three look about the same to me.
1284
1285 Mr. Wright - It looks like all the houses are a minimum of 1500 square
1286 feet, he said.
1287
1288 Mr. Kirkland - Do you want to stay with your motion, Ms. Harris?
1289
1290 Ms. Harris - No one seconded it. I think it's lost.
1291
1292 Mr. Wright - I move we approve it, but we need to require a minimum of
1293 30-foot access to the property from Jefferson Street.
1294
1295 Mr. Blankinship - In the discussion, can you explain how this fits with the
1296 Cochran decision?
1297
1298 Mr. Wright - There's no reasonable use of the property without the
1299 variance.
1300
1301 Mr. Blankinship - As of now, it's all one parcel.
1302
1303 Mr. Wright - It's not a use of land; that's the way it looks to me. This is a
1304 family division.
1305
1306 Mr. Kirkland - Was he the one who wanted five years?
1307
1308 Ms. Dwyer - No, that was my suggestion.
1309
1310 Mr. Kirkland - And he said that was okay, right?
1311
1312 Ms. Dwyer - I think that might not be a bad idea, just to make sure, that it
1313 be held for five years by a family member.
1314
1315 Mr. Wright - If they start to sell it immediately to someone else, they
1316 would be violating the intent of why we approved it.
1317
1318 Mr. Nunnally - Motion by Mr. Wright – do I have a second?
1319

1320 Mr. Kirkland - I second it.
 1321
 1322 Mr. Wright - Thirty-foot access and 5-year ownership by a family
 1323 member.
 1324
 1325 Mr. Nunnally - Motion by Mr. Wright; second by Mr. Kirkland, of 5-year
 1326 ownership and 30-foot right-of-way. All in favor say aye. Opposed? It's been
 1327 approved.
 1328

1329 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
 1330 Kirkland, the Board **granted** application **A-4-2006** for a variance to build a one-family
 1331 dwelling at 5507 Jefferson Street (E. S. Read) (Parcel 816-725-4508 (part)). The Board
 1332 granted the variance subject to the following conditions:
 1333

1334 1. This variance applies only to the road frontage and lot width requirements. All
 1335 other applicable regulations of the County Code shall remain in force.
 1336

1337 2. At the time of building permit application, the applicant shall submit the
 1338 necessary information to the Department of Public Works to ensure compliance with the
 1339 requirements of the Chesapeake Bay Preservation Act and the code requirements for
 1340 water quality standards.
 1341

1342 3. [AMENDED] At the time of building permit application the owner shall
 1343 demonstrate that the parcel created by this division has been conveyed to members of
 1344 the immediate family, and the subdivision ordinance has not been circumvented. The
 1345 property shall remain in the immediate family for at least five years.
 1346

1347 4. The applicant shall present proof with the building permit application that a legal
 1348 access to the property has been obtained.
 1349

1350 5. [AMENDED] The property shall be served by a surface-treated driveway 18 feet
 1351 wide in an access easement 30 feet wide. The owners of the property, and their heirs
 1352 or assigns, shall accept responsibility for maintaining access to the property until such a
 1353 time as the access is improved to County standards and accepted into the County road
 1354 system for maintenance.
 1355

1356	Affirmative:	Dwyer, Kirkland, Nunnally, Wright	4
1357	Negative:	Harris	1
1358	Absent:		0

1359
 1360 The Board granted this request, as it found from the evidence presented that, due to the
 1361 unique circumstances of the subject property, strict application of the County Code
 1362 would produce undue hardship not generally shared by other properties in the area, and
 1363 authorizing this variance will neither cause a substantial detriment to adjacent property
 1364 nor materially impair the purpose of the zoning regulations.
 1365

1366 **UP-3-2006** **SANDSTON MOOSE FAMILY CENTER** requests a temporary
1367 conditional use permit pursuant to Section 24-116(c)(1) to hold a
1368 turkey shoot at 4505 Oakley's Lane (Parcel 818-719-0377), zoned
1369 A-1, Agricultural District and M-1, Light Industrial District (Varina).
1370

1371 Mr. Nunnally - Is anyone else here interested in this case, for or against? If
1372 so, would you please stand and raise your right hand?
1373

1374 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1375 truth, the whole truth, and nothing but the truth, so help you God?
1376

1377 Mr. Blankenship - I do. Robert L. Blankenship, representing Sandston Family
1378 Moose Center, requesting a temporary permit to hold a shooting match.
1379

1380 Mr. Kirkland - Mr. Blankinship, have we had any complaints in previous
1381 years on this operation?
1382

1383 Mr. Blankinship - No sir, not that I'm aware of.
1384

1385 Mr. Nunnally - Have you read the conditions on this sir?
1386

1387 Mr. Blankenship - Yes sir, I have.
1388

1389 Mr. Nunnally - You're in agreement with them?
1390

1391 Mr. Blankenship - Yes sir.
1392

1393 Ms. Dwyer - Is alcohol consumed inside the main building during the
1394 turkey shoots?
1395

1396 Mr. Blankenship - No ma'am, not in the building where we hold the shoot, but
1397 there is another building adjacent to that, that is our private club, that alcohol is
1398 consumed in.
1399

1400 Ms. Dwyer - During the time of the turkey shoots?
1401

1402 Mr. Blankenship - No alcohol is served at the turkey shoots.
1403

1404 Mr. Blankinship - At the same time in the other building?
1405

1406 Mr. Blankenship - Yes sir, for members.
1407

1408 Ms. Dwyer - On the same premises, on the same site?
1409

1410 Mr. Blankenship - Yes.
1411

1412 Ms. Dwyer - So a person could have a couple of beers in the building and
1413 then go to the turkey shoot?
1414
1415 Mr. Blankenship - That's possible, but we control that. We do watch that. If
1416 someone comes in, and we can determine he has used alcohol, we turn him away. Of
1417 course, we have people come in that we don't, who probably have used alcohol, but we
1418 can't tell it. We make every effort to control that.
1419
1420 Mr. Wright - They could have had a couple of beers at home and come
1421 down there; it's the same deal. It's a little more likely it could be in the private club.
1422
1423 Ms. Harris - Is that why you have the Condition # 3, where you say, "No
1424 person under the influence of alcohol," Is that why you have that?
1425
1426 Mr. Blankenship - Yes ma'am.
1427
1428 Ms. Harris - Number 6, can you explain this amendment?
1429
1430 Mr. Blankenship - I'm not sure what year we started doing it for two years. The
1431 maximum term of a temporary conditional use permit is 24 months, and by giving them
1432 the time period in 2006 and in 2007, just saves everybody from going through this every
1433 year. It makes it every other year instead. There is a typo there, I'm afraid. The first
1434 date should be September 1, 2006.
1435
1436 Mr. Nunnally - Any other questions of the Board or staff? Is anyone here in
1437 opposition? Thank you for appearing. That concludes the case. UP-3-2006, Sandston
1438 Moose Family Center.
1439
1440 Mr. Kirkland - Move we approve it.
1441
1442 Mr. Wright - Second.
1443
1444 Mr. Nunnally - Motion by Mr. Kirkland; second by Mr. Wright that we
1445 approve.
1446
1447 Ms. Dwyer - I have discussion on that. On the alcoholic beverages. Are
1448 we satisfied with that, that it's okay to consume alcohol on the premises, and then shoot
1449 guns?
1450
1451 Mr. Wright - I don't see that there's anything we can do, unless we're
1452 going to give them a breathalyzer test when they come into the building.
1453
1454 Mr. Nunnally - You've got that in the conditions, don't you?
1455
1456 Mr. Kirkland - It's no different than if somebody drove up in a car and had
1457 been drinking and then goes out and shoots.

1458
1459 Ms. Dwyer - The difference is if you consume alcohol and then come on
1460 the premises and you're not detected, we haven't said that's okay. If we say it's okay to
1461 consume alcohol on the same premises, to serve and consume alcohol on the same
1462 premises where they're shooting, it seems to be that when we say that it's permitted,
1463 that we're somehow setting it up for our approval to that.
1464
1465 Mr. Wright - That's a separate club from this.
1466
1467 Mr. O'Kelly - Wouldn't that put staff in the position of having to enforce
1468 that condition?
1469
1470 Mr. Kirkland - You'd have to have a PBT down there and test them every
1471 time they walk up to shoot.
1472
1473 Ms. Dwyer - We already say that you can't shoot under the influence, so
1474 whatever obligations we have under that, seems to me that they wouldn't be, -- it would
1475 almost be easier to enforce no alcohol than it would be to take Breathalyzers out there
1476 to determine whether somebody's under the influence under Title 82.2.
1477
1478 Mr. Nunnally - We had one last month or the month before last, when was it
1479 Ben, here on Laburnum, Glen Lea – what did we put in that one? I know Ms. Dwyer
1480 brought that up then too.
1481
1482 Mr. Blankinship - I believe in that one they didn't serve any alcohol on the
1483 premises at all.
1484
1485 Mr. Nunnally - That's right, they didn't.
1486
1487 Ms. Dwyer - I would suggest no alcoholic beverages may be consumed
1488 on the premises.
1489
1490 Mr. Kirkland - During the turkey shoot?
1491
1492 Ms. Dwyer - Yes, during the turkey shoot.
1493
1494 Mr. Wright - Do they control that?
1495
1496 Ms. Dwyer - They serve it, next door.
1497
1498 Mr. Wright - That's their club? I thought it was an independent club.
1499
1500 Mr. Kirkland - It's their operation. They're one and the same.
1501
1502 Mr. Wright - I thought it was an independent club.
1503

1504 Mr. Kirkland - It's their operation.
1505
1506 Mr. Nunnally - It's part of the Moose Lodge. They own that and own the
1507 turkey shoot.
1508
1509 Ms. Harris - Do they have a license to serve alcoholic beverages?
1510
1511 Mr. Nunnally - I'm sure they do.
1512
1513 Ms. Harris - Are we going against the license?
1514
1515 Ms. Dwyer - I don't think so, if we limit it.
1516
1517 Mr. Wright - This one that says "no alcoholic beverage may be consumed
1518 outside the main building. Does that indicate that they can consume them inside the
1519 main building?
1520
1521 Mr. Kirkland - Yes. There's two separate buildings, and you can drink in
1522 one, but not at the other one when they shoot.
1523
1524 Mr. Wright - We could just say "no alcoholic beverages may be
1525 consumed on the premises."
1526
1527 Mr. Blankinship - "During the turkey shoot."
1528
1529 Mr. Kirkland - I go along with that Ms. Dwyer. I don't see any problem with
1530 that. We'll add that to the condition.
1531
1532 Mr. Nunnally - All in favor of that, say aye. Opposed? It's been approved
1533 with the condition.
1534
1535 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1536 Wright, the Board **granted** application **UP-3-2006** for a temporary conditional use permit
1537 to hold a turkey shoot at 4505 Oakley's Lane (Parcel 818-719-0377). The Board
1538 granted the use permit subject to the following conditions:
1539
1540 1. Hours of firing shall be from 7:00 p.m. to 11:00 p.m. on Friday and Saturday
1541 nights.
1542
1543 2. The property shall be clearly posted to show the area in which shooting occurs.
1544
1545 3. [Amended] No alcoholic beverages may be consumed on the premises during
1546 the turkey shoot. A sign to this effect must be conspicuously posted in the immediate
1547 vicinity of the shooting area. No person under the influence of alcohol, as defined in
1548 Section 18.2-266 of the Code of Virginia, may be permitted in the shooting area.
1549

