

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**  
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**  
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**  
4 **SPRINGS ROADS, ON THURSDAY, FEBRUARY 25, 2010, AT 9:00 A.M.,**  
5 **NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH**  
6 **FEBRUARY 4, 2010 AND FEBRUARY 11, 2010.**

7  
Members Present: Elizabeth G. Dwyer, Chairman  
Helen E. Harris, Vice Chairman  
James W. Nunnally  
Robert Witte  
R. A. Wright

Also Present: David D. O'Kelly, Jr., Assistant Director of Planning  
Benjamin Blankinship, Secretary  
Paul Gidley, County Planner  
R. Miguel Madrigal, County Planner  
Carla Brothers, Recording Secretary

8  
9 Ms. Dwyer - Good morning. The February 25, 2010 session of the  
10 Henrico County Board of Zoning Appeals will now come to order. Please rise for  
11 the **Pledge of Allegiance**.

12  
13 Good morning, Mr. Blankinship. Would you please review the rules of the  
14 Board?

15  
16 Mr. Blankinship - Good morning, Madam Chairman, members of the  
17 Board, ladies and gentlemen. The rules for this meeting are as follows. Acting  
18 as secretary, I will call the case—and there is only one case this morning—and  
19 the applicant should come on down to the podium at that time. Then everyone  
20 who wishes to speak on the case should stand and be sworn in. Then the  
21 applicant will present their testimony. Then anyone else who wishes to speak  
22 will be given the opportunity. The applicant will then have an opportunity for  
23 rebuttal. After everyone has spoken, the Board will go ahead and render its  
24 decision on the matter.

25  
26 This meeting is being recorded, so we'll ask everyone who speaks to speak  
27 directly into the microphone on the podium, state your name, and please spell  
28 your last name so we get it correctly in the record. Out in the foyer, there is a  
29 binder that contains the staff report for the case, including the conditions that  
30 have been recommended by the staff. Anyone who wants to review that during  
31 the hearing is welcome to do so.

32  
33 Ms. Dwyer - Thank you, Mr. Blankinship. We will call the first case,  
34 but before we do so I would like to state that I will be abstaining from the  
35 discussion and the vote on this case. I do not have a legal conflict of interest,

36 but have family members who are closely associated with St. Gertrude, so I think  
37 in the appearance of fairness, I will abstain.

38

39 All right. Call the case, please, Mr. Blankinship.

40

41 **UP-005-10 ST. GERTRUDE HIGH SCHOOL** requests a  
42 conditional use permit pursuant to Sections 24-52(a) and 24-12(b) to allow  
43 athletic fields at 460 Scott Road (789-762-2116 (part) and 788-762-3171 (part)),  
44 zoned A-1, Agricultural District (Fairfield).

45

46 Ms. Dwyer - Anyone who has an interest in this case and thinks  
47 that they might speak to the case as a witness, please stand and raise your right  
48 hand to be sworn.

49

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

52

53 Ms. Dwyer - Will the applicant please come forward and state your  
54 case.

55

56 Mr. Theobald - Good morning, Madam Chair, ladies and gentlemen.  
57 My name is Jim Theobald and I'm here this morning on behalf of St. Gertrude  
58 High School. With me is Susan Walker, the president of St. Gertrude, Mike  
59 Woodson, who is the school's athletic director, and Bruce Hulcher, who is our  
60 engineer.

61

62 This is a request for a conditional use permit in order to develop the subject  
63 property as a recreational facility for outdoor athletics during daylight hours. The  
64 proposed development of the property will include athletic fields, a running track,  
65 bleachers, parking areas, bathrooms, and other amenities that are common to  
66 such athletic facilities. It does not include lights for use after dark. It's solely a  
67 daytime use.

68

69 Your 2026 Comprehensive Plan recommendation for future land use in this area  
70 is for urban mixed use. This is a recent change in the designation in this area  
71 and we believe that our proposed use is consistent with that. In fact, it could be  
72 incorporated into any future plans for this site and certainly would not inhibit the  
73 future development of this site. We think that the plans as presented constitute a  
74 viable and worthwhile use of currently undeveloped land without jeopardizing the  
75 future opportunities we all hope might exist for those surrounding parcels to be  
76 developed.

