

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **HENRICO COUNTY GOVERNMENT COMPLEX, ON THURSDAY, JUNE 27, 2002, AT**
4 **9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
5 **DISPATCH ON JUNE 6 AND 13, 2002.**
6

Members Present: Daniel Balfour, Chairman
R. A. Wright, Vice-Chairman
Richard Kirkland
Gene L. McKinney, C.P.C., C.B.Z.A.
James W. Nunnally

Also Present: Benjamin Blankinship, Secretary
Susan W. Blackburn, County Planner II
Priscilla M. Parker, Recording Secretary

7
8 Mr. Balfour - I call the meeting of the County of Henrico Board of Zoning
9 Appeals to order. Would you stand for the Pledge of Allegiance. Mr. Secretary, would
10 you read the rules, please.

11
12 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
13 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each
14 case. Then at that time the applicant should come to the podium. I will ask everyone
15 who intends to speak on that case, in favor or in opposition, to stand and be sworn in.
16 The applicants will then present their testimony. After the applicant has spoken, the
17 Board will ask them questions, and then anyone else who wishes to speak will be given
18 the opportunity. After everyone has spoken, the applicant, and only the applicant, will
19 be given the opportunity for rebuttal. After hearing the case, and asking questions, the
20 Board will take the matter under advisement. They will render all of their decisions at
21 the end of the meeting. If you wish to know their decision on a specific case, you can
22 either stay until the end of the meeting, or you can call the Planning Office later this
23 afternoon. This meeting is being tape recorded, so we will ask everyone who speaks, to
24 speak directly into the microphone on the podium, and to state your name. And finally,
25 out in the foyer, there are two binders, containing the staff report for each case,
26 including the suggested conditions.

27
28 Mr. Balfour - Thank you sir. Do we have any requests for withdrawals or
29 deferrals?

30
31 **A -107-2002** **BRUCE AND CAROL ORR** request a variance from Section 24-94
32 of Chapter 24 of the County Code to build a sunroom at 2716
33 Tavern Way (Glen Hollow) (Parcel 771-764-2626) zoned R-3AC,
34 One-family Residence District (Conditional) (Brookland). The rear
35 yard setback is not met. The applicants propose 26 feet rear yard

36 setback, where the Code requires 35 feet rear yard setback. The
37 applicants request a variance of 9 feet rear yard setback.
38

39 Mr. Balfour - Is there anyone to speak on this case? If not, Mr. Secretary,
40 would you pass this one by and go on to the next one.
41

42 Mr. Blankinship - All raise your right hand please. Do you swear that the
43 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
44 help you God?
45

46 Mr. Orr - I do. My name is Bruce Orr. I apologize for not being here
47 sooner, I thought the contractor was going to present the case. We are requesting a
48 variance so that we can build a sun porch on an existing deck so we can enjoy it year
49 round.
50

51 Mr. Wright - Is it going to be the same size as the existing deck?
52

53 Mr. Orr - We will have about 4 feet of deck left so we will have space
54 to walk.
55

56 Mr. Balfour - You are not covering your whole deck, just part of it?
57

58 Mr. Orr - Correct.
59

60 Mr. Wright - What size is your deck?
61

62 Mr. Orr - I honestly don't know. It has to be at least 8 x 20. The room
63 itself will be 8 x 12.
64

65 Mr. Balfour - Any other questions of Mr. Orr? If not, thank you.
66

67 On a motion by Mr. Kirkland, seconded by Mr. Nunnally, the Board **granted** the request
68 for variance application **A-107-2002**.
69

70 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
71 Negative:		0
72 Absent:		0

73

74 The Board granted the variance subject to the following condition:
75

76 1. Only the improvements shown on the plan filed with the application may be
77 constructed pursuant to this approval. No substantial changes or additions to the layout
78 may be made without the approval of the Board of Zoning Appeals. Any additional
79 improvements shall comply with the applicable regulations of the County Code.
80

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

86
87 **A -108-2002** **LOUIS M. LAWRENCE, SR.** requests a variance from Section 24-9
88 of Chapter 24 of the County Code to allow a dwelling to remain at
89 1462 Crystal Springs Lane (Parcel 804-679-7868 (part)) zoned R-
90 2A, One-family Residence District (Varina). The public street
91 frontage requirement is not met. The applicant has 0 feet public
92 street frontage, where the Code requires 50 feet public street
93 frontage. The applicant requests a variance of 50 feet public street
94 frontage.

95
96 Mr. Balfour - Is there anyone to speak on this case, if so please raise your
97 right hand and be sworn in.

98
99 Mr. Blankinship - All raise your right hand please. Do you swear that the
100 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
101 help you God?

102
103 Ms. McDonough - I do. I am representing my grandparents, The Lawrences,
104 who are both 92 and were unable to attend the meeting. We are requesting a variance
105 for 50 feet of public street frontage. What occurred is this. Four acres was theirs; they
106 gave me the front 2 acres of the land in January. When we submitted our building
107 permit to the County, we were told we needed a variance because we were cutting off
108 the street frontage for my grandparent's property. We are requesting a variance for
109 that.

110
111 Mr. Balfour - Can they retain access to their house?

112
113 Ms. McDonough - Yes sir. There is a private drive, Crystal Spring Lane, which
114 runs along side both of our properties. It provides access for my grandparents' house
115 and the 2 other houses farther down the lane.

116
117 Mr. Wright - The variance is for the house that is already there, not for
118 the new one. Mr. Blankinship, do they have to have a building permit for that house.

119
120 Ms. McDonough - When we submitted a building permit for the new house

121
122 Mr. Wright - I am talking about a building permit for the old house.

123
124 Mr. Blankinship - Are you looking at the conditions?

125
126 Mr. Wright - The variance is for the house that is already there. Why

127 would they need a building permit?
128

129 Mr. Blankinship - I think what we want is to know that at the time they apply for
130 the building permit for the new house, that all access easements have been taken care
131 of. That is the best chance that we have to review the documents to make sure
132 everything is in order.
133

134 Mr. Wright - But does that condition make that clear? I understand that
135 this is an application for the house on the rear for a variance. At the time of building
136 permit do you need to clarify which building permit you are talking about?
137

138 Mr. Blankinship - We can certainly do that.
139

140 Mr. Wright - You don't need a building permit for a house that is already
141 there.
142

143 Mr. Balfour - Condition # 2 is what you are talking about. Let's just make
144 it clear as to what house the variance is for and what house the building permit is for.
145 Any other questions? Thank you.
146

147 On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **granted** the request
148 for variance application **A-108-2002**.
149

150 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
151 Negative:		0
152 Absent:		0

153

154 The Board granted the variance subject to the following conditions:
155

156 1. This variance applies only to the public street frontage requirement. All other
157 applicable regulations of the County Code shall remain in force.
158

159 2. At the time of building permit application for the new house, the applicant shall
160 submit the necessary information to the Department of Public Works to ensure
161 compliance with the requirements of the Chesapeake Bay Preservation Act and the
162 code requirements for water quality standards. (Amended)
163

164 3. At the time of building permit application for the new house the owner shall
165 demonstrate that the parcel created by this division has been conveyed to members of
166 the immediate family, and the subdivision ordinance has not been circumvented.
167 (Amended)
168

169 4. The applicant shall present proof with the building permit application for the new
170 house that a legal access to the existing house has been obtained. (Amended)
171

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

175
176 The Board granted this request, as it found from the evidence presented that, due to the
177 unique circumstances of the subject property, strict application of the County Code
178 would produce undue hardship not generally shared by other properties in the area, and
179 authorizing this variance will neither cause a substantial detriment to adjacent property
180 nor materially impair the purpose of the zoning regulations.

181
182 **A -109-2002** **JON B. AND ELIZABETH R. TRACY** request a variance from
183 Sections 24-95(c)(2) and 24-95(i)(1) of Chapter 24 of the County
184 Code to build a screened porch and a deck at 8014 Spottswood
185 Road (Spottswood Park) (Parcel 756-738-6170), zoned R-2, One-
186 family Residence District (Tuckahoe). The rear yard setback and
187 rear yard setback for a deck are not met. The applicants propose 5
188 feet rear yard setback for the porch and 0.6 feet rear yard setback
189 for the deck, where the Code requires 25 feet rear yard setback for
190 the porch and 5.0 feet rear yard setback for the deck. The
191 applicants request a variance of 20 feet rear yard setback for the
192 porch and 4.4 feet rear yard setback for the deck.

193
194 Mr. Balfour - Is there anyone to speak on this case, if so please raise your
195 right hand and be sworn in.

196
197 Mr. Blankinship - All raise your right hand please. Do you swear that the
198 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
199 help you God?

200
201 Ms. Tracy - I do. My name is Elizabeth Tracy; my husband and I request
202 a variance to build a screen porch at our residence. The setback is not met from our
203 property line. There is a cemetery at the rear of our lot, which pre-existed the creation
204 of the subdivision. In 1997, this board granted us a variance to build an addition at that
205 time. What we are really proposing with this addition is square off the rear of the house.

206
207 Mr. Balfour - As I read the report, it states that the cemetery behind you is
208 grown over and not visited often. Any questions by the Board? Thank you.

209
210 On a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted** the request
211 for variance application **A-109-2002**.

212
213 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
214 Negative: 0
215 Absent: 0

216
217 The Board granted the variance subject to the following conditions:

218
219 1. Only the improvements shown on the plan filed with the application may be
220 constructed pursuant to this approval. No substantial changes or additions to the layout
221 may be made without the approval of the Board of Zoning Appeals. Any additional
222 improvements shall comply with the applicable regulations of the County Code.