1596 Mr. Matze - Yes sir.
1597
1598 Mr. Wright - How long has it been there?
1599
1600 Mr. Matze - I would imagine the neighborhood's probably 12 to 15 years
1601 old.
1602
1603 Mr. Wright - We're faced with this decision of the Supreme Court of
1604 Virginia, Cochran vs. Fairfax, which in effect on this type of case, takes the authority
1605 away from us to even grant this variance. Under that decision, we don't even get to
1606 decide on a hardship or whatever, because the Supreme Court says if you've got a
1607 reasonable use of the property before you request a variance, which you do if you have
1608 a home on it, we just don't have any authority to rule on it.
1609
1610 Mr. Kirkland - It says in the staff report, and I assume the Planning staff
1611 explained this to you when you applied for the variance.
1612
1613 Mr. Matze - Yes, they explained it to us, and we've heard from various
1614 cases that it's hard to get some of these requests.
1615
1616 Mr. Kirkland - It's not hard; it's impossible. Our hands are tied.
1617
1618 Mr. Wright - It's not what we would like or what we would want; it's what
1619 we're required to do.
1620
1621 Ms. Harris - Without scaling your plans here, you could actually build
1622 across the back of the present property.
1623
1624 Mr. Matze - We didn't want to. We took it up to the bay window, because
1625 that's where the existing kitchen is, and we didn't want to get into blocking the kitchen
1626 light, etc.
1627
1628 Mr. Nunnally - The only thing we can tell you to do is to go talk to your
1629 Supervisor, and see if he can help.
1630
1631 Mr. Sims - I have one question – what authority can we go to if the
1632 Board of Zoning Appeals can't help us in this case?
1633
1634 Mr. Nunnally - You can go to the Circuit Court.
1635
1636 Mr. Wright - It would be my honest opinion, the court, you wouldn't get
1637 anywhere if you wanted to appeal this, you could appeal it to the Circuit Court. You
1638 certainly have that right, but that court's going to be affected by this decision, and I don't
1639 think you'd get to first base. That would be my humble opinion. The only relief you
1640 could have, and I think the basic relief would be to go to your legislator, and the
1641 legislature has the authority to enact statutes or legislation which could take care of this.

1642
1643 Mr. Matze - Being that we're in the remodeling industry, this Cochran vs.
1644 whatever is definitely going to affect our business, because you've granted us plenty of
1645 variances in the past, so pretty much what you're saying is any variance cases that
1646 involve extensions

1647
1648 Mr. Blankinship - Additions are very difficult, but particularly where you can
1649 build a large addition on the lot without a variance. The relief in this case is just to
1650 redesign within the Code. There's no reason you can't do that.

1651
1652 Mr. Matze - What about cases where you have a house that wants an
1653 extension, and it's backed up to a swamp or common area?

1654
1655 Mr. Wright - It wouldn't make any difference. This case, if you read it, is
1656 pretty straight, leaves very little wiggle room.

1657
1658 Mr. Nunnally - A-5-2006.

1659
1660 Mr. Wright - Move we deny it. Basis of denial is the Cochran Case. If we
1661 just say that, you know what to put in there. We don't have authority to decide it.

1662
1663 Mr. Blankinship - Yes sir.

1664
1665 Ms. Dwyer - Second.

1666
1667 Mr. Nunnally - Motion by Mr. Wright, second by Ms. Dwyer, that we deny it.
1668 All in favor, say aye. It's been denied.

1669
1670 After an advertised public hearing and on a motion by Mr. Wright, seconded by Ms.
1671 Dwyer, the Board **denied** application **A-5-2006** for a variance to build an addition at
1672 12153 Glen Gary Circle (Glen Gary) (Parcel 735-757-8784).

1673
1674 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1675 Negative: 0
1676 Absent: 0

1677
1678 The Board denied your request as it found that the property would retain substantial
1679 beneficial uses and substantial value without a variance. The Supreme Court of Virginia
1680 has determined that a board of zoning appeals may grant a variance only after finding
1681 that the zoning ordinance "interferes with all reasonable beneficial uses of the property,
1682 taken as a whole" (Cochran v. Fairfax County BZA, 267 Va. 756 (2004)).

1683
1684 **Beginning at 10:00**

1685
1686 Mr. Blankinship - Mr. Chairman, I'm going to call the next two cases together.
1687 They're two separate sites, but it will be the same representatives, and I think, mostly

1688 the same concerns.

1689

1690 **UP-4-2006** **W. C. ENGLISH, INC.** requests a conditional use permit pursuant
1691 to Sections 24-52(d) and 24-103 to extract materials from the earth
1692 at 3501 Britton Road (Parcels 827-696-9825, 827-697-3933 and
1693 826-697-0978), zoned A-1, Agricultural District (Varina).

1694

1695 **UP-5-2006** **W. C. ENGLISH, INC.** requests a conditional use permit pursuant
1696 to Sections 24-52(d) and 24-103 to extract materials from the earth
1697 at 6919 Monahan Road (Parcel 823-698-3046), zoned A-1,
1698 Agricultural District (Varina).

1699

1700 Mr. Nunnally - Is anyone else here who desires to speak in reference to this
1701 case? If so, would you please stand and raise your right hand?

1702

1703 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1704 truth, the whole truth, and nothing but the truth, so help you God?

1705

1706 Mr. Hinson - I do. Good morning. My name is Paul Hinson; I'm the
1707 Project Manager with Koontz Bryant, which prepared the plans for the extraction efforts
1708 on both these two sites. We're here today to request extensions to both what's known
1709 as Preston/Wooten Borrow Pit, known as UP-4-2006, and the Spanos Borrow Pit,
1710 known as UP-5-2006. Our desire is to keep these two pits active so that we may
1711 proceed in the event that the funding is approved for the connector from I-895 to the
1712 airport. The intended use of both these pits was for the original construction of I-895, as
1713 well as any secondary construction. We do believe that funding may be in place soon
1714 for that project, and we'd like to be able to respond in a timely fashion when that does
1715 occur. That was the intended uses of both of these pits. We have read the staff
1716 reports. There is one clarification/correction I would like to request in Use Permit 4-
1717 2006, under item # 14. The operation date says it will be discontinued on April 30,
1718 2006, and restoration accomplished no later than April 30, 2007. We would like to
1719 request an amendment to that condition, to concur with the dates shown in Use Permit
1720 5-2006, for July 31, 2008 for discontinuing operations, and July 31, 2009, for
1721 restoration.

1722

1723 Mr. Blankinship - That's just an oversight; I apologize.

1724

1725 Mr. Hinson - If you have any questions, we'd be glad to answer them for
1726 you, and we have representatives from W. C. English here as well, if they can answer
1727 any questions that I don't have information on. We have read the staff reports and have
1728 no objections to the conditions. We have been operating under these same conditions
1729 for the last approximately four years on Use Permit 4-2006, and Use Permit 5-2006 has
1730 not been activated. We do have approved erosion control plans on file with the
1731 Department of Public Works, and we will implement those plans in the event that the
1732 connector road is approved and we need that source for our materials for our project.

1733

1734 Mr. Wright - What you're saying is, these will be used in connection with
1735 the extension of I-895, is that correct?
1736
1737 Mr. Hinson - Yes sir, that is our intent.
1738
1739 Mr. Nunnally - When did you say you would probably be starting on that, or
1740 do you have any idea?
1741
1742 Mr. Hinson - I'd like to defer that to W. C. English's representatives if I
1743 could; I'm not aware of the contract terms. Mr. Booth will respond to that question.
1744
1745 Mr. Booth - I'm from W. C. English, Project Coordinator for them. We
1746 don't have a specific date for that. It all depends on the revenue projections on I-895 to
1747 fund that. We're hoping it's going to be within the next year or two years, but we don't
1748 have a commitment on that.
1749
1750 Mr. Nunnally - Since you've said that, we've had some conversations with
1751 the people in the County, and they're a little concerned with what's going on down there.
1752 You haven't used this pit, and you don't know when you're going to start using it, so the
1753 County would like to defer this, if it's all right with you. You don't have any idea when
1754 you're going to use it, so I don't think it would hurt you any to be deferred for thirty days,
1755 so the County can talk about it. Would that be all right?
1756
1757 Mr. Booth - That would be fine.
1758
1759 Mr. Nunnally - Is thirty days all right, Mr. Blankinship?
1760
1761 Mr. Blankinship - Until the February meeting, shall we say?
1762
1763 Mr. O'Kelly - The area north of I-895 has not been mined, is that correct?
1764
1765 Mr. Booth - I think that's the site, yes sir.
1766
1767 Mr. O'Kelly - Originally, this permit was approved with all access being
1768 from the I-895 right-of-way. How do you plan to access the property north of I-895, if
1769 this permit were approved?
1770
1771 Mr. Booth - I'm personally not that familiar with it, but I'll be glad to get
1772 those answers for you by the next meeting.
1773
1774 Mr. Hinson - When we renewed the permit in 2004, there was a revision
1775 made to the conditions that allowed access from Britton Road for that purpose. The
1776 intent would be to access the pit from Britton Road.
1777
1778 Mr. O'Kelly - Aren't there wetlands in that area?
1779

1780 Mr. Hinson - Yes sir, but there is sufficient area for us to construct an
1781 access road, and it has been shown on the approved erosion control plans as looked at
1782 by the Public Works and Environmental Departments.
1783

1784 Ms. Dwyer - I have no problem with deferring it; I just have a general
1785 question that doesn't need to be answered today, but next month when it comes before
1786 us, I will ask it. I will have some questions relating to the restoration of this land. I look
1787 at it as prime development land for the future, being at the intersection of I-895 and I-
1788 295, so if that's not part of the County discussions in the ensuing months, that will be
1789 one of my concerns next month.
1790

1791 Mr. Nunnally - Thank you. Do I have a motion for deferral?
1792

1793 Mr. Wright - I move we defer it to the February meeting.
1794

1795 Mr. Kirkland - Second, both cases.
1796

1797 Mr. Nunnally - Motion by Mr. Wright; second by Mr. Kirkland. All in favor,
1798 say aye. Opposed? UP-4 and UP-5 have been deferred to the February meeting.
1799

1800 Upon a motion by Mr. Wright, seconded by Mr. Kirkland, the Board **deferred**
1801 applications **UP-4-2006 and UP-5-2006** for conditional use permits to extract materials
1802 from the earth at 3501 Britton Road (Parcels 827-696-9825, 827-697-3933 and 826-
1803 697-0978) and to extract materials from the earth at 6919 Monahan Road (Parcel 823-
1804 698-3046).
1805

1806 Affirmative:	Dwyer, Harris, Kirkland, Nunnally, Wright	5
1807 Negative:		0
1808 Absent:		0

1809
1810 The cases were deferred to allow additional time to study the requests, from the
1811 January 26, until the February 23, 2006, meeting.
1812

1813 **UP-6-2006** **GILLIES CREEK INDUSTRIAL RECYCLING LLC** requests a
1814 conditional use permit pursuant to Sections 24-103 and 24-52(d) to
1815 extract materials from the earth at 6650 Hines Road (Parcels 855-
1816 695-8710 and 5768), zoned A-1, Agricultural District (Varina).
1817

1818 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
1819 please stand and raise your right hand?
1820

1821 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1822 truth, the whole truth, and nothing but the truth, so help you God?
1823

1824 Mr. Bryant - I do. My name is William L. Bryant; I'm a representative of
1825 Gillies Creek Industrial Recycling. We currently have a use permit at 6650 Hines Road,

1826 to extract material, as well as fill. It was an old sand and gravel pit, previously owned by
1827 E. R. Plaster. We want to continue this permit for the next two years, and we feel that
1828 with the growth expected in eastern Henrico County, that we will be utilizing this pit very
1829 much in the near future, both to supply fill dirt, as well as a depository for excess
1830 material.