77

78 Some of you may remember that the gleam in the County's eye for this property  
79 began with Capital One many, many years ago. We were involved in that  
80 adventure and, unfortunately, they picked Goochland. Since then, the Plan has  
81 suggested this area might be appropriate for a variety of different uses. I think

82 the NASCAR Museum was the next big idea on this site. And at one point I think  
83 a Carrabba's attempted to go there as well. So it's an interesting opportunity and  
84 we sort of view this as an interim use perhaps. St. Gertrude could be there  
85 forever, but at the same time, we're not contemplating the type of physical  
86 structures that will come out of the ground and be of such a permanent nature  
87 that if they thought it advisable, that it couldn't be incorporated into something.  
88 We've also discussed with staff the possibility that this could actually serve as  
89 some sort of open space for recreational amenities as far as other uses that  
90 might be developed on the property.

91  
92 We believe that the proposed use of the property for athletic fields will not  
93 adversely affect the health, safety, or welfare of the community. The property is  
94 adjacent to large A-1 residential tracts to the east and the west. In fact, these 16  
95 acres are carved out of a 109-acre parcel that our sellers—I believe perhaps on  
96 this site map. Do we have the map on the staff report, Ben, one of these? It  
97 shows the aerial. Let's see that, maybe. Yes, there we go. Basically, we've  
98 taken the hole out of the doughnut. Ms. Penniston owns some of the property to  
99 the east, but otherwise we are basically coming out of a 109-acre parcel. You  
100 can see the relationship of these proposed fields to the few residential lots in that  
101 aerial.

102  
103 The adjacent parcel to the east is approximately 70 acres and is primarily  
104 wooded to the north, by Interstate 295. Directly across the street on the south it  
105 is primarily vacant and wooded. It's also zoned Industrial. We believe that the  
106 proposed use does not involve construction of any major structures, so there will  
107 be no negative impact on the supply of light or air to adjacent properties or the  
108 value of buildings or property in surrounding areas. Likewise, any potential  
109 impact of noise can be mitigated to the extent that it's even an issue at this  
110 isolated location.

111  
112 Before we even filed this request, we met with staff because we wanted to be  
113 sure that we were not having adverse impacts in their minds. We particularly  
114 talked to Planning and Public Works about traffic. We believe that traffic is going  
115 to be minimal. The Department of Public Works has indicated to the Director of  
116 Planning that the impact should not be a concern. The majority of the traffic to  
117 this site is going to be comprised of buses bringing students out to the site, much  
118 like they do now to their current field locations or at St. Joseph's Villa. They're  
119 not able to use that site any longer as they are proposing construction and  
120 reorientation of some roads at St. Joseph's. So they were required to find a  
121 different site.

122  
123 Mr. Nunnally - Mr. Theobald, excuse me just a moment.

124  
125 Mr. Theobald - Yes sir.

126  
127 Mr. Nunnally - Would you pull that mike a little closer to you?

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Mr. Theobald - Yes sir, happy to. The buses that will bring the students out will not be making any stops to load or unload passengers on surrounding roads. They will only stop inside the parking area of the facility in order to drop off students. Additionally, Scott Road does provide ingress and egress to the subject property in three different directions—one from Brook Road and two from Parham Road, which will further minimize potential congestion and disperse traffic.

We would like to talk about a couple of the conditions that were suggested by staff. I wanted to just merely clarify on the record with regard to Condition #1 that talks about only the improvements shown on the concept plan shall be constructed. I've discussed with Mr. Blankinship that we do not intend to have permanent grandstands on this site. We do intend to have some of the temporary type, aluminum, low-rise bleachers for the convenience of people who might be watching. I think he has confirmed, and hopefully will confirm to you, that that's not what they meant by no permanent grandstands. We were trying to avoid the possibility of a soccer stadium, if you will, that would be a more permanent structure. So we presume bleachers would be permitted. We also have a modest entrance sign out on Scott Road identifying the property. It's not technically shown on this plan, so we're just trying to be very specific as to what we can do and not do. There are also some athletic type pits associated with pole vaulting or the long jump, etcetera, which are not necessarily located on here, but they're not physical structures that come out of the ground. That's really more for the purpose of record in terms of when we get around to filing some construction plans.

Mr. Blankinship - That's consistent with our understanding.