223
224 2. The new construction shall match the existing dwelling as nearly as practical.
225

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

231
232 **UP- 22-2002 JOHN E. HANNEMAN** requests a temporary conditional use permit
233 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
234 to operate a tree service at 12221 Greenwood Road (Parcel 768-
235 780-8319), zoned A-1, Agricultural District (Brookland).

236
237 Mr. Balfour - Is there anyone to speak on this case, if so please raise your
238 right hand and be sworn in.

239
240 Mr. Blankinship - All raise your right hand please. Do you swear that the
241 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
242 help you God?

243
244 Mr. Hanneman - I do. My name is John Hanneman. We are requesting a
245 conditional use permit to try to buy ourselves time to find appropriate property to move
246 our business. We have outgrown our property and have to find some property zoned B-
247 3 or M-2. We have been looking for property and it is all very expensive. We can get
248 by on about 3 acres, and we are just trying to buy some time so we can afford it.

249
250 Mr. Kirkland - Mr. Hanneman, is there a residence on this property. I
251 looked at it yesterday afternoon.

252
253 Mr. Hanneman - No sir, there is just a storage building. We are surrounded
254 by the Chickahominy River.

255
256 Mr. Kirkland - I noticed that a lot of your property is located in the
257 floodplain. Is that wood laying in the floodplain right now?

258
259 Mr. Hanneman - Yes sir. When I checked with Planning, they said we were
260 not in violation of floodplain.

261
262 Mr. Kirkland - You said you have been searching for property; have you
263 been looking exclusively in Henrico or the other counties?

264
265 Mr. Hanneman - We have been looking everywhere, in all the surrounding
266 counties and have found nothing that we can move into right away. We understand that
267 the County is trying to limit the M-1 zoning, so that just drives the price of the land way
268 up.
269
270 Mr. Kirkland - How long have you been looking, about a year?
271
272 Mr. Hanneman - No, we have only been looking since we were notified by the
273 County. We started our business in 2000; we told the Zoning Department where we
274 were going to be operating our office out of our house; they reviewed that and approved
275 it. Then we told them where we were going to keep our equipment, and they approved
276 that. Because we were issued a business license, we thought we were legal.
277
278 Mr. Kirkland - Is your house adjacent to this property?
279
280 Mr. Hanneman - No, we live on Old Washington Highway.
281
282 Mr. Balfour - What exactly are you going to do on the property? You
283 prepare firewood and in addition you grow seedlings for new trees?
284
285 Mr. Hanneman - All we do there is park our trucks and have our wood there.
286
287 Mr. Kirkland - Do you sell from that property?
288
289 Mr. Hanneman - Yes sir, but most of it is delivered.
290
291 Mr. Kirkland - How did we come to have this case in front of us? Did we
292 have a complaint?
293
294 Mr. Blankinship - Yes sir.
295
296 Mr. Balfour - What did you say your time frame is for finding a new
297 location?
298
299 Mr. Hanneman - I don't know. This has turned us upside down.
300
301 Mr. Blankinship - He tried to find a location so he would not have to come
302 before the Board, but that did not happen quickly enough; we had to keep the case
303 moving.
304
305 Mr. Balfour - Any further questions of the Board members? If not, let us
306 hear from the others in the audience.
307
308 Mr. McKinney - Let me ask a question please, Mr. Hanneman, you say you
309 have about 200 customers? I guess you have acquired them over the years. You sell

310 to individuals or commercial businesses?
311
312 Mr. Hanneman - Strictly individuals.
313
314 Mr. McKinney - Suppose I wanted to buy a cord of wood, could I come out
315 here to this site a get one?
316
317 Mr. Hanneman - I guess you could. I have local people who do that. We
318 deliver to most of our customers.
319
320 Mr. McKinney - How would I know about you to order from you?
321
322 Mr. Hanneman - During the fall and winter, we run an ad in the Sunday paper
323 only, stating the phone number and that we sell firewood.
324
325 Mr. McKinney - Would you direct me to this location?
326
327 Mr. Hanneman - Yes.
328
329 Mr. Balfour - Let us hear from the other people. Who would like to testify
330 first?
331
332 Mr. Kennedy - My name is Doug Kennedy; I am the owner of the property
333 and am in the process of selling it to them. When he started keeping the tree work
334 equipment and firewood at this location, I asked if he had talked to the county. He said
335 yes, and that they said it was all right. I have never had any problem with it. I do not
336 see what he is doing is any real problem with anybody.
337
338 Mr. Balfour - Any questions of Members of the Board? Any others in
339 favor of this request who would like to speak?
340
341 Mr. Adams - My name is William Adams. I own the property adjacent to
342 this site in Hanover. In the years that he has used the property, it has had no impact on
343 me. I am not opposed to it. There are no Sunday operations, and the tractors he uses
344 are no different than the other agriculture equipment in the area.
345
346 Mr. Wright - Do you ever hear any saws going on?
347
348 Mr. Adams - No, I have not noticed anything in particular.
349
350 Mr. Balfour - Any other questions? If not, let us hear from the others; are
351 you ladies for it or against it?
352
353 Ms. A. Rogers - My name is Anna Rogers, I live at 12201 Greenwood Road,
354 immediately adjacent to the Hanneman property. I have lived there 7 years, and I
355 object to granting a variance for this property to continue the use as an industrial work

356 site. The A-1 zoning allows for limited amount of tree work to be performed on the
357 property. Tree work involves use of chain saws and other heavy equipment, and under
358 the agriculture zoning regulations this work would be completed in a relatively short
359 amount of time, and the work would stop. The Hannemans have been importing fallen
360 trees and have used chain saws, log splitters, conveyor belts, chipper/shredders, and
361 large trucks and trailers on a daily basis with no end in sight. Their operation has grown
362 to an amazing size in the last 3 years, and the noise and disturbance of the peace
363 resulting from this zoning violation has grown with it. The industrial use of this property
364 has an enormous negative impact on my life. Nearly every day the chain saws start
365 around 6:30 am, sometimes earlier. I can hear them in my house with the windows
366 closed, and they wake me up. They continue to start at this early hour despite John
367 Hanneman telling me that he would ask his workers to start later in the day.

368
369 Mr. Balfour - Excuse me for interrupting; how early did you say?
370

371 Ms. A. Rogers - 6:30 am. I moved to A-1 zoning to take advantage of
372 country life. The previous tenant of the property plowed and tilled the soil, which was
373 not disturbing. The property is too small to sustain extensive farming. I am a full-time
374 violinist with the Richmond Symphony; my job involves evening rehearsals and
375 concerts, as well as practicing and teaching at home during the day. The sound of
376 chainsaws and trucks intrudes on my students' lessons and my own ability to
377 concentrate on my work. I feel embarrassed when people come to my house and I
378 have to talk above the whine of the saw. Entertaining has become a nightmare. I never
379 know when the peace will be shattered. This industrial activity would certainly adversely
380 affect the ability for me to sell my house. I have only thought of selling because of the
381 noise next door. The Hannemans have told me that I could name my price and they
382 would buy my house. I am paying higher property taxes than the Hannemans, they are
383 taking advantage of being in the wrong zoning, and are profiting from it at my loss.
384 Industrial zoned property is far more expensive than A-1, they are not paying their share
385 of taxes for their illegal uses and are causing me daily anguish and loss of property
386 values. I strongly urge you to uphold the legal A-1 zoning for this property and allow me
387 to get my life back.

388
389 Mr. Balfour - Any questions?
390

391 Mr. Kirkland - Ms. Rogers, did you say that they are cutting on the
392 weekends, Saturday and Sundays?
393

394 Ms. A. Rogers - Yes. I think since they have been notified, they have cut
395 back on weekends, but this last Sunday evening, they were cutting again.
396

397 Mr. Balfour - It sounds like both of you moved to this location at about the
398 same time.
399

400 Ms. A. Rogers - I moved in the fall of 1995, they came a couple years later.
401

402 Mr. Balfour - Any further questions?
403
404 Mr. Nunnally - You said they start at 6:30 am; when do they stop?
405
406 Ms. A. Rogers - It depends; they tend to work in the morning, break for mid-
407 day, and work again in the early evening.
408
409 Mr. Balfour - What time do you have your students present?
410
411 Ms. A. Rogers - After school, 3:30 until 7:00 pm, and I am practicing the
412 violin before that.
413
414 Mr. Balfour - You do understand that they are planning to move? They
415 asked that they have 2 years to move the business.
416
417 Ms. A. Rogers - Yes I am aware of that.
418
419 Mr. Balfour - If they relocated the equipment somewhere else on the
420 property, would that make a difference?
421
422 Ms. A. Rogers - I don't believe so. It is all pretty close.
423
424 Mr. McKinney - What are the largest trucks that you have seen?
425
426 Ms. A. Rogers - There are three trucks with a bucket. They have trucks that
427 they haul full size logs within.
428
429 Mr. Balfour - Is this what most of us would think of as a logging truck?
430
431 Ms. A. Rogers - No sir, it is not that big.
432
433 Mr. Balfour - What would you like us to do?
434
435 Ms. A. Rogers - Make the time period that they can continue this activity as
436 short as possible. I believe that they are not going to starve if they stop the tree work. I
437 know that they have another source of income, because Ms. Hanneman is a teacher.
438 So I don't think that 2 years is needed to stop this business and find another location.
439
440 Mr. Balfour - You are asking that, number 1, the restriction of time be
441 shorter, and secondly to curtail the time that they operate. We can't tell them that they
442 can't operate at all. I am asking what would you have? Noise in the morning or in the
443 afternoon?
444
445 Ms. A. Rogers - I don't really see why you can't tell them they cannot operate
446 at all, since this is an illegal activity.
447