1831
1832 Ms. Dwyer - Relating to the restoration of the property, regarding the
1833 elevation, according to our staff report, the prior reclamation plan approved had a hill
1834 with an elevation of 130 feet, but you're proposing with this plan, an elevation of 160
1835 feet, is that correct?

1836
1837 Mr. Bryant - Yes ma'am, that's correct. The reason we've asked to
1838 increase the finished grade or elevation is, we think that there is going to be quite a bit
1839 of construction in the eastern part of the County very shortly, and areas to dispose of
1840 excess material are at a premium, not only for the building contractors, but for people
1841 such as ourselves. The reason we've requested this is to extend the life of this pit as
1842 much as we can, to get as much use as possible out of it, so that growth can continue in
1843 the County. Henrico County is currently a customer of ours, and uses our disposal
1844 facilities quite a bit, so I think it not only benefits the County, but it also benefits the
1845 contractors in the County.

1846
1847 Ms. Dwyer - If this were restored to an elevation of 160 feet, it would be
1848 so high above the prevailing landscape that it would be unusable for any other purpose.
1849

1850 Mr. Bryant - No necessarily. The slope at 4:1 wouldn't be much more
1851 severe than the slope coming from the top of this room down to the bottom here. It is
1852 zoned agricultural; it may be put back to agricultural use. It may be a tree farm. Even if
1853 it were not used for that purpose, I don't think the slope would be prohibitive for any
1854 function that you chose to use on it.

1855
1856 Mr. Kirkland - How much cover do you put over top of the waste that's
1857 underneath of there?

1858
1859 Mr. Bryant - All of the waste is just dirt.

1860
1861 Mr. Kirkland - No brick, no nothing

1862
1863 Mr. Bryant - It's straight dirt. The concrete and the brick has a value to
1864 us for our recycling operation. It's too valuable for us to just bury, so all that goes in this
1865 pit is just dirt.

1866
1867 Mr. Kirkland - I was just looking at Condition # 25, and it said that "material
1868 deposited on the site would be limited to imperishable materials such as stone, bricks,
1869 tile, sand, gravel, soil"

1870
1871 Mr. Bryant - Yes, that is correct, but just from a business standpoint, I

1872 wouldn't want to bury that commodity, because it has too much intrinsic value for me.
1873
1874 Mr. Kirkland - So you wouldn't mind if we took that out and just said "dirt"?
1875
1876 Mr. Blankinship - Change it to "stone and soil" – those are the only two things
1877 in that list.
1878
1879 Mr. Bryant - I would prefer to leave it in; I wouldn't likely deposit that
1880 material there, but it's possible that loads may come in with concrete mixed in the dirt. If
1881 that were the case, there probably would be at least two feet of cover over top of
1882 anything that's filled in.
1883
1884 Mr. Kirkland - Therefore, that hill that had all that mix in it, at that slope,
1885 basically if you built homes or any type, you would have to remove and come back and
1886 fill again, because two feet isn't much cover over waste like concrete, brick or anything.
1887
1888 Mr. Bryant - If we chose to develop it, and I couldn't tell you now if that
1889 would be our end use or not.
1890
1891 Mr. Kirkland - I'm looking at the future.
1892
1893 Ms. Dwyer - It's not just your end use; it's at any point in the future, what
1894 are we creating.
1895
1896 Mr. Wright - Mr. Blankinship, where would this slope concern be covered
1897 in our conditions?
1898
1899 Mr. Blankinship - It's not specifically spelled out, except that the conditions
1900 relate back to the approved reclamation plan, so when you addressed that on a similar
1901 case last month, we added some language to three different conditions, requiring that
1902 they amend the reclamation plan that was submitted. You could do it that way, or of
1903 course, you could again defer this and ask them to produce a different reclamation plan.
1904
1905 Mr. Wright - The question is not so much the elevation, the 25% grade;
1906 it's how high you go with it. You could have 4:1 limited to 130 feet, which you have
1907 now, I take it, is that correct?
1908
1909 Mr. Bryant - That's the highest elevation currently, correct, at the
1910 southern line of the property. Also, the adjacent property owner, Mr. Brian Bolen, he's
1911 the only house that could possibly see the mound, were it come to pass, and I do have
1912 a letter from him here, stating that he has seen the site plan and has no objection to us
1913 filling to that degree.
1914
1915 Ms. Harris - Can you point out his house?
1916
1917 Mr. Bryant - This is the access road coming in here; his house would be

1918 approximately there.
1919
1920 Ms. Dwyer - What is the acreage for this site?
1921
1922 Mr. Bryant - The acreage is approximately 16.7 acres, and that includes
1923 the road and a parcel that is not being mined. The mined portion is approximately nine
1924 acres.
1925
1926 Ms. Harris - What are the boundaries for receiving off-site generated
1927 materials? You get the off-site generated materials from where, just Virginia, or how
1928 many miles from whatever?
1929
1930 Mr. Bryant - It's all local, metro-Richmond area, probably more than likely
1931 eastern Henrico, western New Kent, the eastern side of the city, as is convenient for the
1932 contractor.
1933
1934 Mr. Nunnally - Does anyone else want to speak for?
1935
1936 Ms. Sharpe - My name is Ann Sharpe, and I just have some questions.
1937 I'm an adjacent landowner. How far from the property line will this 160-foot hill start to
1938 rise? What is the buffer zone?
1939
1940 Mr. Blankinship - One hundred feet.
1941
1942 Ms. Harris - Ms. Sharpe, can you point out your house, from the site
1943 map.
1944
1945 Ms. Sharpe - My house is not adjacent to this property. We own the land;
1946 it's wooded land now, forest land. I do have a sister who lives on adjacent property. I
1947 have a nephew that my mother gave land to, who lives on adjacent property, but they
1948 can't see the pit; their homes are not in sight of the pit. We wrap around the property.
1949 We go all the way to the swamp, on that swamp line of his property.
1950
1951 Ms. Harris - Site map?
1952
1953 Ms. Sharpe - I want to know how high. On this map we go this line, we're
1954 over here; we own this land over here, and my nephew now owns over here, and he
1955 doesn't own that entire strip, but we own kind of wrapping around the property.
1956
1957 Mr. Blankinship - You see there the space between the red dashed line and
1958 that green area – that's 100 feet. The red dashed line is your property line, and the
1959 green area is the boundary.
1960
1961 Ms. Sharpe - And that will be monitored?
1962
1963 Mr. Blankinship - We inspect every month.

1964
1965 Mr. Morrison - My name is Gary Morrison. I live at 6626 Hines Road, which
1966 on the plat map should be the third plat on the left going north. My only concern is I
1967 know this mine wasn't real active last year, and I had no problem with the mine itself.
1968 My only concern is the huge amount of dust that coats my house, inside my house, and
1969 my vehicles. Is there any way to control that, whether it be to asphalt that road or to
1970 water that road, whenever there is I know that Plaster did not do that, and I
1971 was never part of a public hearing about it, so this is really my first contact with you to
1972 see if there is anything you can do as a company to limit the amount of dust that comes
1973 into the area.
1974
1975 Mr. Bryant - I can respond to that. We have asphalted, as required, 300
1976 feet from the entrance at Hines Road, down the property, and we do, when we use the
1977 pit as we do at our other locations, control dust through water. We use our water truck
1978 to wet the road down and keep the particular dust from flying. That's always a concern,
1979 wherever we are, and we do our best to keep our neighbors happy.
1980
1981 Mr. Blankinship - That is a requirement of the use permit, so any time you
1982 have a complaint about that, you can just call us, and we'll get out there the same day
1983 usually.
1984
1985 Mr. Morrison - I just wanted to voice that concern.
1986
1987 Mr. Nunnally - Anyone else? Is anyone here in opposition? Anything from
1988 the Board or staff? Thank you for appearing. That concludes the case.
1989
1990 Mr. Bryant - I understand that the Board has some concerns about the
1991 total elevation at 160 feet. I just would like to point out that from the southern end, the
1992 side where any of the adjacent property owners' houses are, that's only an increase of
1993 thirty feet over existing grade, so it may seem like an exorbitant number in of itself, the
1994 rise is actually not that severe, or the increase is actually not that great.
1995
1996 Ms. Harris - How tall is it now? What is the elevation now?
1997
1998 Mr. Bryant - One hundred thirty feet.
1999
2000 Ms. Harris - It's already 130, so you want to raise it additional to 160. I
2001 know those were the requirements, so you're saying that on the site, physically it's 130
2002 feet tall now.
2003
2004 Mr. Bryant - That's correct. The highest elevation of undisturbed land is
2005 currently 130 feet above sea level.
2006
2007 Mr. Nunnally - Anything else? That completes the case. UP-6-2006, Gillies
2008 Creek. Do I have a motion on that one.
2009

2010 Mr. Kirkland - Move we approve it.
2011
2012 Mr. Wright - Second.
2013
2014 Mr. Nunnally - Motion by Mr. Kirkland; second by Mr. Wright that it be
2015 approved. All in favor, say aye.
2016
2017 Mr. Blankinship - Did you want them to revise that reclamation plan or approve
2018 it as presented?
2019
2020 Ms. Dwyer - I'm concerned about the additional height of 160 feet.
2021
2022 Mr. Wright - I meant to note that. I think we ought to limit the height to
2023 what was already in the plan, not allow them to go to 160 feet.
2024
2025 Mr. Kirkland - Where are they at right now?
2026
2027 Mr. Blankinship - One hundred and thirty.
2028
2029 Mr. Kirkland - So we don't want them to go any further?
2030
2031 Mr. Wright - They're already at 130?
2032
2033 Mr. Kirkland - They're there.
2034
2035 Mr. Blankinship - We have a reclamation plan on file from two years ago
2036
2037 Mr. Wright - That shows 130?
2038
2039 Mr. Blankinship - You could just say that they have to be consistent with that
2040 previously approved reclamation plan.
2041
2042 Mr. Wright - That's what I would like to include. That's good. It's still 130
2043 feet.
2044
2045 Ms. Dwyer - I also have a general concern about all these, a lot of pits, a
2046 lot of mining going on in the east end, and I would like to get some staff input on the
2047 reclamation of these, particularly that other one that wasn't before us, looking at that at
2048 the intersection of I-895 and I-295. Seems to me that we should be insuring at this point
2049 that the people who are earning the money from the excavation and the filling of these,
2050 that they reclaim them so that they're in a state where it makes those lots developable
2051 in the future, so that we're not left with unusable land in prime development areas
2052 sometime in the future.
2053
2054 Mr. Kirkland - The Gillies Creek thing I don't think could ever be used as
2055 buildable.