Mr. Theobald - Thank you. We would like you to consider deleting Condition #9, which suggested a 40-foot vegetative buffer along the western side. The western side is at the bottom of your screen here. I'm going to take a wild guess and think that some of these conditions may have been applicable to another case. Let's go back to the aerial, please. The west is there on the left of the yellow outline. You can see that not only is our seller's property—that's our seller's home; one of the family members there to the back—but it is hugely wooded on the west. We really didn't see the need for this buffer. It didn't seem to serve a purpose. Also when we looked at that plan, we're going to need to—can we go back to the plan? There we go. This oval track is really kind of neat because it's depressed. It's going to be seven or eight feet below the grade, so you're actually going to have some sloped hills that go down to the surface of the track area. We will need to grade a little bit adjacent to that track. We do intend to leave trees along that edge, but just don't think a 40-foot arbitrary buffer is required. I have discussed this with Mr. Blankinship and I'm sure he will give you his opinion on that. Please keep in the mind that this is in the Plan for urban mixed use, so what we're looking for in the future is some kind of high density,

174 could be light manufacturing, could be office, could be higher density residential;  
175 we just don't really know. Any number of those uses would have differing  
176 requirements for buffering, etcetera. So it didn't really seem like we needed to  
177 buffer woods against woods at this particular point and I would appreciate—we  
178 are having to pay for all of that land and we do intend to provide a fence around  
179 the entirety of the property, which I know was important to one of our adjacent  
180 property owners.

181  
182 Mr. Blankinship - If I can interrupt again. Forty feet is the side yard  
183 requirement, the side yard setback requirement for this use in this district, so  
184 that's where that number came from. It's usually our position to have something  
185 in a condition for the Board to consider because it's easier for you to delete  
186 something that we've suggested than to come up with something new on the  
187 spot. I don't think staff has any huge objection to eliminating that.

188  
189 Mr. Theobald - Thank you. We do meet the setback.

190  
191 The last is Condition #10 and I have a modification. I don't know whether Mr.  
192 Blankinship has passed it out to you. The purpose of this was to more closely  
193 align the language with how the facility is intended to be used. Initially we talked  
194 about exclusive use by St. Gertrude. Obviously they do engage in competition  
195 with other schools and they do, on occasion, share their facilities currently, like  
196 their gymnasium, with other Catholic middle schools. So we'd like the ability to  
197 provide that opportunity to that group of people. What we were trying to do and  
198 what Mr. Blankinship and I were discussing is we were trying to make sure that  
199 you didn't wake up and find that we had leased this to the Strikers. An  
200 organization like that is much more intense, much more individual vehicles  
201 coming to the site, etcetera. So what we've done is suggested in this condition  
202 that we can't rent or lease to other outside entities unless it's previously  
203 approved in writing by the Director of Planning. The only use that we see that  
204 could be of benefit to the County is once in a while the Strikers and other groups  
205 will have these national tournaments. They usually use every field in the  
206 metropolitan area whether it's a County field, a private field, etcetera. They bring  
207 people in from out of state for tournaments. It's a terrific thing for kids and I must  
208 say it has a huge economic impact. This event is tracked by the Chamber of  
209 Commerce in terms of the number of hotel rooms and meals, etcetera. So if  
210 there is an event like that, then we just reserve the right to ask the Director of  
211 Planning if on a given day or two it would be appropriate. Doing that we've tried  
212 to affect this balance between low impact use and yet a little bit of flexibility when  
213 it makes sense.

214  
215 The last issue in this condition basically had to do with, can we use the facility on  
216 Sunday afternoons? I would ask that you consider allowing that. Certainly no  
217 one is more concerned about Sundays than St. Gertrude. They currently have  
218 the use of St. Joseph's Villa on Sunday afternoons. They don't often use it on  
219 Sunday afternoons, but on occasion for practice or make-up matches it's been

220 extremely helpful. It is allowed at St. Joseph's currently, which, as you know, is a  
221 religious based institution, but also includes some very close residential uses in  
222 proximity for their sheltered resident program, etcetera. So it would seem to be a  
223 use that had been very compatible with the existing facilities at St. Joseph's. I  
224 don't know why it wouldn't be here. Keep in mind that any use that gets  
225 approved in the future, pursuant to the Urban Mixed Used Plan, is by definition  
226 going to be allowed to operate and be used on Sundays. I don't really see any  
227 downside; hope you would agree with that.