448 Mr. Balfour - I am going to ask the secretary to read the restrictions for
449 this zoning district. I am not sure what they are.
450
451 Mr. Blankinship - They can cut and saw wood that is harvested from the
452 property, but not wood that is brought in from off site.
453
454 Ms. A. Rogers - I don't think any of it is coming from the property, I think it is
455 all from off site.
456
457 Mr. Balfour - Any other questions by members of the Board? If they were
458 restricted to cutting wood just from the property, you may get what you want.
459
460 Ms. A. Rogers - I think there is a restriction of how much wood they can cut
461 from their property. For all I know they have reached that limit.
462
463 Mr. Kirkland - I looked at the site, they are pretty much at their limit.
464
465 Mr. Balfour - Would you like to speak?
466
467 Ms. B. Rogers - I am Beverly Rogers, I am Anna's mother. I have been
468 staying with Anna this month. I live in California; I am living in my camper on her
469 property, and I am closer to the operation than she is. I wake up every morning to the
470 sound of a chain saw. I did not expect this. I do hear the chain saw; where I live the
471 zoning laws are similar. You are not allowed to run a business in a residential
472 neighborhood. I would think all of this heavy traffic would hurt the County roads, and
473 that should be a consideration also. The noise is the biggest consideration. They run
474 these chain saws very early and very late. They do work on the weekends. They are
475 working 7 days a week.
476
477 Mr. Balfour - Any questions? Any others to speak in opposition?
478
479 Mr. Hanneman - When we took our oath, this is the same of the court? We
480 have a daily calendar for the past 3 years. Our men start work at 6:30 am and are out
481 of there by 8 am, 8:30 at the latest. We work a full day, we go out and we come back
482 and we are done. This thing of working on weekends, I cut one load of wood this
483 weekend and trimmed up some logs. That is the first time I have worked on Sundays in
484 a long time. We work 5 days a week and are tired. We do not work on weekends.
485 Usually in the winter, if the weather is bad we will work during the day. The trees come
486 from us taking them down on other property. The wood comes from the surrounding
487 counties, where we have done tree work.
488
489 Mr. Wright - Do you start up later on in the afternoon?
490
491 Mr. Hanneman - No sir.
492
493 Mr. Wright - You don't normally work in the afternoon?

494
495 Mr. Hanneman - No sir. This firewood thing is strictly a sideline. Our main
496 service is tree work. When we come in, we are tired. The trucks come in and out once
497 a day.
498
499 Mr. Wright - There is activity going on, on the property, all day, correct?
500
501 Mr. Hanneman - No sir. When we go out we take out equipment, a bucket
502 truck and a chipper, that goes out in the morning and comes back in the evening.
503
504 Mr. Wright - Your statement is that you never take any wood out there in
505 the afternoon? You don't do any work on the site in the afternoon?
506
507 Mr. Hanneman - Only on rare occasions.
508
509 Mr. Wright - Then you can't say you never work during the afternoon on
510 the site.
511
512 Mr. Hanneman - Most of the time we do not work during the day, but
513 sometimes we do.
514
515 Mr. Kirkland - Do you receive wood from any other companies?
516
517 Mr. Hanneman - Yes only from one source, and it is oak.
518
519 Mr. Kirkland - And you cut them up?
520
521 Mr. Hanneman - Yes sir.
522
523 Mr. Balfour - Any other questions from Board Members?
524
525 Mr. Nunnally - You do not start the saws up in the afternoon at all?
526
527 Mr. Hanneman - Occasionally.
528
529 Mr. Nunnally - What do you mean occasionally? Is this several times a
530 week or a month?
531
532 Mr. Hanneman - I talked to Anna in October; we delivered wood to her. I
533 asked her if the saws bother her. She told me that she hears them and falls back
534 asleep. When I approached Ms. Rogers about the zoning violation, that is when I heard
535 that I had made her life a living hell.
536
537 Mr. Balfour - Mr. Secretary, would you tell me the restrictions of this
538 particular zoning district.
539

540 Mr. Blankinship - The use as a tree service is first permitted in the B-3,
541 Business District, and that is what the notice of violation stated. What is allowed in the
542 A-1 district is forestry and temporary sawmills using only wood cut from the immediate
543 premises.

544
545 Mr. Balfour - Any other questions at this time? Thank you sir.

546
547 On a motion by Mr. Kirkland, seconded by Mr. Nunnally, the Board **granted** the request
548 for Temporary Conditional Use Permit application **UP-22-2002**.

549
550 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
551 Negative: 0
552 Absent: 0

553
554 The Board granted the temporary use permit subject to the following amended
555 conditions:

556
557 1. All activity directly related to the tree service, including operation and
558 maintenance of vehicles and power equipment, shall be conducted Monday through
559 Friday, 8:00 AM to 5:00 PM only. (Amended)

560
561 2. All piles of combustible materials, including mulch and firewood, shall be stable.
562 Piles shall not exceed 20 feet high, 25 feet wide and 100 feet long. The applicant shall
563 maintain driveways between and around piles at least 15 feet wide and free of rubbish,
564 equipment or other materials.

565
566 3. All equipment and materials related to the tree service shall be removed from the
567 site on or before August 26, 2002, at which time this permit shall expire. This permit
568 shall not be extended or renewed. All firewood shall be removed as soon as possible.
569 (Amended)

570
571 The Board granted the request because it found the proposed use will be in substantial
572 accordance with the general purpose and objectives of Chapter 24 of the County Code.

573
574 **A -110-2002** **RODNEY L. FARRAR** requests a variance from Sections 24-
575 95(c)(4) and 24-95(c)(1) of Chapter 24 of the County Code to add a
576 front porch to existing dwelling at 6517 West Grace Street
577 (Westhaven) (Parcel 766-740-5432), zoned R-3, One-family
578 Residence District (Three Chopt). The front yard setback, minimum
579 side yard setback, and total side yard setback are not met. The
580 applicant proposes 28 feet front yard setback, 4.5 feet minimum
581 side yard setback, and 13.8 feet total side yard setback, where the
582 Code requires 35 feet front yard setback, 7 feet minimum side yard
583 setback, and 15 feet total side yard setback. The applicant
584 requests a variance of 7 feet front yard setback, 2.5 feet minimum
585 side yard setback, and 1.2 feet total side yard setback.

586
587 Mr. Balfour - Is there anyone to speak on this case; if so please raise your
588 right hand and be sworn in.

589
590 Mr. Blankinship - All raise your right hand please. Do you swear that the
591 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
592 help you God?

593
594 Mr. Farrar - I do. My name is Rodney L. Farrar; I am requesting a
595 variance because my property setback is not met. I wish to put on a full front porch to
596 make my house more desirable and have a place to sit in the evenings instead of the
597 front yard.

598
599 Mr. Balfour - What we have is a picture of a porch on an adjacent house.

600
601 Mr. Wright - Are there other front porches in the neighborhood?

602
603 Mr. Farrar - Yes sir. It will not be as wide as the one pictured, but I am
604 going to put an A-roof on it to make it tie into the house better.

605
606 Mr. Wright - Would it extend any closer to the street than that one?

607
608 Mr. Farrar - I think a little bit, yes. It would look the same because it is
609 only missing the setback by 9 inches.

610
611 On a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted** the request
612 for variance application **A-110-2002**.

613
614 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
615 Negative: 0
616 Absent: 0

617
618 The Board granted the variance subject to the following condition:

619
620 1. Only the improvements shown on the plan filed with the application may be
621 constructed pursuant to this approval. No substantial changes or additions to the layout
622 may be made without the approval of the Board of Zoning Appeals. Any additional
623 improvements shall comply with the applicable regulations of the County Code.

624
625 The Board granted this request, as it found from the evidence presented that, due to the
626 unique circumstances of the subject property, strict application of the County Code
627 would produce undue hardship not generally shared by other properties in the area, and
628 authorizing this variance will neither cause a substantial detriment to adjacent property
629 nor materially impair the purpose of the zoning regulations.

630
631 **A -111-2002** **ROBERT M. CLEMONS** requests a variance from Section 24-

632 95(i)(2)b of Chapter 24 of the County Code to build a storage
633 building at 6580 Monahan Road (Parcel 821-702-5726), zoned A-1,
634 Agricultural District (Varina). The accessory structure height is not
635 met. The applicant proposes 19 feet in height, where the Code
636 allows 15 feet in height. The applicant requests a variance of 4 feet
637 in height.
638

639 Mr. Balfour - Is there anyone to speak on this case; if so please raise your
640 right hand and be sworn in.

641
642 Mr. Blankinship - All raise your right hand please. Do you swear that the
643 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
644 help you God?

645
646 Mr. Clemons - I do. My name is Robert Clemons. The building permit
647 department said we needed a variance for the height. We need to put 14-foot doors on
648 the building to get the trailer and motor home inside the garage.

649
650 Mr. Wright - Is that the motor home in the picture?

651
652 Mr. Clemons - Yes sir.

653
654 Mr. Wright - You are trying to accommodate that vehicle?

655
656 Mr. Clemons - Yes sir. The trailer and the vehicle are 13.5 feet tall so it
657 requires 14-foot doors, and to make them work we need a 16-foot tall roof at the lowest
658 point.

659
660 Mr. Wright - How tall is your house?

661
662 Mr. Clemons - It is a two-story, probably around 25-27 feet tall.

663
664 Mr. Wright - The garage would be 19 feet?

665
666 Mr. Clemons - Yes sir.