2056
2057 Ms. Dwyer - This one? Why is that?
2058
2059 Mr. Kirkland - Because it's full of bricks, concrete, and other assorted
2060 mess, so they would have to go through there and cut a top off and come back and put
2061 real good fill soil and then put topsoil. It wouldn't be useable.
2062
2063 Ms. Dwyer - That's my point. I'm concerned with all these being filled at
2064 this point,
2065
2066 Mr. Kirkland - That's not to say you couldn't plant corn on it.
2067
2068 Ms. Dwyer - Right, but I think it's incumbent on us to look to the future
2069 and think about how, because we're talking about a lot of acreage of land when we're
2070 looking at all of these combined. I don't know if Mr. Blankinship or Mr. O'Kelly have any
2071 thoughts about where we could go with this, but I really would like some input from staff
2072 on what our standards should be for reclamation for these sites, so that they can be
2073 developed in the future.
2074
2075 Mr. Blankinship - It sounds to me like something we're going to have to put
2076 some real study into. In the past, the general assumption has been that they were
2077 going to be used for pasture and the occasional pond, where appropriate.
2078
2079 Mr. Wright - But you never know now.
2080
2081 Mr. Blankinship - Times are changing, and development patterns are changing
2082 across the County.
2083
2084 Mr. Wright - We're doing things that could be a hundred years, or ten,
2085 fifteen, twenty years down the road, maybe fifty years.
2086
2087 Ms. Dwyer - So do we ask staff to study it this, with the goal of setting
2088 some reclamation standards that could be considered with each of these cases when
2089 they present reclamation plans?
2090
2091 Mr. Blankinship - I think we probably should.
2092
2093 Mr. Wright - I think that's a good idea. That wouldn't be involved with this
2094 case, but that would be a separate thing.
2095
2096 Ms. Dwyer - I just thought this was a good moment to bring it up. So
2097 maybe I could make a motion to that effect at the end of the meeting – would that be an
2098 appropriate request?
2099
2100 Mr. Blankinship - I'm not sure it would even require a motion.
2101

2102 Mr. Nunnally - All in favor of the request say aye.
2103
2104 Ms. Harris - Where are we on this case?
2105
2106 Mr. Blankinship - There was a motion on the floor; I'm not sure whether we
2107 voted or not..
2108
2109 Mr. Wright - It was seconded.
2110
2111 Ms. Dwyer - And the motion includes the 130 elevation.
2112
2113 Mr. Wright - The motion was that we approve it as the former reclamation
2114 plan was, at 130 feet.
2115
2116 Mr. Nunnally - All in favor say aye. Opposed? It's been approved.
2117
2118 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
2119 Wright, the Board **granted** application **UP-6-2006** for a conditional use permit to extract
2120 materials from the earth at 6650 Hines Road (Parcels 855-695-8710 and 5768). The
2121 Board granted the use permit subject to the following conditions:
2122
2123 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of
2124 the County Code.
2125
2126 2. Before beginning any work, the applicant shall provide a financial guaranty in an
2127 amount of \$2,000 per acre for each acre of land to be disturbed, for a total of \$20,800,
2128 guaranteeing that the land will be restored to a reasonably level and drainable condition.
2129 This permit does not become valid until the financial guaranty has been approved by the
2130 County Attorney. The financial guaranty may provide for termination after 90 days
2131 notice in writing to the County. In the event of termination, this permit shall be void, and
2132 work incident thereto shall cease. Within the next 90 days the applicant shall restore
2133 the land as provided for under the conditions of this use permit. Termination of such
2134 financial guaranty shall not relieve the applicant from its obligation to indemnify the
2135 County of Henrico for any breach of the conditions of this use permit. If this condition is
2136 not satisfied within 90 days of approval, the use permit shall be void.
2137
2138 3. [AMENDED] Before beginning any work, the applicant shall submit erosion
2139 control plans to the Department of Public Works (DPW) for review and approval.
2140 Throughout the life of the operation, the applicant shall continuously satisfy DPW that
2141 erosion control procedures are properly maintained, and shall furnish plans and bonds
2142 that DPW deems necessary. The applicant shall provide certification from a licensed
2143 professional engineer that dams, embankments and sediment control structures meet
2144 the approved design criteria as set forth by the State. If this condition is not satisfied
2145 within 90 days of approval, the use permit shall be void. The reclamation plan shall be
2146 substantially the same as the reclamation plan approved with UP-3-2004. The
2147 maximum elevation of the finished grade shall not exceed 130 feet above MSL.

- 2148
2149 4. Before beginning any work, the applicant shall obtain a mine license from the
2150 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
2151 within 90 days of approval, the use permit shall be void.
2152
- 2153 5. Before beginning any work, the areas approved for mining under this permit shall
2154 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
2155 and painted in alternate one foot stripes of red and white. These posts shall be so
2156 located as to clearly define the area in which the mining is permitted. They shall be
2157 located, and their location certified, by a certified land surveyor. If this condition is not
2158 satisfied within 90 days of approval, the use permit shall be void.
2159
- 2160 6. In the event that the approval of this use permit is appealed, all conditions
2161 requiring action within 90 days will be deemed satisfied if the required actions are taken
2162 within 90 days of final action on the appeal.
2163
- 2164 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
2165 state and local regulations administered under such act applicable to the property, and
2166 shall furnish to the Planning Department copies of all reports required by such act or
2167 regulations.
2168
- 2169 8. Hours of operation shall be from 7:00 a.m. to 5:30 p.m. Monday through Friday.
2170
- 2171 9. No operations of any kind are to be conducted at the site on Saturdays, Sundays,
2172 or national holidays.
2173
- 2174 10. All means of access to the property shall be from the established entrance onto
2175 Hines Road and Elko Road. Traffic related to the mining operation shall not travel on
2176 Hines Road west of the entrance to the property.
2177
- 2178 11. The applicant shall erect and maintain gates at all entrances to the property.
2179 These gates shall be locked at all times, except when authorized representatives of the
2180 applicant are on the property.
2181
- 2182 12. The applicant shall post and maintain a sign at the entrance to the mining site
2183 stating the name of the operator, the use permit number, the mine license number, and
2184 the telephone number of the operator. The sign shall be 12 square feet in area and the
2185 letters shall be three inches high.
2186
- 2187 13. The applicant shall post and maintain "No Trespassing" signs every 250 feet
2188 along the perimeter of the property. The letters shall be three inches high. The
2189 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
2190 enforce the "No Trespassing" regulations, and agreeing to send a representative to
2191 testify in court as required or requested by the Division of Police.
2192

- 2193 14. Standard "Truck Entering Highway" signs shall be erected on Hines Road on
2194 each side of the entrances to the property. These signs will be placed by the County, at
2195 the applicant's expense.
2196
- 2197 15. The applicant shall post and maintain a standard stop sign at the entrance to
2198 Hines Road.
2199
- 2200 16. The applicant shall provide a flagman to control traffic from the site onto the
2201 public road, with the flagman yielding the right of way to the public road traffic at all
2202 times. This flagman will be required whenever the Division of Police deems necessary.
2203
- 2204 17. The entrance road shall be paved from its intersection with Hines Road for a
2205 distance of 300 feet and a width of 24 feet. All roads used in connection with this use
2206 permit shall be effectively treated with calcium chloride or other wetting agents to
2207 eliminate any dust nuisance.
2208
- 2209 18. The operation shall be so scheduled that trucks will travel at regular intervals and
2210 not in groups of three or more.
2211
- 2212 19. Trucks shall be loaded in a way to prevent overloading or spilling of materials of
2213 any kind on any public road.
2214
- 2215 20. The applicant shall maintain the property, fences, and roads in a safe and secure
2216 condition indefinitely, or convert the property to some other safe use.
2217
- 2218 21. If, in the course of its preliminary investigation or operations, the applicant
2219 discovers evidence of cultural or historical resources, or an endangered species, or a
2220 significant habitat, it shall notify appropriate authorities and provide them with an
2221 opportunity to investigate the site. The applicant shall report the results of any such
2222 investigation to the Planning Department.
2223
- 2224 22. If water wells located on surrounding properties are adversely affected, and the
2225 extraction operations on this site are suspected as the cause, the effected property
2226 owners may present to the Board evidence that the extraction operation is a contributing
2227 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
2228 the operator may be required to correct the problem.
2229
- 2230 23. Open and vertical excavations having a depth of 10 feet or more, for a period of
2231 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
2232 public safety.
2233
- 2234 24. Topsoil shall not be removed from any part of the property outside of the area in
2235 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
2236 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
2237 within the authorized mining area and provided with adequate erosion control
2238 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought

2239 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
2240 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
2241 tests have been provided to the County.

2242
2243 25. No offsite-generated materials shall be deposited on the mining site without prior
2244 written approval of the Director of Planning. To obtain such approval, the operator shall
2245 submit a request stating the origin, nature and quantity of material to be deposited, and
2246 certifying that no contaminated or hazardous material will be included. The material to
2247 be deposited on the site shall be limited to imperishable materials such as stone, bricks,
2248 tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any
2249 hazardous materials as defined by the Virginia Hazardous Waste Management
2250 Regulations.

2251
2252 26. A superintendent, who shall be personally familiar with all the terms and
2253 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms
2254 and conditions of this use permit, shall be present at the beginning and conclusion of
2255 operations each work day to see that all the conditions of the Code and this use permit
2256 are observed.

2257
2258 27. A progress report shall be submitted to the Board on January 31, 2007. This
2259 progress report must contain information concerning how much property has been
2260 mined to date of the report, the amount of land left to be mined, how much rehabilitation
2261 has been performed, when and how the remaining amount of land will be rehabilitated,
2262 and any other pertinent information about the operation that would be helpful to the
2263 Board.

2264
2265 28. Excavation shall be discontinued by January 31, 2008, and restoration
2266 accomplished by not later than January 31, 2009, unless a new permit is granted by the
2267 Board of Zoning Appeals.

2268
2269 29. [AMENDED] The rehabilitation of the property shall take place simultaneously
2270 with the mining process. Rehabilitation shall not be considered completed until the
2271 mined area is covered completely with permanent vegetation. The reclamation plan
2272 shall be substantially the same as the reclamation plan approved with UP-3-2004. The
2273 maximum elevation of the finished grade shall not exceed 130 feet above MSL.

2274
2275 30. All drainage and erosion and sediment control measures shall conform to the
2276 standards and specifications of the Mineral Mining Manual Drainage Handbook. Any
2277 drainage structures in place prior to October 14, 1992 and which do not conform to the
2278 Mineral Mining Manual Drainage Handbook may remain in place until such time as any
2279 reconstruction is required at which time said structures shall be brought into
2280 conformance with the Mineral Mining Manual Drainage Handbook.

2281
2282 31. Failure to comply with any of the foregoing conditions shall automatically void this
2283 permit.

2284

2285	Affirmative:	Dwyer, Harris, Kirkland, Nunnally, Wright	5
2286	Negative:		0
2287	Absent:		0

2288
 2289 The Board granted the request because it found the proposed use will be in substantial
 2290 accordance with the general purpose and objectives of Chapter 24 of the County Code.

2291
 2292 **A-6-2006 WINDSWEPT DEVELOPMENT** requests a variance from Section
 2293 24-9 to subdivide property and allow a dwelling to remain at 7690
 2294 Harewood Lane (Parcel 845-689-5462), zoned A-1, Agricultural
 2295 District (Varina). The public street frontage requirement is not met.
 2296 The applicant proposes 0 feet public street frontage, where the
 2297 Code requires 50 feet public street frontage. The applicant
 2298 requests a variance of 50 feet public street frontage.

2299
 2300 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
 2301 please stand and raise your right hand?

2302
 2303 Mr. Blankinship - Do you swear that the testimony you are about to give is the
 2304 truth, the whole truth, and nothing but the truth, so help you God?

2305
 2306 Ms. Cauley - I do. My name is Susan Cauley; I work with Windswept
 2307 Development. We own the property on Harewood Lane. We're requesting a variance
 2308 on the property that is on Harewood Lane. There are not going to be any practical
 2309 changes. The house and access road are already on the property and are not going to
 2310 be changed. We are going to be putting in a subdivision, and we're going to be dividing
 2311 that property, which is going to require the variance. We'd like to be able to sell the
 2312 property before the subdivision is begun. I did find out yesterday this subdivision went
 2313 through Planning; the tentative was approved for the subdivision, and we will provide
 2314 the access through this road right here, that will give the required road frontage at that
 2315 time. However, until then, we would like to be able to sell the property. We can't do
 2316 that without the variance. The property is sitting vacant; we have already had one
 2317 break-in. It is a temporary nature that we request this variance so that we will be able to
 2318 sell the property.