228  
229 In summary, we ask that you eliminate Condition #9 and make the modifications  
230 to Condition #10 that have been passed out to you. We believe that this request  
231 meets all the jurisdictional requirements for you to grant approval and we would  
232 respectfully request that you so do. I'd be more than happy to answer any  
233 questions.

234  
235 Ms. Dwyer - Thank you, Mr. Theobald. Any questions by Board  
236 members?

237  
238 Mr. Witte - Do you want to eliminate all of #9 or just the 40-foot  
239 vegetation buffer?

240  
241 Mr. Theobald - The balance of it really relates to the buffer, so we  
242 would eliminate all of it. We will have plantings, by the way, and we will be  
243 working on a landscape plan with the County. This is essentially County  
244 ordinance standards on the maintenance and removal of dead and diseased  
245 trees.

246  
247 Mr. Witte - You want to remove the word, "exclusive," and add,  
248 "Sunday after 12."

249  
250 Mr. Theobald - You have a copy of a condition before you that makes  
251 a couple of changes that allow Catholic middle schools and other schools who  
252 are competing to use the facilities, allow other outside entities to use with prior  
253 approval by the Director of Planning, and then to be used from noon for the rest  
254 of the daylight hours on Sunday. Those are the three changes.

255  
256 Mr. Witte - You're not eliminating, "part of the facility should not  
257 be rented or leased to outside entities."

258  
259 Mr. Theobald - We're not. We're clarifying that it can be used by  
260 Catholic middle schools and for competition. Then for any other outside entity,  
261 we have to get permission from the Director.

262  
263 Mr. Witte - Right.

264  
265 Ms. Harris - I also have a question.

266  
267 Mr. Theobald - Yes ma'am.  
268  
269 Ms. Harris - Can we go back to the area map please? Can you  
270 point out the entrance and the exit for the buses on the site?  
271  
272 Mr. Theobald - My cursor is not functioning here. Ben, could you do  
273 that or show it on the plan? It's in that area there to the far right of the site.  
274  
275 Mr. Wright - Right on the curve is what it—  
276  
277 Mr. Theobald - It will have to meet site distance requirements. I  
278 believe Mr. Hulcher has talked to Public Works about that.  
279  
280 Ms. Harris - Okay. And the stop sign that's mentioned, where will  
281 it be placed?  
282  
283 Mr. Theobald - That would be at our entrance, I believe, for exiting.  
284  
285 Ms. Harris - Same—  
286  
287 Mr. Theobald - For exiting, yes ma'am.  
288  
289 Ms. Harris - The other thing is the structure of the buildings that  
290 you will have on the property. What type of structures? What is the  
291 construction?  
292  
293 Mr. Theobald - Really the only structure I think is for a restroom  
294 facility. The fields really have no structure other than the bleachers. We have a  
295 small restroom. Contrary to the staff report, we do not have showers or lockers.  
296 This is not a changing area. They'll come dressed and ready. It's merely a  
297 restroom for convenience.  
298  
299 Ms. Harris - So it's just restrooms?  
300  
301 Mr. Theobald - That's it, yes ma'am.  
302  
303 Ms. Harris - Didn't you mention something about a dugout?  
304  
305 Mr. Theobald - The field is depressed, but there are also areas—if  
306 you think about a pole vault. When you fly over the pole you land in sort of a pit,  
307 a sand pit. My only reason for bringing that up in the context of Condition 1 is  
308 that it said that only the improvements shown on the concept plan may be  
309 constructed. I didn't want to mislead anybody that—for instance we do have a  
310 couple of those landing pits and some take-off points. They're not buildings;  
311 they're just an athletic surface for the runners, same as a track, basically. There

312 is a little room for maintenance and storage of equipment in that same building  
313 with the bathroom.

314

315 Ms. Harris - The aluminum bleachers. Do you know the width of  
316 the road? Buses will be coming through there and that road is a little narrow I  
317 believe.

318

319 Mr. Theobald - I'm not sure. Bruce, can you help us with that?

320

321 Mr. Witte - It's on the plan. It's 15 feet pavement width.

322

323 Mr. Theobald - Is it?

324

325 Ms. Harris - That road is 15 feet?

326

327 Mr. Witte - That's what it says.

328

329 Mr. Theobald - The entrance road. I will let our engineer address his  
330 conversations related to the entrance road.