667
668 Mr. McKinney - How about with a flat built-up roof?

669
670 Mr. Clemons - I guess you can, but I don't think you can do a metal building
671 with a built up roof.

672
673 Mr. McKinney - You can do a ½ to 12 pitch on it.

674
675 Mr. Clemons - The problem is we are already 16 feet at the lowest point.

676
677 Mr. Kirkland - What is the eave height of the existing building now, that is

678 out back?
679
680 Mr. Clemons - The eave height is 12 feet.
681
682 Mr. Kirkland - So you would be 4 feet higher than that.
683
684 Mr. Clemons - Yes sir.
685
686 Mr. Nunnally - How far would this storage shed be from the dwelling?
687
688 Mr. Clemons - Approximately 75 to 80 feet behind the house.
689
690 Mr. Nunnally - You have how many acres there?
691
692 Mr. Clemons - 3.25 acres
693
694 Mr. Wright - This building would be behind the existing building.
695
696 Mr. Clemons - Yes sir. It would be turned sideways behind the existing
697 building.
698
699 Mr. Balfour - How high is the roof on the existing building?
700
701 Mr. Clemons - The height of the peak of the roof is 18 feet.
702
703 Mr. Kirkland - What exactly do you need such large buildings for?
704
705 Mr. Clemons - I have a bunch of racecars and it takes a lot of room to keep
706 all of them.
707
708 Mr. Kirkland - So that is what goes into some of these trailers?
709
710 Mr. Clemons - Yes sir.
711
712 Mr. McKinney - Mr. Blankinship, what does the code say about height of
713 buildings?
714
715 Mr. Blankinship - The height limitation is 15 feet at the mid-line of the roof.
716
717 Mr. McKinney - Mr. Clemmons, how high are your vehicles ?
718
719 Mr. Clemons - They are about 13.6 feet.
720
721 Mr. Kirkland - So you need about 2.0 feet to allow for the track and
722 overhead doors?
723

724 Mr. Clemons- Yes sir.
725
726 Mr. McKinney - I believe that a built-up roof of .5 to 12 pitch, with siding
727 doors would work.
728
729 Mr. Clemons - I believe it is only .5 and 12 pitch now.
730
731 Mr. Wright - What is adjacent to your property on the side where the new
732 building is proposed?
733
734 Mr. Clemons - It is a 100-foot wide right-of-way to the property behind me.
735
736 Mr. Wright - There is nothing close on the other side either is there?
737
738 Mr. Clemons - No sir.
739
740 Mr. Nunnally - So the closest house to you is 385-500 feet away, correct?
741
742 Mr. Clemons - Yes sir.
743
744 Mr. Balfour - Any other questions? Any opposition? Thank you sir.
745
746 On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **granted** the request
747 for variance application **A-111-2002**.
748
749 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
750 Negative: 0
751 Absent: 0
752
753 The Board granted the variance subject to the following condition:
754
755 1. This variance applies only to the height requirement. All other applicable
756 regulations of the County Code shall remain in force.
757
758 The Board granted this request, as it found from the evidence presented that, due to the
759 unique circumstances of the subject property, strict application of the County Code
760 would produce undue hardship not generally shared by other properties in the area, and
761 authorizing this variance will neither cause a substantial detriment to adjacent property
762 nor materially impair the purpose of the zoning regulations.
763
764 **UP- 23-2002 VULCAN CONSTRUCTION MATERIALS, INC.** requests a
765 conditional use permit pursuant to Sections 24-52(d) and 24-103 of
766 Chapter 24 of the County Code to extract materials from the earth
767 at 4721 Curles Neck Road (Parcel 836-667-5251 (part)), zoned A-
768 1, Agricultural District (Varina).
769

770 Mr. Balfour - Is there anyone to speak on this case, if so please raise your
771 right hand and be sworn in.

772
773 Mr. Blankinship - All raise your right hand please. Do you swear that the
774 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
775 help you God?

776
777 Mr. Lewis - I do. My name is Monte Lewis, I am with ED Lewis and
778 Associates; I am representing the applicant on both these cases. As you can see, the
779 first request is for expansion of the existing site. It is on the western side of the existing
780 site and will extend to the old Curles Neck Barns. It does not include the Barns. The
781 driveway will be relocated to avoid this site and still service the main house on the farm.
782 This site will be reclaimed as a small pond, like the other sites on the farm.

783
784 The other case is for an existing site, and this request for a renewal of the permit.

785
786 Mr. Kirkland - We have not had any complaints on these sites, Mr.
787 Blankinship?

788
789 Mr. Blankinship - No sir.

790
791 Mr. Wright - Are the conditions satisfactory?

792
793 Mr. Lewis - Yes sir, they are. They are the same conditions that we
794 have on the rest of the sites.

795
796 Mr. Balfour - Any additional questions? Any opposition? If not thank you.

797
798 On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **granted** the request
799 for Use Permit application **UP-23-2002**.

800
801 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
802 Negative: 0
803 Absent: 0

804
805 The Board granted the variance subject to the following conditions:

806
807 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of
808 the County Code.

809
810 2. Before beginning any work, the applicant shall provide a financial guaranty in an
811 amount of \$2,000.00 per acre for each acre of land to be disturbed, for a total of
812 \$89,560.00, guaranteeing that the land will be restored to a reasonably level and
813 drainable condition. This permit does not become valid until the financial guaranty has
814 been approved by the County Attorney. The financial guaranty may provide for
815 termination after 90 days notice in writing to the County. In the event of termination, this

816 permit shall be void, and work incident thereto shall cease. Within the next 90 days the
817 applicant shall restore the land as provided for under the conditions of this use permit.
818 Termination of such financial guaranty shall not relieve the applicant from its obligation
819 to indemnify the County of Henrico for any breach of the conditions of this use permit. If
820 this condition is not satisfied within 90 days of approval, the use permit shall be void.

821
822 3. Before beginning any work, the applicant shall submit erosion control plans to the
823 Department of Public Works for review and approval. Throughout the life of the
824 operation, the applicant shall continuously satisfy the Department of Public Works that
825 erosion control procedures are properly maintained, and shall furnish plans and bonds
826 that the department deems necessary. The applicant shall provide certification from a
827 licensed professional engineer that dams, embankments and sediment control
828 structures meet the approved design criteria as set forth by the State. If this condition is
829 not satisfied within 90 days of approval, the use permit shall be void.

830
831 4. Before beginning any work, the applicant shall obtain a mine license from the
832 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
833 within 90 days of approval, the use permit shall be void.

834
835 5. Before beginning any work, the areas approved for mining under this permit shall
836 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
837 and painted in alternate one foot stripes of red and white. These posts shall be so
838 located as to clearly define the area in which the mining is permitted. They shall be
839 located, and their location certified, by a certified land surveyor. If this condition is not
840 satisfied within 90 days of approval, the use permit shall be void.

841
842 6. In the event that the Board's approval of this use permit is appealed, all
843 conditions requiring action within 90 days will be deemed satisfied if the required actions
844 are taken within 90 days of final action on the appeal.

845
846 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
847 state and local regulations administered under such act applicable to the property, and
848 shall furnish to the Planning Office copies of all reports required by such act or
849 regulations.

850
851 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings
852 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.

853
854 9. No operations of any kind are to be conducted at the site on Sundays or national
855 holidays.

856
857 10. Routes of ingress and egress shall be over the applicant's rights of ways to the
858 loading area at the James River as outlined on the map filed with the application.

859
860 11. The applicant shall post and maintain a sign at the entrance to the mining site
861 stating the name of the operator, the use permit number, the mine license number, and

862 the telephone number of the operator. The sign shall be 12 square feet in area and the
863 letters shall be three inches high.

864
865 12. The applicant shall post and maintain "No Trespassing" signs every 250 feet
866 along the perimeter of the property. The letters shall be three inches high. The
867 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
868 enforce the "No Trespassing" regulations, and agreeing to send a representative to
869 testify in court as required or requested by the Division of Police.

870
871 13. All roads used in connection with this use permit shall be effectively treated with
872 calcium chloride or other wetting agents to eliminate any dust nuisance.

873
874 14. The applicant shall maintain the property, fences, and roads in a safe and secure
875 condition indefinitely, or convert the property to some other safe use.

876
877 15. If, in the course of its preliminary investigation or operations, the applicant
878 discovers evidence of cultural or historical resources, or an endangered species, or a
879 significant habitat, it shall notify appropriate authorities and provide them with an
880 opportunity to investigate the site. The applicant shall report the results of any such
881 investigation to the Planning Office.

882
883 16. If water wells located on surrounding properties are adversely affected, and the
884 extraction operations on this site are suspected as the cause, the effected property
885 owners may present to the Board evidence that the extraction operation is a contributing
886 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
887 the operator may be required to correct the problem.

888
889 17. Open and vertical excavations having a depth of 10 feet or more, for a period of
890 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
891 public safety.

892
893 18. Topsoil shall not be removed from any part of the property outside of the area in
894 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
895 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
896 within the authorized mining area and provided with adequate erosion control
897 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought
898 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
899 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
900 tests have been provided to the County.

901
902 19. No offsite-generated materials shall be deposited on the mining site without prior
903 written approval of the Director of Planning. To obtain such approval, the operator shall
904 submit a request stating the origin, nature and quantity of material to be deposited, and
905 certifying that no contaminated or hazardous material will be included. The material to
906 be deposited on the site shall be limited to imperishable materials such as stone, bricks,
907 tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any

908 hazardous materials as defined by the Virginia Hazardous Waste Management
909 Regulations.