2319
 2320 Ms. Dwyer - I assumed that once the subdivision was built, access to this
 2321 house would be from the new subdivision – that's not correct?

2322
 2323 Ms. Cauley - No, it will not be. The access to the house is a road that
 2324 comes out on Harewood Lane; that will remain the same. The required road frontage
 2325 was there because the parcel is 56 acres, and the road frontage was there at the time
 2326 for that house, when that house was originally sold. Now that we're subdividing, the
 2327 required road frontage will not be there. However, the access will not change; nothing
 2328 will change as far as the access goes.

2329
 2330 Ms. Dwyer - Out staff report says, "The variance is only necessary

2331 because the new owners intend to sell the dwelling before the subdivision is approved.
2332 If they were to proceed with the subdivision approval first, the dwelling would have
2333 public street frontage (on the subdivision street.”
2334

2335 Mr. Blankinship - It would have public street frontage, but that’s not how they
2336 would plan to actually approach the house, because the house was built facing the
2337 other direction.
2338

2339 Mr. Wright - Once the subdivision is approved, they would have access
2340 on that cul-de-sac, so they would not have to have a variance, even if they went out the
2341 other way.
2342

2343 Ms. Cauley - Exactly.
2344

2345 Mr. Blankinship - Yes sir, that’s correct.
2346

2347 Ms. Cauley - It’s just temporary, and one thing I want to point out is that
2348 this will be a private road that will just fulfill the requirement for us for the road frontage
2349 at that time. This will be right here, a private road. There will not be through access for
2350 the subdivision homeowners to come through and drive down the driveway. That would
2351 be trespassing on private property. This will be just like a home that is going to be on
2352 that cul-de-sac; this will be their access to their home alone, and no one in the
2353 subdivision will be allowed to come down that driveway. They will be trespassing, so
2354 there won’t be any issues. If there are any concerns about that becoming a through
2355 road; that will not become a through road for the future. That road will simply provide
2356 access to the home on Harewood to fulfill the road frontage requirements.
2357

2358 Mr. Wright - Who will own that road?
2359

2360 Ms. Cauley - The owners of the home.
2361

2362 Mr. Wright - They will own the road? How wide is the road?
2363

2364 Mr. Smith - Jake Smith. It’s actually just proposed to be a driveway. It’s
2365 not going to be a road; it’s a standard 25 feet. It’s also important to note that the
2366 property beside it actually has an easement onto that parcel that allows it to access their
2367 property from our property. The adjacent parcel does not have street frontage.
2368

2369 Ms. Dwyer - Which adjacent parcel?
2370

2371 Mr. Smith - The property to the left. It’s owned by the Bannings.
2372

2373 Mr. Kirkland - Do you have a maintenance contract agreement between
2374 the two of you when someone else buys this?
2375

2376 Mr. Smith - No, there’s no agreement; they only have an easement with

2377 us.
2378
2379 Mr. Kirkland - Who will maintain the road?
2380
2381 Mr. Smith - It will be the property owner's responsibility.
2382
2383 Ms. Dwyer - This is a little confusing, because usually when we have
2384 something like this, the easement is part of the lot, but this is clearly not part of the lot;
2385 it's not shaded in green, for example, so this is an easement that this house now has, to
2386 give access to Harewood?
2387
2388 Ms. Cauley - You mean this right here?
2389
2390 Ms. Dwyer - Yes. Who owns that, and what legal access?
2391
2392 Ms. Cauley - We own that, Windswept Development.
2393
2394 Mr. Wright - She just said that. Are you going to convey that to the
2395 person who owns that house?
2396
2397 Ms. Cauley - Yes, so that will be their driveway.
2398
2399 Ms. Dwyer - They will own that property.
2400
2401 Mr. Wright - That's what she just said.
2402
2403 Mr. Blankinship - All the way from the end of Harewood, out to the existing
2404 house?
2405
2406 Ms. Dwyer - It doesn't appear to be. My question is, from the materials
2407 that we've been given, so I want to clarify for the record, what the status of that access
2408 is. You own that section?
2409
2410 Mr. Smith - Our plat map actually shows that we own to Harewood Lane.
2411
2412 Ms. Dwyer - Including this section?
2413
2414 Mr. Smith - The section that's not shaded? Yes.
2415
2416 Ms. Dwyer - And that will be a 20-foot access drive to this parcel?
2417
2418 Ms. Cauley - Right.
2419
2420 Mr. Wright - That's what they're using now, have been using?
2421
2422 Ms. Cauley - They have been, yes.

2423
2424 Mr. Wright - For how long?
2425
2426 Ms. Cauley - Since the home was built in 2000.
2427
2428 Mr. Wright - Since 2000 they've been using that access, and your
2429 testimony is that nothing will change; they will continue to use it.
2430
2431 Mr. Nunnally - Anybody else want to speak for it?
2432
2433 **(Male voice from audience)** - I'm neither for it or against it. I just want to verify
2434 some concerns.
2435
2436 Mr. Nunnally - Come up to the microphone, sir.
2437
2438 Mr. Wood - Mr. Chairman, my name is Richard Wood, and my residence
2439 is at 7689 Harewood Lane. I don't know if I can get this in position. On the map you
2440 have up there, I live in the cul-de-sac at the end of the public maintained road, and that
2441 community on Harewood Lane is pretty sparsely developed. My concern is, like the
2442 majority of the neighbors I've spoken to, is that the consequences won't be sometime in
2443 the future that the access will be made where traffic will come from the Windswept
2444 Development through Harewood Lane, that it won't be any use. I was wondering if
2445 there could be some stipulation made to that effect.
2446
2447 Mr. Wright - That could be handled in the Plan of Development, when
2448 they approve the Plan of Development. Access would have to be from Darbytown.
2449
2450 Mr. O'Kelly - Mr. Chairman, the Planning Commission in its approval of
2451 the subdivision, which was approved just yesterday, required stub roads to adjacent
2452 properties. There's a layout that was shown to the Board this morning. It's not exactly
2453 what was approved by the Planning Commission. So future development in this area
2454 would be served by access from this proposed subdivision.
2455
2456 Mr. Blankinship - From Darbytown.
2457
2458 Mr. O'Kelly - Right.
2459
2460 Ms. Dwyer - So does that mean all the cul-de-sacs will be stub roads?
2461
2462 Mr. O'Kelly - Not all of them. The one to the east, closest to Darbytown
2463 Road, and the one to the west, furthest from Darbytown Road.
2464
2465 Ms. Dwyer - But not the one that leads to this house?
2466
2467 Mr. Wright - There would be no road across the property to Harewood
2468 Lane, so there's no way they could go. They'd have to go out the other way.

2469
2470 Mr. Wood - When the development is complete, sir, that property will be
2471 right on the cul-de-sac, and I assume that there wouldn't be anything to prevent them
2472 from putting a road into that cul-de-sac from leaving their property, if they chose to do
2473 so.
2474
2475 Mr. Wright - This house is not included in the subdivision.
2476
2477 Ms. Dwyer - No, but it would have access to that cul-de-sac.
2478
2479 Mr. Wood - His property runs right to the cul-de-sac.
2480
2481 Mr. O'Kelly - I believe that it was included in the subdivision.
2482
2483 Mr. Wright - This house?
2484
2485 Mr. Wood - If I understood the first materials that I read, it said in the end
2486 result, it would be included, or it would have its 50 feet of access through the new
2487 community. As it is, and as it's stated, I don't really have an objection, but my question
2488 is just like some you brought up in a previous issue. I'm looking towards the future – will
2489 something happen at some point in time, where all of this traffic, or maybe when they
2490 start building, all of this traffic can use Harewood Lane. I wouldn't want to see that
2491 happen; I wouldn't think it would be appropriate. I don't have anything else to say,
2492 unless you have some questions for me, but I do live right at the cul-de-sac,
2493 approximately 4 ½ acres at the end of the maintained road on Harewood Lane.
2494
2495 Mr. Wright - We could put something in here that there would be no
2496 access from this house to that cul-de-sac through that subdivision. We could put
2497 something to that effect, so there wouldn't be a road to go over. You'd have to go over
2498 somebody's yard to do it.
2499
2500 Mr. Kirkland - In other words, close the cul-de-sac.
2501
2502 Mr. Wright - We have the authority to do that, and I think we should do
2503 that. In other words, if somebody wanted to go from that subdivision, they'd have to
2504 drive over somebody's yard to do it. There wouldn't be a road.
2505
2506 Ms. Cauley - That is currently how it's proposed. They would be
2507 trespassing on private property in order to come through.
2508
2509 Mr. Wright - So you have no objection to our putting something in, if this
2510 is approved, that there would be no road from that house to the end of that cul-de-sac in
2511 the subdivision.
2512
2513 Ms. Cauley - I have no objection to that. I do have this, it shows the
2514 subdivision.

2515
2516 Mr. Nunnally - Excuse me just a moment – any more opposition? Have a
2517 seat, ma'am; I'll call you back up.
2518
2519 Ms. Washington - My name is Ida Atkins Washington, and I live on Darbytown
2520 Road. I'm concerned because they're going to build where I'm living, and I want to
2521 know where they are going to get this 50 feet frontage from. How are they going to get
2522 that?
2523
2524 Mr. Wright - This has nothing to do with Darbytown Road.
2525
2526 Ms. Washington - But the signs are there, that's where they're going to be
2527 building it.
2528
2529 Mr. Wright - The County has already approved the subdivision to come
2530 out on Darbytown Road, but this property will not access Darbytown Road, what we
2531 have in mind.
2532
2533 Ms. Washington - Where does the 50 feet frontage come from?
2534
2535 Mr. Wright - It goes the other way, to Harewood Lane. This house will
2536 have no access to Darbytown Road.
2537
2538 Mr. Blankinship - The new subdivision will come in off of Darbytown Road, and
2539 that's on the other part of this property where they're developing that new subdivision.
2540 But this hearing this morning isn't about the subdivision; it's just about the existing
2541 house.
2542
2543 Ms. Washington - I got a letter for it.
2544
2545 Mr. Blankinship - Yes, because your property adjoins it.
2546
2547 Ms. Washington - Right. It had on it about the frontage – it doesn't have
2548 anything to do with that? The ones they're going to build, how are they going to get
2549 that?
2550
2551 Mr. Blankinship - The houses that they're going to build are going to come off
2552 of Darbytown, yes they're going to put in a new road on this property that comes out to
2553 Darbytown. They're going to build a new street.
2554
2555 Ms. Washington - Why did they send me a letter if it wasn't for this one?
2556
2557 Mr. Blankinship - This hearing – it's on that same property, the existing house
2558 that's on that property. The Code requires that that house have 50 feet of public street
2559 frontage, and it does now, but it won't if they divide it off. The purpose of this hearing is
2560 to decide whether to waive that requirement.