331

332 Mr. Hulcher - If you're speaking about the entrance, the road off  
333 Scott Road, that's a 25-foot road, which is normal for Public Works approval.

334

335 Mr. Blankinship - Do you know how wide the pavement of Scott Road  
336 is? Is it 15 feet as shown on the plan?

337

338 Mr. Hulcher - It's more than 15 feet, but let me look and see. The  
339 plan also calls for dedicating 10 feet of right-of-way.

340

341 Mr. Wright - It says 30 feet—

342

343 Ms. Harris - Thirty feet of right-of-way.

344

345 Mr. Wright - —right-of-way.

346

347 Mr. Hulcher - Yes. The existing is a 30-foot right-of-way.

348

349 Mr. Wright - But it says 15-foot-wide pavement.

350

351 Mr. Hulcher - Yes it is. It is fairly lightly traveled, at least the times  
352 that I've been out there. But there is an existing 15-foot pavement width. We  
353 certainly would comply with whatever Public Works would require on an  
354 entrance, but the existing pavement is 15 to 18 feet; it sort of varies.

355

356 Mr. Theobald - We should also keep in mind that there is only one  
357 bus that comes out from St. Gertrude. It's not like a fleet of buses. If there's an



358 opponent, it's usually one bus from the opponent as well. So very, very minimal  
359 traffic.

360

361 Ms. Harris - You may have spectators who will be driving in their  
362 individual cars.

363

364 Mr. Theobald - Could be.

365

366 Ms. Harris - We don't want to pose a hazard in the very beginning.

367

368 Mr. Theobald - Right. Which is why we vetted this through Public  
369 Works, frankly, before we even filed the case to make sure they were  
370 comfortable with the use.

371

372 Ms. Harris - Mr. Blankinship, can we ask the County to do  
373 something about these roads?

374

375 Mr. Blankinship - There is a concept road shown on the Major  
376 Thoroughfare Plan that would actually replace that stretch of Scott Road to the  
377 north across their property. They have reserved the right-of-way on their plan so  
378 that when the County gets ready to implement that new road, it will not conflict  
379 with their improvements.

380

381 Ms. Harris - We don't want to wait until there is an accident and  
382 say we wish we could have, should have. We want to head it off. The other  
383 question I have is about security lighting. We have athletic fields all over the  
384 County. When it's not in use, as soon as young people discover that there's a  
385 field back there, they might visit when they normally would not be playing.  
386 Security lighting is a factor that I would think you might want to consider.

387

388 Mr. Theobald - I think that's a good idea. Your conditions do allow for  
389 security lighting. We did not intend to put up parking lighting or have the fields lit,  
390 but I think security—and it will be gated, and chained, and locked. There will be a  
391 six-foot-tall chain link fence around the entirety of the site. I realize that doesn't  
392 keep out a determined individual, but nonetheless, if we find we need security  
393 lighting—we probably would have a little wall pack unit on the bathroom building,  
394 etcetera, but if we need it, that's what we'll do. We're all about safety for kids.

395

396 Ms. Harris - Those are the only questions I have.

397

398 Mr. Witte - I have one more question. These dirt roads that are  
399 shown on the plat, do they ingress and egress where somebody lives back  
400 there?

401

402 Mr. Theobald - There is a road immediately to the west. There is a  
403 house back there that's owned by the family that is selling the 16 acres to us.  
404 There is one family that lives back there.  
405  
406 Mr. Witte - Do they use these roads?  
407  
408 Mr. Theobald - They use Scott Road and they use the road that I  
409 think was in the picture perhaps.  
410  
411 Mr. Witte - The asphalt drive?  
412  
413 Mr. Theobald - Yes. You can't—  
414  
415 Mr. Witte - So they don't use the roads running through the  
416 property.  
417  
418 Mr. Theobald - No, no. The site will be self-contained. We're going  
419 to be owning the site, not leasing it or anything else. We're buying it.  
420  
421 Ms. Harris - Mr. Theobald, I just thought of one other thing. Are  
422 you familiar with Garden City Civic Association? It's a very strong civic  
423 association that will be neighbors to the site.  
424  
425 Mr. Theobald - I have worked with that group before.  
426  
427 Ms. Harris - Do they know of this—  
428  
429 Mr. Theobald - We sent 30-some letters out—yes ma'am—ten days  
430 or two weeks ago, in addition to the County notice, to make sure people knew.  
431 And we included a picture of this drawing to make sure they knew what the  
432 location was.  
433  
434 Ms. Harris - You've had no adverse reaction?  
435  
436 Mr. Theobald - I have not had any phone calls. And at least as of  
437 yesterday staff had not received any calls either.  
438  
439 Ms. Dwyer - Any other questions by Board members?  
440  
441 Mr. Theobald - Thank you.  
442  
443 Ms. Dwyer - Is there anyone else who would like to speak to this  
444 case? Please come forward. Sir, were you sworn?  
445  
446 Mr. Miles - Yes.  
447