910
911 20. A superintendent, who shall be personally familiar with all the terms and
912 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms
913 and conditions of this use permit, shall be present at the beginning and conclusion of
914 operations each work day to see that all the conditions of the Code and this use permit
915 are observed.

916
917 21. A progress report shall be submitted to the Board on June 30, 2003. This
918 progress report must contain information concerning how much property has been
919 mined to date of the report, the amount of land left to be mined, how much rehabilitation
920 has been performed, when and how the remaining amount of land will be rehabilitated,
921 and any other pertinent information about the operation that would be helpful to the
922 Board.

923
924 22. Excavation shall be discontinued by June 30, 2004, and restoration
925 accomplished by not later than June 30, 2005, unless a new permit is granted by the
926 Board of Zoning Appeals.

927
928 23. The rehabilitation of the property shall take place simultaneously with the mining
929 process. Rehabilitation shall not be considered completed until the mined area is
930 covered completely with permanent vegetation.

931
932 24. All drainage and erosion and sediment control measures shall conform to the
933 standards and specifications of the Mineral Mining Manual Drainage Handbook. Any
934 drainage structures in place prior to October 14, 1992 and which do not conform to the
935 Mineral Mining Manual Drainage Handbook may remain in place until such time as any
936 reconstruction is required at which time said structures shall be brought into
937 conformance with the Mineral Mining Manual Drainage Handbook.

938
939 25. Failure to comply with any of the foregoing conditions shall automatically void this
940 permit.

941
942 The Board granted the request because it found the proposed use will be in substantial
943 accordance with the general purpose and objectives of Chapter 24 of the County Code.

944
945 **UP- 24-2002** **VULCAN CONSTRUCTION MATERIALS, INC.** requests a
946 conditional use permit pursuant to Sections 24-52(d) and 24-103 of
947 Chapter 24 of the County Code to extract materials from the earth
948 at 4721Curles Neck Road (Parcel 836-667-5251 (part)), zoned A-1,
949 Agricultural District (Varina).

950
951 On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **granted** the request
952 for Use Permit application **UP-24-2002**.

953

954 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
955 Negative: 0
956 Absent: 0

957

958 The Board granted the variance subject to the following conditions:

959

960 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of
961 the County Code.

962

963 2. Before beginning any work, the applicant shall provide a financial guaranty in an
964 amount of \$2,000.00 per acre for each acre of land to be disturbed, for a total of
965 \$274,820.00, guaranteeing that the land will be restored to a reasonably level and
966 drainable condition. This permit does not become valid until the financial guaranty has
967 been approved by the County Attorney. The financial guaranty may provide for
968 termination after 90 days notice in writing to the County. In the event of termination, this
969 permit shall be void, and work incident thereto shall cease. Within the next 90 days the
970 applicant shall restore the land as provided for under the conditions of this use permit.
971 Termination of such financial guaranty shall not relieve the applicant from its obligation
972 to indemnify the County of Henrico for any breach of the conditions of this use permit. If
973 this condition is not satisfied within 90 days of approval, the use permit shall be void.

974

975 3. Before beginning any work, the applicant shall submit erosion control plans to the
976 Department of Public Works for review and approval. Throughout the life of the
977 operation, the applicant shall continuously satisfy the Department of Public Works that
978 erosion control procedures are properly maintained, and shall furnish plans and bonds
979 that the department deems necessary. The applicant shall provide certification from a
980 licensed professional engineer that dams, embankments and sediment control
981 structures meet the approved design criteria as set forth by the State. If this condition is
982 not satisfied within 90 days of approval, the use permit shall be void.

983

984 4. Before beginning any work, the applicant shall obtain a mine license from the
985 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
986 within 90 days of approval, the use permit shall be void.

987

988 5. Before beginning any work, the areas approved for mining under this permit shall
989 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
990 and painted in alternate one foot stripes of red and white. These posts shall be so
991 located as to clearly define the area in which the mining is permitted. They shall be
992 located, and their location certified, by a certified land surveyor. If this condition is not
993 satisfied within 90 days of approval, the use permit shall be void.

994

995 6. In the event that the Board's approval of this use permit is appealed, all
996 conditions requiring action within 90 days will be deemed satisfied if the required actions
997 are taken within 90 days of final action on the appeal.

998

- 999 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
1000 state and local regulations administered under such act applicable to the property, and
1001 shall furnish to the Planning Office copies of all reports required by such act or
1002 regulations.
1003
- 1004 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings
1005 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.
1006
- 1007 9. No operations of any kind are to be conducted at the site on Sundays or national
1008 holidays.
1009
- 1010 10. Routes of ingress and egress shall be over the applicant's rights of ways to the
1011 loading area at the James River as outlined on the map filed with the application.
1012
- 1013 11. The applicant shall post and maintain a sign at the entrance to the mining site
1014 stating the name of the operator, the use permit number, the mine license number, and
1015 the telephone number of the operator. The sign shall be 12 square feet in area and the
1016 letters shall be three inches high.
1017
- 1018 12. The applicant shall post and maintain "No Trespassing" signs every 250 feet
1019 along the perimeter of the property. The letters shall be three inches high. The
1020 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
1021 enforce the "No Trespassing" regulations, and agreeing to send a representative to
1022 testify in court as required or requested by the Division of Police.
1023
- 1024 13. All roads used in connection with this use permit shall be effectively treated with
1025 calcium chloride or other wetting agents to eliminate any dust nuisance.
1026
- 1027 14. The applicant shall maintain the property, fences, and roads in a safe and secure
1028 condition indefinitely, or convert the property to some other safe use.
1029
- 1030 15. If, in the course of its preliminary investigation or operations, the applicant
1031 discovers evidence of cultural or historical resources, or an endangered species, or a
1032 significant habitat, it shall notify appropriate authorities and provide them with an
1033 opportunity to investigate the site. The applicant shall report the results of any such
1034 investigation to the Planning Office.
1035
- 1036 16. If water wells located on surrounding properties are adversely affected, and the
1037 extraction operations on this site are suspected as the cause, the effected property
1038 owners may present to the Board evidence that the extraction operation is a contributing
1039 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
1040 the operator may be required to correct the problem.
1041
- 1042 17. Open and vertical excavations having a depth of 10 feet or more, for a period of
1043 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
1044 public safety.

- 1045
1046 18. Topsoil shall not be removed from any part of the property outside of the area in
1047 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
1048 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
1049 within the authorized mining area and provided with adequate erosion control
1050 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought
1051 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
1052 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
1053 tests have been provided to the County.
1054
- 1055 19. No offsite-generated materials shall be deposited on the mining site without prior
1056 written approval of the Director of Planning. To obtain such approval, the operator shall
1057 submit a request stating the origin, nature and quantity of material to be deposited, and
1058 certifying that no contaminated or hazardous material will be included. The material to
1059 be deposited on the site shall be limited to imperishable materials such as stone, bricks,
1060 tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any
1061 hazardous materials as defined by the Virginia Hazardous Waste Management
1062 Regulations.
1063
- 1064 20. A superintendent, who shall be personally familiar with all the terms and
1065 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms
1066 and conditions of this use permit, shall be present at the beginning and conclusion of
1067 operations each work day to see that all the conditions of the Code and this use permit
1068 are observed.
1069
- 1070 21. A progress report shall be submitted to the Board on June 30, 2003. This
1071 progress report must contain information concerning how much property has been
1072 mined to date of the report, the amount of land left to be mined, how much rehabilitation
1073 has been performed, when and how the remaining amount of land will be rehabilitated,
1074 and any other pertinent information about the operation that would be helpful to the
1075 Board.
1076
- 1077 22. Excavation shall be discontinued by June 30, 2004, and restoration
1078 accomplished by not later than June 30, 2005, unless a new permit is granted by the
1079 Board of Zoning Appeals.
1080
- 1081 23. The rehabilitation of the property shall take place simultaneously with the mining
1082 process. Rehabilitation shall not be considered completed until the mined area is
1083 covered completely with permanent vegetation.
1084
- 1085 24. All drainage and erosion and sediment control measures shall conform to the
1086 standards and specifications of the Mineral Mining Manual Drainage Handbook. Any
1087 drainage structures in place prior to October 14, 1992 and which do not conform to the
1088 Mineral Mining Manual Drainage Handbook may remain in place until such time as any
1089 reconstruction is required at which time said structures shall be brought into
1090 conformance with the Mineral Mining Manual Drainage Handbook.