2561
2562 Ms. Washington - I wasted my time to come. They sent me a letter, and I
2563 thought I was supposed to be here.
2564
2565 Ms. Harris - Ms. Washington, where do you live?
2566
2567 Ms. Washington - 5601 Darbytown Road.
2568
2569 Ms. Harris - So you don't have any dealings with Harewood Lane at all?
2570
2571 Ms. Washington - I don't know where it is, but when they sent me a letter, I
2572 thought, and I talked to Donati, and he was telling me what was going on, and I'm
2573 concerned because I live there.
2574
2575 Mr. Wright - That's what this is concerned with. You were required to be
2576 notified by the Code, because this property was part of the overall parcel that is now
2577 going to be the subdivision, but it's separate.
2578
2579 Ms. Washington - Are they going to have another meeting on that?
2580
2581 Mr. Wright - That's before the Planning Commission; that was approved
2582 last night I understand, is that right?
2583
2584 Mr. O'Kelly - Yesterday morning.
2585
2586 Mr. Wright - Yesterday morning, but that doesn't come before this Board.
2587 All we're concerned with is the access from this house to Harewood Lane. If this is
2588 approved, we're going to have language to insure that they would not come out to
2589 Darbytown Road.
2590
2591 Ms. Harris - Is that the concern of the people who were sworn in?
2592
2593 Ms. Washington - Yes, because we were thinking, a lot of us were thinking
2594 about me getting it, and I talked to Donati, and he said that they needed more frontage,
2595 and I'm concerned about where they were going to get it from. I pay my taxes, and I
2596 just want to know what I'm paying for. I and my family have land there too.
2597
2598 Mr. Blankinship - We're required by State law to send a notice to everybody
2599 whose property adjoins theirs.
2600
2601 Mr. Nunnally - Anybody else in opposition? She hasn't been sworn, I don't
2602 think.
2603
2604 Mr. Blankinship - Ma'am, were you sworn in at the beginning of the meeting?
2605
2606 Ms. Mawyer - My name's Juanita Mawyer, and we own the farm there at

2607 the corner of the square. My question is, the other map where it was green, that they
2608 were wanting access to, were they trying to build more homes in that green are, or is it
2609 just that one tract, and it's going to be left that way?

2610
2611 Mr. Wright - That's now before us. All we're considering now is one
2612 house on that property.

2613
2614 Ms. Mawyer - That's all I wanted to know we were afraid that they were
2615 going to try to bring a road behind our farm.

2616
2617 Mr. Wright - If there were anything else, it would have to come back to us
2618 later on. It's a separate matter.

2619
2620 Ms. Mawyer - That's what I was just asking, because that's like a buffer
2621 between our property, and if it's staying that way, that's cool.

2622
2623 Mr. Nunnally - Ms. Cauley, do you want to rebut?

2624
2625 Ms. Cauley - At this time, there is no plan to put houses in that green
2626 area. That will be solely for that home.

2627
2628 Ms. Dwyer - I understand that the house now uses access to Harewood,
2629 but once the subdivision is built, might it allay everyone's concern if that access to
2630 Harewood were closed off and the house only had access to the cul-de-sac?

2631
2632 Ms. Cauley - We could do that. The only problem is, the house is facing
2633 Harewood, so by bringing that access road in, it would be entering through the back of
2634 the property. I don't know if it would be a concern of future homeowners to have the
2635 entrance to the property coming in to the back of the house, as opposed to the front.

2636
2637 Ms. Dwyer - Since the contact with the cul-de-sac would be permanent,
2638 and if we closed off the access to Harewood, that would allay the concerns of the
2639 people on Harewood, and it would effectively prevent any kind of cut-through at any
2640 time in the future. My only concern, like I said, would be that a future homeowner would
2641 oppose having a driveway coming to the back of their property.

2642
2643 Mr. Kirkland - The drive is already in, because the house is already built,
2644 so it's coming off of Harewood right now?

2645
2646 Mr. O'Kelly - Ms. Cauley, this was included as Lot 12 in the subdivision
2647 approval? Mr. Ligons' former home on Lot 12 – it sounds like you plan to sell this
2648 property before the plat is recorded.

2649
2650 Ms. Cauley - Correct. That's why we would like the variance

2651
2652 Mr. O'Kelly - But it's included in the subdivision, so the new owner would

2653 have to be a party to that subdivision plat.
2654
2655 Ms. Cauley - It's my understanding that it's not a part of the subdivision.
2656
2657 Mr. Smith - As it stands now, we have no intention of making that
2658 homeowner enter into a homeowner's association document. It should by no means
2659 affect them at all. It would not be considered part of what is tentatively called Ligon
2660 Estates?
2661
2662 Mr. Kirkland - So the case that was heard yesterday morning, this parcel
2663 was not included in that case?
2664
2665 Mr. Smith - It was only included because in our future development,
2666 we're going to show that 50 feet, so we're only asking for a temporary variance.
2667
2668 Mr. O'Kelly - I believe it was shown as Lot 12 on the plat that was
2669 approved yesterday.
2670
2671 Ms. Cauley - And what are you asking? You're asking if it is included in
2672 part of the subdivision, if that home is included in part of the new subdivision?
2673
2674 Mr. O'Kelly - My concern is that if it is sold before the plat is recorded,
2675 then the new owner should be a part of the subdivision. They would have to sign a
2676 subdivision plat as well. The Planning Commission did put a condition on the
2677 subdivision to make sure that the other property owners who access from Harewood
2678 Lane continue to have that access so if this home were sold, that their access wouldn't
2679 be taken away.
2680
2681 Ms. Cauley - Right.
2682
2683 Ms. Dwyer - So the Planning Commission requires access to Harewood.
2684
2685 Mr. O'Kelly - Right.
2686
2687 Ms. Harris - So the statement that was made a few minutes ago about
2688 the easement crossing property – what affect does it have on the Planning
2689 Commission's requirement, that those houses that had access to Harewood Road
2690 would continue to have access?
2691
2692 Ms. Cauley - Yes, they still would be able to have access to Harewood
2693 Road through an easement.
2694
2695 Mr. Wright - But to protect these other homeowners, I would put some
2696 provision in here that there would be no access to the subdivision over that cul-de-sac
2697 from this property.
2698

2699 Ms. Dwyer - Maybe the thing to do would be to amend the subdivision –
2700 would that make things more consistent, Mr. O’Kelly, to amend, to exclude this lot so
2701 that it’s no longer Lot 12 of the subdivision; it’s a separate parcel.
2702

2703 Mr. O’Kelly - It’s part of the overall 56 acres at the current time, so it had
2704 to be included in the subdivision.
2705

2706 Mr. Wright - All he’s saying is that the new homeowner would have to
2707 sign the subdivision plat.
2708

2709 Ms. Cauley - If that was a requirement, that would be okay; we would be
2710 able to do that.
2711

2712 Mr. Trevillian - My name is John Trevillian, and I live at 7649 Harewood
2713 Lane. I’m speaking in behalf of two of my neighbors who do use the access road, and
2714 they’re not here today, and they are the Daniels and also the Royal family. I’d just like
2715 to make sure that there are stipulations left in there that they can continue using access
2716 to Harewood Lane.
2717

2718 Mr. Blankinship - You said that was done yesterday with the Planning
2719 Commission?
2720

2721 Mr. O’Kelly - Yes. I know it was done for at least one property owner.
2722

2723 Mr. Trevillian - Because they’d be locked in, wouldn’t be able to get in or out
2724 of that.
2725

2726 Mr. Wright - How did they get approval to build a house, if they didn’t
2727 have access to a public road? It had to come before this Board.
2728

2729 Mr. O’Kelly - Mr. Wright, the property owner owned 56 acres with frontage
2730 on Darbytown Road, where the subdivision’s been approved.
2731

2732 Mr. Kirkland - So how did they get to those two houses before? Did they
2733 always use Harewood Lane?
2734

2735 Mr. O’Kelly - They always used Harewood Lane. This was Jerry Ligon’s
2736 home place. His address was Harewood Lane, but the property fronted on Darbytown
2737 Road.
2738

2739 Mr. Kirkland - So they didn’t need a variance for the road frontage because
2740 they faced Darbytown Road, or their road frontage counted on Darbytown Road?
2741

2742 Mr. O’Kelly - That’s correct.
2743

2744 Mr. Wright - What we’ve done would have no impact on that. That would

2745 be a separate issue.
2746
2747 Mr. Kirkland - They'd have to come back and get a variance.
2748
2749 Mr. Wright - No, they'd have to get together with the owner of that house
2750 to work out something for use of that road, but that's not before us.
2751
2752 Mr. Blankinship - Right, right.
2753
2754 Ms. Dwyer - These neighbors that you're concerned about, do they have
2755 some kind of easement or legal access to this driveway? This shouldn't affect them.
2756
2757 Mr. O'Kelly - That's correct.
2758
2759 Mr. Wright - This shouldn't affect it at all.
2760
2761 Ms. Cauley - I don't know for sure.
2762
2763 Mr. Blankinship - That would have been handled yesterday at the Planning
2764 Commission.
2765
2766 Mr. O'Kelly - Only for one property owner, and adding the condition was a
2767 surprise to the staff. We weren't aware that the Commission member from Varina was
2768 going to add that condition.
2769
2770 Ms. Dwyer - That's why I was asking the applicant what the status of that
2771 connection was; I'm still not as clear on that, although it's clear that this house that's
2772 before us today will have access to Harewood. That's before us, but we can't really say
2773 about these other houses, because I don't know what kind of agreement they have and
2774 what kind of access they have.
2775
2776 Mr. Kirkland - We'll see them again someday.
2777
2778 Mr. Nunnally - Any other questions? That concludes the case. A-6-2006,
2779 Windswept Development.
2780
2781 Mr. Wright - I move we approve it, but add a new condition.
2782
2783 Mr. Nunnally - We've got quite a few conditions on that one, haven't we?
2784
2785 Mr. Wright - What I wanted to add was that there would be no access to
2786 the cul-de-sac in the subdivision, from this house, so that would prohibit people from
2787 driving through and going out Harewood Lane.
2788
2789 Mr. Kirkland - Do we need another condition about the subdivision plat,
2790 something in effect to that?

2791
2792 Mr. Wright - That's up to them; I don't think that's our concern.
2793
2794 Mr. Kirkland - Mr. O'Kelly, do we need anything?
2795
2796 Mr. O'Kelly - If Ms. Cauley agreed to a condition to require the new owner
2797 to sign the subdivision plat at the appropriate time.
2798
2799 Mr. Kirkland - I think we should put that in there too.
2800
2801 Mr. Wright - That's fine with me.
2802
2803 Mr. Kirkland - Then I'll second it after those two things.
2804
2805 Mr. Nunnally - Did you get those two, Mr. Blankinship?
2806
2807 Mr. Blankinship - Yes sir.
2808
2809 Mr. Nunnally - Motion by Mr. Wright; second by Mr. Kirkland that it be
2810 approved. All in favor, say aye. Opposed? It's been approved.
2811
2812 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
2813 Kirkland, the Board **granted** application **A-6-2006** for a variance to subdivide property
2814 and allow a dwelling to remain at 7690 Harewood Lane (Parcel 845-689-5462). The
2815 Board granted the variance subject to the following conditions:
2816
2817 1. This variance applies only to the public street frontage requirement. All other
2818 applicable regulations of the County Code shall remain in force.
2819
2820 2. The owners of the property, and their heirs or assigns, shall accept responsibility
2821 for maintaining access to the property until such a time as the access is improved to
2822 County standards and accepted into the County road system for maintenance.
2823
2824 3. [ADDED] There shall be no access from the proposed subdivision cul-de-sac to
2825 Harewood Lane.
2826
2827 4. [ADDED] If the property is conveyed prior to the recordation of the final
2828 subdivision plat for the proposed subdivision, the new owner shall agree to sign the final
2829 subdivision plat.
2830
2831 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2832 Negative: 0
2833 Absent: 0
2834
2835 The Board granted this request, as it found from the evidence presented that, due to the
2836 unique circumstances of the subject property, strict application of the County Code

2837 would produce undue hardship not generally shared by other properties in the area, and
2838 authorizing this variance will neither cause a substantial detriment to adjacent property
2839 nor materially impair the purpose of the zoning regulations.
2840