448 Mr. Wright - Yes, he was sworn.  
449  
450 Mr. Miles - And by the way, Madam Chair, I have been sworn *at*  
451 before. But not this morning.  
452  
453 Mr. Wright - Not here.  
454  
455 Mr. Miles - That's correct. And let's hope it doesn't get that way.  
456 And I don't think it shall. My name is Gil Miles. I'm with Virginia Real Estate and  
457 Development out of Ashland, Virginia. I'm a Henrico County resident. I  
458 represent [unintelligible], LLC who owns the property at the northwest  
459 intersection of Park Center and Scott Road. Mr. [inaudible] is not here this  
460 morning, so I'll just speak in his stead.  
461  
462 Our firm has worked with many of the property owners in the area, including the  
463 Scott family, even down to Met Life Real Estate who owns the old Best Products  
464 office building there. We were always concerned from economic development  
465 and planning as to what was going to take place on these 406 acres in this very  
466 large complex. One of the complexities to development of all this was Magellan  
467 Parkway. I note that Magellan Parkway goes to the south quadrant of this  
468 proposal, with a bridge going over 95 and \$30 million dollars worth of  
469 development faced by future developers for that.  
470  
471 My question is—and I understood from Mr. Theobald's comments that a  
472 reservation would be made for an easement for Magellan. Is that correct?  
473  
474 Mr. Blankinship - In reserve, yes.  
475  
476 Mr. Miles - Do we have any plans for that?  
477  
478 Mr. Blankinship - Not on the board right now.  
479  
480 Mr. Miles - So just a right-of-way reservation.  
481  
482 Mr. Blankinship - Right.  
483  
484 Mr. Miles - That's really all I have. I'm very interested in that  
485 because, again, that has been a disability to future development on all these  
486 properties. I'm also concerned about the lack of tax base in this proposed use.  
487 Thank you very much.  
488  
489 Ms. Harris - Mr. Miles?  
490  
491 Mr. Miles - Yes ma'am.  
492  
493 Ms. Harris - Are you voicing opposition to this plan?

494  
495 Mr. Miles - Well, I am not. I have some disagreement with Mr.  
496 Theobald's statements. There are several misrepresentations in there, but that's  
497 not what I'm speaking about. I'm not going to speak against it; I just had some  
498 concerns about it because of my past history with this property. Thank you very  
499 much.

500  
501 Ms. Dwyer - Any other questions? Thank you. Anyone else to  
502 speak to the case? Mr. Theobald, did you have anything additional? All right,  
503 that closes the case. Since this is our only case, we'll go ahead and consider it.  
504 Do I have a motion on the case?

505  
506 Mr. Witte - Yes, I'll make a motion that we approve it with  
507 removing Condition #9 and replacing Condition #10 with the reworded section  
508 that allows for Sunday after 12. I see it as a beneficial use to the community. I  
509 don't see where it's going to negatively affect anybody. So I make a motion we  
510 approve it.

511  
512 Ms. Harris - Second the motion.

513  
514 Mr. Wright - I'll second. Oh, we already have a second.

515  
516 Ms. Dwyer - Motion by Mr. Witte, seconded by Ms. Harris. Any  
517 discussion?

518  
519 Ms. Harris - Let me ask this question. Do we need to add the  
520 temporary low-rise bleachers? I know that in Condition #1 he mentioned  
521 something about the—

522  
523 Mr. Wright - It says permanent.