1137 The Board granted the variance subject to the following conditions:
1138

1139 1. Only the improvements shown on the plan filed with the application may be
1140 constructed pursuant to this approval. No substantial changes or additions to the layout
1141 may be made without the approval of the Board of Zoning Appeals. Any additional
1142 improvements shall comply with the applicable regulations of the County Code.
1143

1144 2. The new construction shall match the existing dwelling as nearly as practical.
1145

1146 The Board granted this request, as it found from the evidence presented that, due to the
1147 unique circumstances of the subject property, strict application of the County Code
1148 would produce undue hardship not generally shared by other properties in the area, and
1149 authorizing this variance will neither cause a substantial detriment to adjacent property
1150 nor materially impair the purpose of the zoning regulations.
1151

1152 **A -113-2002** **MICHAEL ANDERSON** requests a variance from Section 24-94 of
1153 Chapter 24 of the County Code to build an attached garage at 2803
1154 Cannon Road (Laurel West) (Parcel 774-768-2544), zoned R-2A,
1155 One-family Residence District (Fairfield). The minimum side yard
1156 setback is not met. The applicant has 3.5 feet minimum side yard
1157 setback, where the Code requires 12 feet minimum side yard
1158 setback. The applicant requests a variance of 8.5 feet minimum
1159 side yard setback.
1160

1161 Mr. Balfour - Is there anyone to speak on this case, if so please raise your
1162 right hand and be sworn in.
1163

1164 Mr. Blankinship - All raise your right hand please. Do you swear that the
1165 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
1166 help you God?
1167

1168 Mr. Anderson - I do. My name is Mike Anderson. I would like to construct a
1169 2-car detached garage, 24 x 28 feet.
1170

1171 Mr. McKinney - Will it be made out of the same material as the home?
1172

1173 Mr. Anderson - It will have a brick veneer on the front, and on the sides it will
1174 be vinyl. That is what the house looks like.
1175

1176 Mr. McKinney - Would the vinyl go all the way down to the grade?
1177

1178 Mr. Anderson - Yes sir.
1179

1180 Mr. McKinney - What kind of foundation are you going to have?
1181

1182 Mr. Anderson - A slab.

1183
1184 Mr. McKinney - What is the equipment in the rear yard now?
1185
1186 Mr. Anderson - We are adding a master bedroom suite on the rear.
1187
1188 Mr. McKinney - What type roof will you have on the garage?
1189
1190 Mr. Anderson - It will be a 4-12 roof truss system without dormers.
1191
1192 Mr. Jones - My name is Milton Jones; I live at 2803 Cantor Road. We
1193 have been there for about 26 years. We realize now that we need a garage. We had
1194 no idea that there was not enough space in the rear yard. So that is why we applied for
1195 this variance.
1196
1197 Mr. Balfour- Any other questions for Mr. Anderson? Any opposition?
1198 Thank you.
1199
1200 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **granted** the
1201 request for variance application **A-113-2002**.
1202
1203 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1204 Negative: 0
1205 Absent: 0
1206
1207 The Board granted the variance subject to the following conditions:
1208
1209 1. Only the improvements shown on the plan filed with the application may be
1210 constructed pursuant to this approval. No substantial changes or additions to the layout
1211 may be made without the approval of the Board of Zoning Appeals. Any additional
1212 improvements shall comply with the applicable regulations of the County Code.
1213
1214 2. The new construction shall match the existing dwelling as nearly as practical.
1215
1216 The Board granted this request, as it found from the evidence presented that, due to the
1217 unique circumstances of the subject property, strict application of the County Code
1218 would produce undue hardship not generally shared by other properties in the area, and
1219 authorizing this variance will neither cause a substantial detriment to adjacent property
1220 nor materially impair the purpose of the zoning regulations.
1221
1222 **A -114-2002** **MICHAEL BRYAN LOVING** requests a variance from Section 24-9
1223 of Chapter 24 of the County Code to build a one-family dwelling at
1224 6312 Hines Road (Parcel 852-693-8210 (part)), zoned A-1,
1225 Agricultural District (Varina). The public street frontage requirement
1226 is not met. The applicant has 0 feet public street frontage, where
1227 the Code requires 50 feet public street frontage. The applicant
1228 requests a variance of 50 feet public street frontage.

1229
1230 Mr. Balfour - Is there anyone to speak on this case, if so please raise your
1231 right hand and be sworn in.
1232
1233 Mr. Blankinship - All raise your right hand please. Do you swear that the
1234 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
1235 help you God?
1236
1237 Mr. Loving - I do. My name is Michael Loving; my new wife and I are
1238 hoping to build a new house on this property. It is a portion of this parcel. It has a 50-
1239 foot wide right-of-way that was deeded to me by my step-dad. The right-of-way runs
1240 from the street to the property. It is a field at the road that is being farmed, so I was
1241 given the wooded piece in the back.
1242
1243 Mr. Balfour - Have you read the conditions?
1244
1245 Mr. Loving - Yes. The ones in the report?
1246
1247 Mr. Wright - Yes. Do you have any problems with them?
1248
1249 Mr. Loving - They are fine.
1250
1251 Mr. Balfour - Any further questions of Mr. Loving? Any opposition?
1252 Thank you.
1253
1254 On a motion by Mr. Nunnally, seconded by Mr. Wright, the Board **granted** the request
1255 for variance application **A-114-2002**.
1256
1257 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1258 Negative: 0
1259 Absent: 0
1260
1261 The Board granted the variance subject to the following conditions:
1262
1263 1. This variance applies only to the public street frontage requirement. All other
1264 applicable regulations of the County Code shall remain in force.
1265
1266 2. At the time of building permit application, the applicant shall submit the
1267 necessary information to the Department of Public Works to ensure compliance with the
1268 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1269 water quality standards.
1270
1271 3. At the time of building permit application, the owner shall demonstrate that the
1272 two parcels created by this division have been conveyed to members of the immediate
1273 family, and the subdivision ordinance has not been circumvented.
1274

1275 4. Approval of this request does not imply that a building permit will be issued.
1276 Building permit approval is contingent on Health Department requirements, including,
1277 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1278 of a well location.

1279
1280 5. The applicant shall present proof with the building permit application that a legal
1281 access to the property has been obtained.

1282
1283 6. The owners of the property, and their heirs or assigns, shall accept responsibility
1284 for maintaining access to the property until such a time as the access is improved to
1285 County standards and accepted into the County road system for maintenance.

1286
1287 The Board granted this request, as it found from the evidence presented that, due to the
1288 unique circumstances of the subject property, strict application of the County Code
1289 would produce undue hardship not generally shared by other properties in the area, and
1290 authorizing this variance will neither cause a substantial detriment to adjacent property
1291 nor materially impair the purpose of the zoning regulations.

1292
1293 **A -115-2002 MOUNTAIN ROAD WESLEYAN CHURCH** requests a variance
1294 from Section 24-104(d)(2) of Chapter 24 of the County Code to
1295 build a church sign at 3770 Mountain Road (Parcel 765-771-7719),
1296 zoned A-1, Agricultural District (Brookland). The sign area is not
1297 met. The applicant proposes 24.5 square feet of sign area, where
1298 the Code allows 20 square feet of sign area. The applicant
1299 requests a variance of 4.5 square feet of sign area.

1300
1301 Mr. Balfour - Is there anyone to speak on this case, if so please raise your
1302 right hand and be sworn in.

1303
1304 Mr. Blankinship - All raise your right hand please. Do you swear that the
1305 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
1306 help you God?

1307
1308 Mr. Seward - I do. My name is Ray Seward, Vice Chairman of the Church
1309 Board, and we are requesting a variance because we are getting ready to improve our
1310 property on Mountain Road. We are going to build a new church and construct road
1311 improvements to help make the area more attractive. We feel that we need to upgrade
1312 our sign at the church. Currently it is a wooden sign which only states the necessities of
1313 what is going on at the church. If we can have a 4x6 foot sign, we will be able to
1314 announce the events in the community of Glen Allen in addition to the church activities.
1315 This will also help the citizens see the information while driving through the curve in the
1316 road.

1317
1318 Mr. Balfour - Any questions?

1319
1320 Mr. Kirkland - Mr. Blankinship, they said they were going to construct a

1321 new church; has a POD been submitted?
1322
1323 Mr. Blankinship - I do not know.
1324
1325 Mr. Seward - Yes.
1326
1327 Mr. Kirkland - If we approve this request and he comes back and wants to
1328 add a sign to the church building, he can do that, correct?
1329
1330 Mr. Blankinship .- Yes.
1331
1332 Mr. Kirkland - But he would be over the total square footage for the parcel?
1333
1334 Mr. Blankinship - Yes.
1335
1336 Mr. Seward - This would be the only sign for the church.
1337
1338 Mr. Kirkland - What is your timetable for building the new church?
1339
1340 Mr. Seward - Roughly 6 weeks. It is a wood frame structure.
1341
1342 Mr. Wright - Has anyone tried to design a 4x5 foot sign for your needs?
1343
1344 Mr. Seward - What we would like to have is a sign with changeable
1345 letters so we can change the letters rapidly and as events come up.
1346
1347 Mr. Wright - I understand that, but why you couldn't you do that on
1348 a 4x5 sign?
1349
1350 Mr. Seward - The curvature of the road and ease of reading it when
1351 you pass by, we think requires a larger sign. We believe that the larger letters would
1352 help.
1353
1354 Mr. Wright - What you need to do is amend the ordinance.
1355
1356 Mr. Balfour - Any other questions by Board Members? I want to
1357 know what ICP's Exclusive Indoor Letter Changing System is.
1358
1359 Mr. Seward - It is where you can bring a panel indoors and change
1360 the letters. It is removable.
1361
1362 Mr. Kirkland - Is this late?
1363
1364 Mr. Seward - Yes sir.
1365
1366 Mr. Balfour - Any other questions? Any opposition? Thank you sir.

1367
1368 On a motion by Mr. Kirkland, seconded by Mr. Wright, the Board **denied** the request for
1369 variance application **A-115-2002**. The Board denied your request, as it found from the
1370 evidence presented, that authorizing this variance would be of substantial detriment to
1371 adjacent property or would materially impair the purpose of the zoning regulations.

1372
1373 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1374 Negative: 0
1375 Absent: 0

1376
1377 **A -116-2002** **JOHN V. BANDY** requests a variance from Section 24-95(c)(4) of
1378 Chapter 24 of the County Code to build a screened porch at 107
1379 Olson Lane (Parcel 827-714-9962), zoned R-3, One-family
1380 Residence District (Varina). The front yard setback is not met. The
1381 applicant proposes 27.03 feet front yard setback, where the Code
1382 requires 40 feet front yard setback. The applicant requests a
1383 variance of 12.97 feet front yard setback.