2841 **A-7-2006** **WAYNE R. TOWNS** requests a variance from Sections 24-95(d)(1)
2842 and 24-9 to build a one-family dwelling at 5809 Nine Mile Road
2843 (Parcel 817-725-7455), zoned R-2A, One-family Residence District
2844 (Varina). The lot width requirement and public street frontage
2845 requirement are not met. The applicant has 99 feet lot width and 0
2846 feet public street frontage, where the Code requires 150 feet lot
2847 width and 50 feet public street frontage. The applicant requests a
2848 variance of 51 feet lot width and 50 feet public street frontage.
2849

2850 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
2851 please stand and raise your right hand?
2852

2853 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2854 truth, the whole truth, and nothing but the truth, so help you God?
2855

2856 Mr. Towns - I do. My name is Wayne R. Towns, and what I'm requesting
2857 is, at 5809 Nine Mile Road, I have an existing structure. The house is in need of right
2858 much repair. From a cost benefit, it would be more efficient for me to remove that
2859 house and build new, but I'm not meeting the road frontage requirement, and I'm asking
2860 the Board today, to grant the variance so I can build a new structure.
2861

2862 Mr. Wright - How do you access your property?
2863

2864 Mr. Towns - I have a deeded easement in from Nine Mile Road.
2865

2866 Mr. Nunnally - You're right behind Newbridge Baptist Church?
2867

2868 Mr. Towns - Yes sir.
2869

2870 Mr. Nunnally - Do you live there now?
2871

2872 Mr. Towns - No sir, I don't.
2873

2874 Mr. Nunnally - Are you going to live there when you build the new house, or
2875 are you going to rent it or what?
2876

2877 Mr. Towns - The house that I'm building, I'm not quite sure yet, but I know
2878 I'm going to own the house. I'm not going to sell it. It's not going to be "for sale"
2879 property.
2880

2881 Mr. Blankinship - So you're going to own it, but you're not planning on
2882 occupying it?

2883
2884 Mr. Towns - I haven't really reached that decision yet.
2885
2886 Ms. Harris - The Newbridge Baptist Church – is this the church that's
2887 closer to Highland Springs, or the Newbridge that's closer to Richmond?
2888
2889 Mr. Towns - This is the small Newbridge, not the one that the County
2890 bought and turned into a school. There's two distinct lots there. From my information,
2891 from Newbridge Baptist Church, is that they've been there for a while. There used to
2892 actually be two houses there. There were two brothers who lived there. The existing
2893 house now belonged to one brother, and the other house at some point earlier had been
2894 torn down. There were two separate houses there.
2895
2896 Ms. Dwyer - On the back section of this parcel, there are two parcels
2897 without road frontage – is that what you're saying?
2898
2899 Mr. Blankinship - And you plan to combine the two?
2900
2901 Mr. Towns - That really wasn't my intention, but I guess that's an option.
2902 What I wanted to do was, since there is an existing house there now that fits the lot, I
2903 wanted to build a new house on that same lot. I was under the understanding that the
2904 other lot isn't in compliance also, but that was something I would leave to the future, if
2905 we decide to develop that.
2906
2907 Ms. Dwyer - How much acreage?
2908
2909 Mr. Towns - The lot that has the existing house now is 1.1 acre. The
2910 house just needs work. It has it's own existing well and septic tank now. The only
2911 option I have right now, talking to the people in Zoning, is I can remodel it, but that
2912 would be at substantial cost vs. building anew.
2913
2914 Ms. Harris - About the requirement, 150 feet width, is that for zoning R-
2915 2A, or is that for A-1 zoning?
2916
2917 Mr. Blankinship - It applies here because the lots are not served by public
2918 water and sewer. If they had public water and sewer, it would be 80 feet, but because
2919 they don't, it's 150 feet?
2920
2921 Mr. Wright - How wide is this lot?
2922
2923 Mr. Blankinship - Just under 100, I believe.
2924
2925 Ms. Dwyer - Ninety-nine feet.
2926
2927 Mr. Kirkland - Who owns the adjacent property to the west, the little
2928 rectangle adjacent to your land?

2929
2930 Mr. Blankinship - That's the other lot.
2931
2932 Mr. Towns - That's the other lot that I was explaining that at some point
2933 had another house. It was two brothers who bought.
2934
2935 Mr. Kirkland - So there's no house on that lot?
2936
2937 Mr. Towns - There's no house there now.
2938
2939 Mr. Blankinship - And you own them both.
2940
2941 Mr. Kirkland - Why don't you just combine them?
2942
2943 Mr. Towns - To be honest with you, I just planned in the future, maybe
2944 having a neighbor. There were two houses there before. I didn't see a reason why
2945
2946 Mr. Kirkland - How would that neighbor get on that lot?
2947
2948 Mr. Towns - Using the same easement. Those two lots use the same
2949 easement to get back there, and it's a deeded easement from the church. It's actually
2950 included in my deed that the easement is there.
2951
2952 Ms. Dwyer - So it runs from Nine Mile Road, along side of the church to
2953 get to your lot, is that how that easement goes?
2954
2955 Mr. Towns - Yes, it follows the church property line, and it comes down
2956 and it turns right about here.
2957
2958 Mr. Kirkland - So you would put a driveway in front of the new house, and
2959 go over to the other lot if you ever were to build a home on that, is that what you're
2960 saying?
2961
2962 Mr. Towns - In actuality, the driveway is there. The road is there; it was
2963 overgrown, and this summer I had it cleaned out, and you can see where it was from
2964 the beginning. The road is actually there.
2965
2966 Mr. Nunnally - What size home are you planning on putting there sir?
2967
2968 Mr. Towns - It's going to be a single-family house. I use the dimensions
2969 50 by 30; that gave me 1500 square feet, but in reality, it's probably going to be more
2970 like 42 by 30, and I would meet all the other setback requirements.
2971
2972 Mr. Nunnally - Vinyl siding or brick or what?
2973
2974 Mr. Towns - It's going to probably be vinyl siding.

2975
 2976 Ms. Dwyer - One of the reasons why this lot width is required, is because
 2977 you've got a septic tank, and the concern is that we have a lot of small lots with a lot of
 2978 septic systems, that would cause those systems to fail. What's the width of your
 2979 adjacent lot?
 2980
 2981 Mr. Towns - It too is close to 100 feet, but they're really deep lots, and the
 2982 existing house already has a septic tank. I would have to get the Health Department to
 2983 check it, because I plan on increasing the bedroom sizes, but it has an existing septic
 2984 tank now.
 2985
 2986 Mr. Nunnally - Any other questions from the Board or staff? Is anyone here
 2987 in opposition? Thank you for appearing. That concludes the case. A-7-2006, Wayne
 2988 R. Towns. Do I have a motion?
 2989
 2990 Mr. Wright - I move we approve it.
 2991
 2992 Ms. Harris - Second the motion.
 2993
 2994 Mr. Blankinship - Let me clarify that the applicant requested both the street
 2995 frontage and the width. Your motion is to approve both? We'll amend that condition.
 2996
 2997 Mr. O'Kelly - Mr. Blankinship, would it be appropriate to maybe add a
 2998 condition to this that requires the existing house to be removed?
 2999
 3000 Mr. Wright - I'm sure he would have no problem with it.
 3001
 3002 Mr. Towns - I have no problem with that.
 3003
 3004 Mr. Wright - That's the whole purpose of this thing.
 3005
 3006 Mr. Nunnally - Motion by Mr. Wright; second by Ms. Harris, that we
 3007 approve. All in favor say aye. Opposed? It's been approved.
 3008
 3009 After an advertised public hearing and on a motion by Mr. Wright, seconded by Ms.
 3010 Harris, the Board **granted** application **A-7-2006** for a variance to build a one-family
 3011 dwelling at 5809 Nine Mile Road (Parcel 817-725-7455). The Board granted the
 3012 variance subject to the following conditions:
 3013
 3014 1. [AMENDED] This variance applies only to the lot width and public road frontage
 3015 requirements. All other applicable regulations of the County Code shall remain in force.
 3016
 3017 2. Approval of this request does not imply that a building permit will be issued.
 3018 Building permit approval is contingent on Health Department requirements, including,
 3019 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
 3020 of a well location.

3021
3022 3. At the time of building permit application, the applicant shall submit the
3023 necessary information to the Department of Public Works to ensure compliance with the
3024 requirements of the Chesapeake Bay Preservation Act and the code requirements for
3025 water quality standards.

3026
3027 4. The applicant shall present proof with the building permit application that a legal
3028 access to the property has been obtained.

3029
3030 5. The owners of the property, and their heirs or assigns, shall accept responsibility
3031 for maintaining access to the property until such a time as the access is improved to
3032 County standards and accepted into the County road system for maintenance.

3033
3034 6. [ADDED] The existing building shall be demolished and removed from the
3035 property prior to issuance of a certificate of occupancy for the proposed dwelling.

3036
3037 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
3038 Negative: 0
3039 Absent: 0

3040
3041 The Board granted this request, as it found from the evidence presented that, due to the
3042 unique circumstances of the subject property, strict application of the County Code
3043 would produce undue hardship not generally shared by other properties in the area, and
3044 authorizing this variance will neither cause a substantial detriment to adjacent property
3045 nor materially impair the purpose of the zoning regulations.

3046
3047 **A-8-2006** **KIMERLY H. CARTER** requests a variance from Section 24-94 to
3048 allow a one-family dwelling to remain at 7258 Willson Road (Parcel
3049 812-695-6236), zoned A-1, Agricultural District (Varina). The rear
3050 yard setback is not met. The applicant has 49 feet rear yard
3051 setback, where the Code requires 50 feet rear yard setback. The
3052 applicant requests a variance of 1 foot rear yard setback.

3053
3054 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
3055 please stand and raise your right hand?

3056
3057 Mr. Blankinship - Do you swear that the testimony you are about to give is the
3058 truth, the whole truth, and nothing but the truth, so help you God?

3059
3060 Ms. Seelmann - I do. I'm Sandra Seelmann; I'm her real estate agent. I'm
3061 here on behalf of Kimerly Carter, here, because she needs a variance. Her
3062 manufactured home was put there in 2000 or 2001, completed, and it required a 50-foot
3063 rear yard setback, and as per the plat that you should have, it shows it's 49.50, so we're
3064 lacking a foot, and a CO was never issued back four, five, six years ago, to the previous
3065 owner. Ms. Carter has owned this place for two years, and now this is prohibiting the
3066 sale of her home. We need a CO.