524  
525 Mr. Blankinship - I think having it in the minutes of the meeting is  
526 sufficient. I asked Mr. Theobald to make those comments on the record. So if  
527 there is a question in the future, the first thing we'll do is check the minutes.

528  
529 Mr. Witte - My understanding is the new bleachers are going to  
530 be temporary. Movable, not permanent.

531  
532 Ms. Dwyer - Any comments about how the case satisfies the  
533 statutory requirements for a conditional use permit?

534  
535 Mr. Blankinship - I think Mr. Witte hit that by saying he felt it was a  
536 beneficial use for the area.

537  
538 Mr. Wright - It doesn't affect the health, safety, or welfare of the  
539 people residing in the neighborhood. It's certainly not going to impair light or air

540 to the property. It's not going to reduce or impair the value of buildings in the  
541 surrounding area.

542

543 Ms. Dwyer - All right. We have a motion and a second. All in favor  
544 say aye. All opposed say no. The ayes have it; the motion passes.

545

546 I abstain. Let the record show four votes in favor of the case.

547 After an advertised public hearing and on a motion by Mr. Witte, seconded by  
548 Ms. Harris, the Board **approved** application **UP-005-10, St. Gertrude High**  
549 **School's** request for a conditional use permit pursuant to Sections 24-52(a) and  
550 24-12(b) to allow athletic fields at 460 Scott Road (Parcels 789-762-2116 (part)  
551 and 788-762-3171 (part)), zoned A-1, Agricultural District (Fairfield).

552 The Board approved the use permit subject to the following conditions:

553 1. Only the improvements shown on the Concept Plan (dated January 13, 2010)  
554 filed with the application may be constructed pursuant to this approval. This  
555 approval does not authorize construction of permanent grandstands or field  
556 lighting. Any substantial changes or additions may require a new conditional use  
557 permit.

558 2. The applicant shall submit construction plans for administrative review of the  
559 proposed improvements to the Planning Department.

560 3. Prior to any land disturbing activity, the applicant shall obtain an approved  
561 Erosion and Sedimentation Control Plan in accordance with Henrico County  
562 Code, Chapter 10, Environment. The applicant shall also submit an Erosion  
563 Control Bond, which must remain active until released in writing. Throughout all  
564 land disturbing phases necessary for construction of the proposed  
565 improvements, the applicant must satisfy the Department of Public Works  
566 Environmental Section that erosion and sediment control is inspected and  
567 maintained in accordance with the approved plan and Environmental Section  
568 policy.

569 4. Approval of this request does not imply that a building permit will be issued.  
570 Building permit approval is contingent on Health Department requirements,  
571 including, but not limited to, soil evaluation for a septic drain field and reserve  
572 area, and approval of a well location.

573 5. The designated on-site parking area and appurtenant drives and roads shall  
574 comply with Sec. 24-98, Parking Lot Regulations of the Henrico County Code.

575 6. A detailed landscaping and lighting plan shall be submitted to the Planning  
576 Department with the building permit for review and approval.

577 7. A stop sign meeting County standards shall be maintained at the entrance  
578 onto Scott Road.

579 8. The applicant shall provide an adequate number of trash receptacles adjacent  
580 to the parking lot and athletic fields. The applicant shall also install an enclosed  
581 and screened trash receptacle (dumpster) for collection of refuse generated at  
582 the site. The dumpster shall only be serviced between the hours of 6:00 a.m. and  
583 midnight. The site shall be maintained litter free at all times.

584 9. [DELETED]

585 10. [AMENDED] The noncommercial recreational facility shall be for the  
586 exclusive use of Saint Gertrude High School, not to exclude competition against  
587 other schools, or use by Catholic middle schools. The facilities shall not be  
588 rented or leased to outside entities unless previously approved in writing by the  
589 director of planning. All athletic activities are to be conducted during daylight  
590 hours, and not prior to noon on Sundays.

591 11. Public address and sound amplification equipment shall not exceed 65 dB at  
592 the limits of the property.

593

594

595 Affirmative: Harris, Nunnally, Witte, Wright 4

596 Negative: 0

597 Abstain: Dwyer 1

598 Absent: 0

599

600

601 Ms. Dwyer - All right. The agenda shows adjournment is the next  
602 item, but we do have minutes.

603

604 Mr. Wright - I think you should call these "hours." That one case. I  
605 didn't think I'd ever get finished reading that thing.