1384
1385 Mr. Balfour - Is there anyone to speak on this case, if so please raise your
1386 right hand and be sworn in.

1387
1388 Mr. Blankinship - All raise your right hand please. Do you swear that the
1389 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
1390 help you God?

1391
1392 Mr. Bandy - I do. My name is John Bandy. I am requesting a variance
1393 for the building line on the front of my property, to build a screened-in porch on the front
1394 of my house, so my wife and I can sit out there and enjoy the outdoors without the
1395 mosquitoes bothering us.

1396
1397 Mr. Balfour - Any questions by Board Members?

1398
1399 Mr. Wright - Are there any other porches on houses on the street?

1400
1401 Mr. Bandy - Across the street there is one.

1402
1403 Mr. Wright - We understand that you have a requirement of a 40-foot
1404 building line on your plat; how are you going to fix that?

1405
1406 Mr. Bandy - I don't know. They told me I had a 35-foot setback, and now
1407 with this report, I have a 40-foot setback line.

1408
1409 Mr. Wright - It is a 35-foot setback line from the ordinance, but you have
1410 a restriction on your plat of 40-foot building line setback.

1411
1412 Mr. Blankinship - They have applied for vacation.

1413
1414 Mr. Nunnally - Do you own that vacant property next to you?
1415
1416 Mr. Bandy - No sir.
1417
1418 Mr. Nunnally - Did you have a permit when you put that carport in the yard?
1419
1420 Mr. Bandy - I was told that I didn't need a permit because it was
1421 movable.
1422
1423 Mr. Blankinship - So it is portable?
1424
1425 Mr. Bandy - Yes sir.
1426
1427 Mr. Balfour - Any questions? Any opposition? Thank you.
1428
1429 On a motion by Mr. Nunnally, seconded by Mr. Wright, the Board **granted** the request
1430 for variance application **A-116-2002**.
1431
1432 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1433 Negative: 0
1434 Absent: 0
1435
1436 The Board granted the variance subject to the following conditions:
1437
1438 1. Only the improvements shown on the plan filed with the application may be
1439 constructed pursuant to this approval. No substantial changes or additions to the layout
1440 may be made without the approval of the Board of Zoning Appeals. Any additional
1441 improvements shall comply with the applicable regulations of the County Code.
1442
1443 2. The new construction shall match the existing dwelling as nearly as practical.
1444
1445 The Board granted this request, as it found from the evidence presented that, due to the
1446 unique circumstances of the subject property, strict application of the County Code
1447 would produce undue hardship not generally shared by other properties in the area, and
1448 authorizing this variance will neither cause a substantial detriment to adjacent property
1449 nor materially impair the purpose of the zoning regulations.
1450
1451 **A -117-2002 HELEN C. CROCKETT** requests a variance from Section 24-94 of
1452 Chapter 24 of the County Code to build a one-family dwelling at
1453 621 Dabbs House Road (John Jasper Gardens) (Parcel 808-727-
1454 6657), zoned A-1, Agricultural District (Varina). The lot width
1455 requirement and total lot area requirement are not met. The
1456 applicant has 15,000 square feet total area and 100 feet lot width,
1457 where the Code requires 1 acre total area and 150 feet lot width.

1458 The applicant requests a variance of 28,560 square feet total area
1459 and 50 feet lot width.

1460
1461 Mr. Balfour - Is there anyone to speak on this case, if so please raise your
1462 right hand and be sworn in.

1463
1464 Mr. Blankinship - All raise your right hand please. Do you swear that the
1465 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
1466 help you God?

1467
1468 Ms. Crockett - I do. My name is Helen Crockett; I am asking for a variance
1469 to build a one-family home at 621 Dabbs House Road, which will be next door to my
1470 son. The area is zoned A-1 but the neighborhood has really become residential in
1471 nature. And I am hoping that I can get a variance to build a house there because the
1472 land right now is just a field that we cut grass on, and I cannot do anything else with it. I
1473 am paying taxes on it but I have not been able to build a house on it.

1474
1475 Mr. Wright - This property does have public water and sewer, correct?

1476
1477 Ms. Crockett - It is close by, and I understand that I would have to pay to
1478 connect to the service.

1479
1480 Mr. Balfour - Any questions?

1481
1482 Mr. Nunnally - You say your son lives in the adjacent house?

1483
1484 Ms. Crockett - Yes sir.

1485
1486 Mr. Balfour - Any one else to speak for or against this matter? Thank you.

1487
1488 On a motion by Mr. Nunnally, seconded by Mr. McKinney, the Board **granted** the
1489 request for variance application **A-117-2002**.

1490
1491 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1492 Negative: 0
1493 Absent: 0

1494
1495 The Board granted the variance subject to the following conditions:

1496
1497 1. This variance applies only to the lot area and width requirement. All other
1498 applicable regulations of the County Code shall remain in force.

1499
1500 2. At the time of building permit application, the applicant shall submit the
1501 necessary information to the Department of Public Works to ensure compliance with the
1502 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1503 water quality standards.

1549 On a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted** the request
1550 for variance application **A-118-2002**.

1551
1552 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1553 Negative: 0
1554 Absent: 0

1555
1556 The Board granted the variance subject to the following conditions:

1557
1558 1. Only the improvements shown on the plan filed with the application may be
1559 constructed pursuant to this approval. No substantial changes or additions to the layout
1560 may be made without the approval of the Board of Zoning Appeals. Any additional
1561 improvements shall comply with the applicable regulations of the County Code.

1562
1563 2. The new construction shall match the existing dwelling as nearly as practical.

1564
1565 The Board granted this request, as it found from the evidence presented that, due to the
1566 unique circumstances of the subject property, strict application of the County Code
1567 would produce undue hardship not generally shared by other properties in the area, and
1568 authorizing this variance will neither cause a substantial detriment to adjacent property
1569 nor materially impair the purpose of the zoning regulations.

1570
1571 **A -119-2002** **LYNN TAVORA BREMER** requests a variance from Sections 24-
1572 94 and 24-95(i)(1) of Chapter 24 of the County Code to build a
1573 screened porch and deck at 6004 Glen Abbey Drive (Glen Abbey at
1574 Wyndham) (Parcel 737-778-0144), zoned R-3, One-family
1575 Residence District (Three Chopt). The rear yard setback and
1576 setback for a deck are not met. The applicant proposes 24 feet
1577 rear yard setback for the deck and 38.4 feet rear yard setback for
1578 the covered porch, where the Code requires 30 feet rear yard
1579 setback for the deck and 40 feet rear yard setback for the covered
1580 porch. The applicant requests a variance of 6 feet rear yard
1581 setback for the deck and 1.6 feet rear yard setback for the covered
1582 porch.

1583
1584 Mr. Balfour - Is there anyone to speak on this case, if so please raise your
1585 right hand and be sworn in.

1586
1587 Mr. Blankinship - All raise your right hand please. Do you swear that the
1588 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
1589 help you God?

1590
1591 Ms. Bremer - I do. My name is Lynn Bremer, and I am requesting a
1592 variance to screen in our exiting deck and to add another deck next to our driveway.

1593
1594 Mr. Wright - This porch would not be to replace the deck?

1595
1596 Ms. Bremer - No sir. The screened-in porch is going to be the existing
1597 deck as it is, and then we are adding a new deck in front of our bay window.

1598
1599 Mr. Balfour - Any other questions by Board Members? Any one else to
1600 speak against or for this matter? If not, thank you.

1601
1602 On a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted** the request
1603 for variance application **A-119-2002**.

1604
1605 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1606 Negative: 0
1607 Absent: 0

1608
1609 The Board granted the variance subject to the following conditions:

1610
1611 1. Only the improvements shown on the plan filed with the application may be
1612 constructed pursuant to this approval. No substantial changes or additions to the layout
1613 may be made without the approval of the Board of Zoning Appeals. Any additional
1614 improvements shall comply with the applicable regulations of the County Code.

1615
1616 2. The new construction shall match the existing dwelling as nearly as practical.

1617
1618 The Board granted this request, as it found from the evidence presented that, due to the
1619 unique circumstances of the subject property, strict application of the County Code
1620 would produce undue hardship not generally shared by other properties in the area, and
1621 authorizing this variance will neither cause a substantial detriment to adjacent property
1622 nor materially impair the purpose of the zoning regulations.

1623
1624 **UP- 25-2002** **MEADOW ROAD, INC.** requests a conditional use permit pursuant
1625 to Sections 24-52(d) and 24-103 of Chapter 24 of the County Code
1626 to extract materials from the earth at 2980 Meadow Road (Parcel
1627 843-720-7272), zoned A-1, Agricultural District (Varina).

1628
1629 **UP- 26-2002** **MEADOW ROAD, INC.** requests a conditional use permit pursuant
1630 to Sections 24-103 and 24-52(l) of Chapter 24 of the County Code
1631 to operate a sand and gravel washing plant at 2980 Meadow Road
1632 (Parcel 843-720-7272), zoned A-1, Agricultural District (Varina).

1633
1634 Mr. Balfour - Is there anyone to speak on these cases, if so please raise
1635 your right hand and be sworn in.

1636
1637 Mr. Blankinship - All raise your right hand please. Do you swear that the
1638 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
1639 help you God?