3067
3068 Mr. Nunnally - The question came up when you had a contract on the
3069 house?
3070
3071 Ms. Seelmann - Yes. We found out we were supposed to close in
3072 December, and the mortgage company -- we met all the guidelines; we showed them a
3073 copy of the building permit, and where it said March 2001, it said "as per Vickie D,
3074 everything was okay; issue a CO," and we were told that it was Oakwood Homes
3075 mistake. I've contacted them, which they don't want to talk to us, so it's made quite a
3076 mess, and we've got some good buyers that want the house.
3077
3078 Mr. Wright - Mr. Blankinship, how could this happen? How could this not
3079 be detected at the time the CO was supposed to be issued?
3080
3081 Mr. Blankinship - They called, to get their final building inspection, and to get
3082 their CO, and our inspector made a note in the computer, where he told them in 2000 or
3083 2001, told them that he needed them to provide the "as built" survey, so that we could
3084 do the plat, and that was the last we ever heard of them.
3085
3086 Mr. Wright - So he didn't follow up on them?
3087
3088 Mr. Blankinship - Right. I presume they got an "as built," found out that they'd
3089 put it in the wrong place.
3090
3091 Mr. Wright - But isn't it the County's responsibility, before issuing a CO,
3092 to see that the house conforms?
3093
3094 Mr. Blankinship - Right. We could not issue the CO until we determined that,
3095 so that's why it was not issued, and when they went to sell the property, they said, "Oh,
3096 you forgot to issue the CO on this house," and we said, "Okay, well send us a plat, and
3097 we'll straighten it out."
3098
3099 Mr. Wright - But if you don't issue a CO, and somebody moves in, don't
3100 we have some responsibility to follow up to see that they have one before they do that?
3101
3102 Mr. Blankinship - It is a violation of the Building Code to occupy a house
3103 before you get the CO.
3104
3105 Mr. Wright - We don't have to follow up on that.
3106
3107 Mr. Blankinship - Right.
3108
3109 Mr. Wright - People could do that all the time. They could just go ahead
3110 and move in without a CO. I'm surprised that the sale was closed, if a loan was
3111 involved, without a CO.
3112

3113 Mr. Blankinship - That's normally where it gets caught.
3114
3115 Mr. Wright - The lending institution requires a CO before they will close a
3116 deal. I'm surprised that it would happen.
3117
3118 Mr. Blankinship - Ms. Carter, you were not the original owner of the home?
3119
3120 Ms. Carter - No sir.
3121
3122 Mr. Blankinship - I didn't understand that.
3123
3124 Ms. Seelmann - She's owned it for two years.
3125
3126 Mr. Wright - It goes back to the original owner.
3127
3128 Ms. Seelmann - I contacted them; the girl has since moved to Wyoming. She
3129 moved two years ago. I contacted her, of course, to maybe reimburse us for this fee
3130 today, and they don't want to talk to us either, but she said she never knew about it, so I
3131 was told by the County, that it should have fallen back on Oakwood Homes. I contacted
3132 Oakwood Homes; they said that they had been sold two or three years ago, etc., etc.,
3133 and again, nobody wants to take responsibility, so it's prohibiting the sale. To move the
3134 place, it's on a permanent brick foundation. We can't do that. This girl does not have
3135 the money to do that.
3136
3137 Mr. Nunnally - Any other questions from the Board or staff? Is anyone here
3138 in opposition? Thank you for appearing. That concludes the case. A-8-2006, Kimerly
3139 H. Carter. Do I hear a motion?
3140
3141 Mr. Wright - I move we approve it.
3142
3143 Mr. Kirkland - Second.
3144
3145 Mr. Nunnally - Motion by Mr. Wright; seconded by Mr. Kirkland, that it be
3146 approved. All in favor, say aye. It's been approved.
3147
3148 Ms. Harris - The Certificate of Occupancy, will we say nothing about this
3149 in our motion? They can't get it at this point, can they?
3150
3151 Mr. Wright - I don't know what we can say.
3152
3153 Mr. Blankinship - Yes, with a variance, they can get it.
3154
3155 Mr. Kirkland - Now we've given them the variance, they can go get a
3156 Certificate of Occupancy.
3157
3158 Mr. Wright - With a variance, they'll get a CO, right?

3159
3160 Mr. Blankinship - Yes, it's the only thing holding them up.
3161
3162 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
3163 Kirkland, the Board **granted** application **A-8-2006** for a variance to allow a one-family
3164 dwelling to remain at 7258 Willson Road (Parcel 812-695-6236). The Board granted the
3165 variance subject to the following conditions:
3166

3167 1. This approval applies only to the improvements shown on the plan filed with the
3168 application. Any additional improvements shall comply with the applicable regulations of the
3169 County Code. Any substantial changes or additions may require a new variance.
3170

3171 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
3172 Negative: 0
3173 Absent: 0
3174

3175 The Board granted this request, as it found from the evidence presented that, due to the unique
3176 circumstances of the subject property, strict application of the County Code would produce
3177 undue hardship not generally shared by other properties in the area, and authorizing this
3178 variance will neither cause a substantial detriment to adjacent property nor materially impair the
3179 purpose of the zoning regulations.
3180

3181 Mr. Nunnally - Let's start at the rear.
3182

3183 Mr. Kirkland - Ms. Dwyer, is this where you'd like to add your little say
3184 about the hills?
3185

3186 Ms. Dwyer - I'd be happy to. I'd like to move that the Planning Office
3187 study the issue of reclaiming these sites that are being excavated for sand, gravel, or
3188 whatever, and being refilled, and that we examine the reclamation proposals for these
3189 sites for the purpose of determining what kinds of conditions we would want to impose
3190 on the reclamation to make sure that the sites are reusable for development in the
3191 future.
3192

3193 Ms. Harris - Second the motion.
3194

3195 Mr. Nunnally - Motion by Ms. Dwyer; second by Ms. Harris. All in favor?
3196 Opposed?
3197

3198 Mr. Blankinship - You didn't put a time limit on us, did you?
3199

3200 Ms. Dwyer - In a timely manner.
3201

3202 Mr. Kirkland - I'd like to make an amendment.
3203

3204 Mr. Nunnally - We've got one set of minutes, and I left mine at home.
3205

3206 Ms. Dwyer - I didn't have any changes.
3207
3208 Ms. Harris - I didn't have any changes.
3209
3210 Mr. Kirkland - I have one change.
3211
3212 Mr. Wright - To discuss it, I need to move that we approve them, subject
3213 to some changes.
3214
3215 Ms. Dwyer - Second.
3216
3217 Mr. Wright - What concerns me is the, like on page 11, I guess it's 102-
3218 2005, the reason, I guess it spills over to page 12. It says "The Board denied your
3219 request as it did not find from the evidence that there was any hardship." My concern
3220 was that was not a hardship case; we never got to that. That was a Cochran case. In
3221 other words, they have a reasonable use of the land. I think that's the basis of that.
3222
3223 Mr. Kirkland - In line 476, next page up, it says "because the case does not
3224 meet the standard of the Cochran case." That basically should go at the end
3225
3226 Mr. Blankinship - So you'd rather have it stated that way than
3227
3228 Mr. Kirkland - We never got to hardship.
3229
3230 Mr. Wright - We never got to hardship.
3231
3232 Mr. Blankinship - That is the Cochran case, if there's no hardship
3233
3234 Mr. Wright - No, the Cochran case says that if there's a reasonable use
3235 of the land, we don't get to determine whether there's a hardship. We don't have the
3236 authority to go forward. So I would think that the reason I stated was that because of
3237 the Cochran case, they had a reasonable use of the land.
3238
3239 Mr. Blankinship - Yes, that's just kind of stating the same thing in other terms.
3240
3241 Mr. Wright - I think there are about three or four cases like this in here, if
3242 we could get them all. On page 12, the end of that line 503, and page 13, whatever that
3243 was
3244
3245 Mr. Nunnally - Page 57.
3246
3247 Mr. Wright - I think on page 32, the same thing for A-102-2005 was a
3248 Cochran case, line 1451, begins a Cochran case. Looks to me like we ought to stick to
3249 that if that's the basis for the reason.
3250
3251 Mr. Nunnally - Anyone else? I've got one on the last page, and I didn't

3252 know I'd been promoted, but James W. Nunnally, Esq.
3253
3254 Mr. Kirkland - I think that's Honorary – put Hon. in front of it.
3255
3256 Mr. Wright - That goes with the Chairmanship.
3257
3258 Mr. Wright - Did we vote?
3259
3260 Mr. Nunnally - Nobody made a motion on the minutes.
3261
3262 Mr. Wright - I moved.
3263
3264 Mr. Kirkland - I second them.
3265
3266 Mr. Nunnally - Second them with changes. All in favor, say aye.
3267
3268 On a motion by Mr. Wright, seconded by Mr. Kirkland, the Board **approved** as
3269 corrected, the Minutes of the **November 17, 2005**, Henrico County Board of
3270 Zoning Appeals meeting.
3271
3272 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
3273 Negative: 0
3274 Absent: 0
3275
3276 Mr. Kirkland - Mr. Chairman, before we go out of here, the other afternoon,
3277 the Board of Supervisors had a Work Session regarding a new amendment that will
3278 affect us, and if Mr. O'Kelly could give us a real brief overview of what it was, I would
3279 really appreciate it. I was there, but some of the other members weren't, so it will really
3280 change our cases in the future.
3281
3282 Mr. Wright - Did I understand that actually was enacted, that it passed,
3283 and it's effective now?
3284
3285 Mr. O'Kelly - Yes sir, we had a Work Session first to brief the Board on
3286 the proposed Ordinance change, and then, later that afternoon, at a public hearing, the
3287 Board did approve an Ordinance which, in effect, would permit, in the side or front yard
3288 of a one-family, two-family, or semi-attached dwelling, accessory buildings or structures,
3289 including swimming pools, may be approved by Conditional Use Permit. We have one
3290 application that's already been filed for your February meeting, and another that will
3291 probably be filed today, from Mrs. Skelley in Westham. I think we have one in Westview
3292 Subdivision that has been filed, and I believe that Mrs. Cauley, South Gaskins Road.
3293
3294 Ms. Dwyer - Are they all swimming pools – I know two of them are.
3295
3296 Mr. O'Kelly - So far they will all be swimming pools.
3297

3298 Mr. Wright - When did we deny that – when was that before us?
3299
3300 Mr. O’Kelly - Which case?
3301
3302 Mr. Wright - Whichever one you said has been filed.
3303
3304 Mr. O’Kelly - The case that’s been filed has not been before the Board.
3305
3306 Mr. Wright - But we denied one of them, I think.
3307
3308 Mr. O’Kelly - Two others were denied.
3309
3310 Mr. Wright - Has it been a year – that’s my point?
3311
3312 Mr. Blankinship - No, but they were applied for as variances, so it is a
3313 substantial change.
3314
3315 Mr. Wright - So now they’re going to come back as a Conditional Use
3316 Permit.
3317
3318 Mr. O’Kelly - Yes sir, special exception.
3319
3320 Mr. Kirkland - Mr. Wright, they did state that they would like us to look at
3321 putting some good conditions in these situations, screening, etc., not just to approve
3322 them without some really hard conditions.
3323
3324 Mr. O’Kelly - That’s pretty much already a requirement of the Code.
3325
3326 Mr. Wright - We would do it anyhow.
3327
3328 Mr. Kirkland - With recommendations of the staff. All right, I appreciate
3329 that.
3330
3331 Mr. O’Kelly - It was a unanimous vote to approve it too.
3332
3333 Mr. Wright - Are they going to give any further consideration to, like if it’s
3334 a one-foot variance on the rear to build a room, and there’s a common area behind,
3335 couldn’t impact anybody? Have they thought about that?
3336
3337 Mr. O’Kelly - I think they have, Mr. Wright, but at this time, they’re waiting
3338 for, perhaps some guidance from the General Assembly. Currently those types of
3339 things can be approved administratively by the Director of Planning, with an Ordinance
3340 Amendment, but we’re not in favor of doing that. We’re hoping that the General
3341 Assembly will come up with another way to tackle that problem.
3342
3343 Mr. Nunnally - That way you wouldn’t find out anything from that until July,

3344 right?
3345
3346 Mr. Wright - You'll know something from them by the end of March, early
3347 March.
3348
3349 Mr. O'Kelly - It may not be in effect until July 1.
3350
3351 Mr. Wright - Yes, but you'd know something.
3352
3353 Mr. Kirkland - They'll give us 5,000 applications by then.
3354
3355 Mr. Wright - I move we adjourn.
3356
3357 Mr. Nunnally - All those in favor, stand up.
3358
3359 There being no further business, and on a motion by Mr. Wright, seconded by
3360 Mr. Kirkland, the Board adjourned until **February 23, 2006**, at 9:00 am.
3361
3362
3363
3364
3365 James W. Nunnally

3366 Chairman

3367

3368

3369 Benjamin Blankinship, AICP

3370 Secretary