606

607 Ms. Dwyer - You have to relive it. I did have a question on page  
608 28. I think line 1263 and 1257 were attributed to Mr. Witte, but I'm not sure that  
609 he was the speaker there. I think it was a staff person.

610

611 Mr. Witte - On 1263? That's exactly right. I didn't say that.

612

613 Ms. Dwyer - I think Mr. Blankinship said that. The plans have  
614 been submitted.

615

616 Mr. Wright - It doesn't sound like Bob's statement there.

617

618 Ms. Dwyer - 1263? Actually the plans have been resubmitted and  
619 are waiting in Planning for sign-off.  
620  
621 Mr. Wright - You can change it to unanimous.  
622  
623 Mr. Blankinship - I wonder why I replied to myself at 1270, though.  
624  
625 Ms. Dwyer - Yes, that's true.  
626  
627 Mr. Gidley - [Speaking off microphone; inaudible.]  
628 Ms. Dwyer - Okay. It may have been you, Paul? Okay.  
629  
630 Mr. Wright - Put anonymous there.  
631  
632 Mr. Blankinship - Was that your case, Paul?  
633  
634 Mr. Gidley - [Speaking off microphone; inaudible.]  
635  
636 Mr. Blankinship - I'm not sure which case it was.  
637  
638 Ms. Dwyer - 1263 and 1257.  
639  
640 Mr. Blankinship - I note that 1179 someone was speaking off the  
641 microphone.  
642  
643 Ms. Dwyer - Well.  
644  
645 Mr. Blankinship - We'll go back and check it.  
646  
647 Ms. Dwyer - Okay. That's all I noticed. Any other amendments?  
648 Motion for the minutes?  
649  
650 Mr. Wright - I move they be approved as submitted with whatever  
651 correction you want to make.  
652  
653 Mr. Nunnally - Second.  
654  
655 Ms. Dwyer - Motion by Mr. Wright, seconded by Mr. Nunnally. All  
656 in favor say aye. All opposed say no. The ayes have it; the motion passes.  
657  
658 On a motion by Mr. Wright seconded by Mr. Nunnally, the Board **approved as**  
659 **corrected** the **Minutes of the January 28, 2010**, Henrico County Board of  
660 Zoning Appeals meeting.  
661  
662  
663

664 Affirmative: Dwyer, Harris, Nunnally, Witte, Wright 5  
665 Negative: 0  
666 Absent: 0

667  
668 Mr. Blankinship - I have the form here for a motion to go into closed  
669 session, if you want to.

670  
671 Mr. Wright - I think we have to do it here.

672  
673 Mr. Blankinship - Okay.

674  
675 Ms. Dwyer - I think we need to do it in the public hearing.

676  
677 Mr. Wright - I move we go into a closed meeting for consultation  
678 with the County Attorney regarding specific legal matters requiring the provision  
679 of legal advice pertaining to the Virginia Statute and the County Code insofar as  
680 variances are concerned pursuant to 2.2-3711(A7) of the Code of Virginia of  
681 1950 as amended.

682  
683 Ms. Dwyer - All right, is there a second?

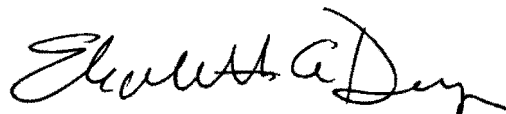
684  
685 Mr. Witte - Second.

686  
687 Ms. Dwyer - Motion by Mr. Wright, seconded by Mr. Witte. All in  
688 favor say aye. All opposed say no. The ayes have it; the motion passes.

689  
690 On a motion by Mr. Wright seconded by Mr. Witte, the Board voted to go into  
691 closed session to discuss legal matters with the County Attorney pertaining to  
692 Virginia Statue and County Code concerning variances.

693  
694  
695 Affirmative: Dwyer, Harris, Nunnally, Witte, Wright 5  
696 Negative: 0  
697 Absent: 0

698  
699  
700 There being no further business, the Board adjourned until the March 25, 2010  
701 meeting at 9 a.m.

702  
703 

704  
705 Elizabeth G. Dwyer  
706 Chairman

707  
708  
709



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712  
713  
714



Benjamin Blankinship, AICP  
Secretary

J

J

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