1640

1641 Mr. Anderson - I do. My name is James Anderson. I am the president of
1642 Meadow Road Inc. We would like to do some mining on a portion of the property we
1643 are currently filling. The wash plant application is void. I found out on Friday that there
1644 would not be a wash plant on the site.
1645
1646 Mr. Kirkland - On UP-25-2002, this is a renewal of the permit, you are not
1647 going to take any dirt out of the site. You are still filling, correct?
1648
1649 Mr. Anderson - We are still filling, and part of UP-26-2002 is to be able to
1650 take out material from the site.
1651
1652 Mr. Balfour - Any questions of the Board?
1653
1654 Mr. Nunnally - Mr. Blankinship, what is this statement concerning being
1655 uncooperative about posting bonds for the site?
1656
1657 Mr. Blankinship - The bonds were finally posted. It took us 14 months to get
1658 that accomplished.
1659
1660 Mr. Wright - What is involved in the hauling of this permit?
1661
1662 Mr. Anderson - It is done by trucks.
1663
1664 Mr. Wright - How many trucks a day? There is nothing stated in the
1665 conditions?
1666
1667 Mr. Blankinship - I guess it would be under UP-25-2002; condition 18 covers
1668 it.
1669
1670 Mr. Kirkland - How many trucks would be coming out here in a day?
1671
1672 Mr. Anderson - It would probably be 200 trucks a week.
1673
1674 Mr. Wright - What is a regular interval?
1675
1676 Mr. Blankinship - We took that out of the State Mining Regulations, and I do
1677 not know the definition.
1678
1679 Mr. Wright - Ought to be defined.
1680
1681 Mr. Anderson - The trucks coming into the site, we cannot control because
1682 they are coming in from places whether to dump or haul out.
1683
1684 Mr. Wright - Somebody has to control them.
1685

1686 Mr. Anderson - They are coming in from different locations from all over the
1687 County.
1688
1689 Mr. Kirkland - You could have 20 trucks lined up to get into the site.
1690
1691 Mr. Anderson - We have a mile of road going back to the site.
1692
1693 Mr. Kirkland - I am talking about the hard surface public road.
1694
1695 Mr. Anderson - They are following the route laid out in the conditions, but
1696 they are coming from all over the County.
1697
1698 Mr. Wright - We can control it by denying the permit.
1699
1700 Mr. Balfour - About 20 trucks day.
1701
1702 Mr. Anderson - Right now the Airport is running a lot of work, and we are
1703 getting 25 trucks from the airport alone a day. There are no more than 4 trucks an hour
1704 coming from the airport.
1705
1706 Mr. Kirkland - Do you work 6 to 6?
1707
1708 Mr. Anderson - No sir. We work 7-5. That way we can do on-site work
1709 before the trucks come in.
1710
1711 Mr. Wright - How long do you expect this site to be used?
1712
1713 Mr. Anderson - The extraction should not take more than 3 to 5 months; the
1714 fill operation is dependent on how many trucks come in. Mr. Leber will be taking over
1715 the site in January 2003 and will finish up the fill operation and restoration.
1716
1717 Mr. Balfour - I notice those workday hours of operation will be from 6-6
1718 during daylight savings time. You say that you only work from 7-5?
1719
1720 Mr. Anderson - That is only when the trucks come in, we are working the site
1721 before that.
1722
1723 Mr. Kirkland - It takes them one hour in the morning to get going and one
1724 hour in the afternoon to clean up.
1725
1726 Mr. Balfour- Any other questions at this point?
1727
1728 Mr. Nunnally - Do you say your lease in up In January 2003?
1729
1730 Mr. Anderson - Yes sir.
1731

1732 Mr. Nunnally - You are asking for a 2-year permit until 2004.
1733
1734 Mr. Kirkland -starts all over again.
1735
1736 Mr. Balfour- He'd have to come in and file for his own permit, wouldn't
1737 he?
1738
1739 Mr. Anderson - If we pick up some additional contracts and want to stay an
1740 extra year, Mr. Leber, when the bonds were finally paid from Mr. Leber, the landowner,
1741 if we get some contracts in for additional dumping for the reclamation, we may want to
1742 stay an additional year.
1743
1744 Mr. McKinney - Then you can come back.
1745
1746 Mr. Anderson - I wouldn't be leaving.
1747
1748 Mr. Nunnally - Who paid the bonds, Mr. Leber?
1749
1750 Mr. Anderson - Buck Leber paid it on our behalf. He's the landowner, and
1751 our contract was for 2 years. At the end of 2 years, if the land was not reclaimed, we
1752 don't have a renewal agreement with Mr. Leber. Our bond money, most of which was a
1753 Letter of Credit and also personally guaranteed by us, the 3 partners at Meadow Road,
1754 we wouldn't be able to get our money back. If we're not on the property to protect our
1755 interests, Mr. Leber could do most anything with the property. Mr. Leber's older, and I
1756 don't know his children, what happened with the property, we couldn't subject our
1757 money and our liability to a property we were going to be no longer on. So Mr. Leber
1758 has put the bond up, and we're paying Mr. Leber for that bond.
1759
1760 Mr. McKinney - When do you expect to have that bond paid off?
1761
1762 Mr. Anderson - The bond's paid.
1763
1764 Mr. McKinney - It was paid by Mr. Leber?
1765
1766 Mr. Anderson - Yes sir.
1767
1768 Mr. McKinney - Are you and Mr. Leber in business together?
1769
1770 Mr. Anderson - No sir. He's the landowner.
1771
1772 Mr. McKinney - You were talking about your money. It's Mr. Leber's money.
1773
1774 Mr. Anderson - It is now. That's the uncooperative part that we had with
1775 Ben, getting the bonds paid, because my partners would not personally guarantee
1776 something that we only had a 2-year contract on, but the bonds have been paid.
1777

1778 Mr. McKinney - I understand that. It's been paid by the landowner. And
1779 your contract runs out in 2 years?
1780
1781 Mr. Anderson - Yes sir. Yes sir. Which is January 15.
1782
1783 Mr. McKinney - Will you have any of your bond money in it in 2 years?
1784
1785 Mr. Anderson - No sir.
1786
1787 Mr. McKinney - Why are you worried about the bond money if you can't
1788 control it? You said you'd lose your money.
1789
1790 Mr. Anderson - I would. We're paying Mr. Leber his expense on him putting
1791 up the bond.
1792
1793 Mr. Balfour - You indemnified him?
1794
1795 Mr. Blankinship - They're paying the premium, I think.
1796
1797 Mr. Anderson - I'm paying the premium, whatever his costs are.
1798
1799 Mr. Kirkland - He's paying the bond; he's reimbursing him, just like a loan.
1800
1801 Mr. Balfour - Any other questions?
1802
1803 Mr. Balfour - Did I hear you say your permit runs out in January?
1804
1805 Mr. Deal - January 15, 2003. My permits are still in force, but my lease
1806 runs out with Mr. Leber in January 2003, 6 months.
1807
1808 Mr. Balfour - Any other questions? We'll hear from the lady, and then if
1809 she's opposing you, you'll have a chance to come back.
1810
1811 Ms. Eggers - Good morning. I'm Ann B. Eggers, Ann Burnett Eggers, and
1812 our property is directly to the east of the gravel pit.
1813
1814 Mr. Balfour - Are you in favor or in opposition?
1815
1816 Ms. Eggers - I have no position yet, but I have some questions, and I'm
1817 very concerned about the length of time, how long this will be running. I'm concerned
1818 about the direction of the trucks and if they will actually go to the west and enter from
1819 the west. I'm concerned about the starting times and the quitting times, because the
1820 noise level is very high. I'm concerned about the dust from the dry wash. I'm
1821 concerned about the bonding and how long are they going to operate a pug mill. I'm
1822 adjacent to it; I'm opposite the operation. If you notice on the map, there are 2 squares
1823 that appear to be open fields; they are, and the house is directly to the right of the right-

1824 hand field. I'm right there, and I have lived through a lot of this. It starts early and it
1825 lasts late.
1826
1827 Mr. Balfour - You saw the restrictions or heard his comments, didn't you,
1828 that they open at 6, start operations at 7, and stop at 5?
1829
1830 Ms. Eggers - I heard it; I heard it. I also hear the noise. And I'm
1831 concerned about the dry wash and how much dust there's going to be from it. I'm not
1832 far from it. As you can see, it 's a heavy residential area. I'm concerned about the
1833 number of trucks, and I'm concerned that they definitely enter from the west and exit to
1834 the west. My property line runs from the Meadow Road all the way to the river. There's
1835 better than 200 acres there, and the house sits back about half way. They will be
1836 mining about a half a mile off of Meadow Road.
1837
1838 Mr. Balfour - So your questions would suggest that you want to make sure
1839 which way the trucks go when they come out.
1840
1841 Ms. Eggers - I want to make sure that they operate within a reasonable
1842 length of time, that there's not dust clouds from it, because we've had dust before. I'm
1843 concerned about a pug mill and the noise, the trucks, I have a lot of concerns.
1844
1845 Mr. Balfour - And the time, you've mentioned already. If they work within
1846 the time prescribed, you understand that would be 7 am to 5 pm.
1847
1848 Ms. Eggers - The trucks don't come till 7. They crank up before 7. As he
1849 has said, they have to come in and "get ready."
1850
1851 Mr. Balfour - You think they get ready in 5 minutes and start at
1852
1853 Ms. Eggers - They don't get ready at 5 minutes of 7.
1854
1855 Mr. Balfour - Any questions of Board members?
1856
1857 Mr. McKinney - In daylight time they start at 6 am to 6 pm, it says.
1858
1859 Mr. Kirkland - That's plenty early.
1860
1861 Ms. Eggers - And if you start at 6, you have to get ready before then.
1862
1863 Mr. McKinney - Eastern Standard Time, they start at 7 and go to 5.
1864
1865 Mr. Balfour - I think when I asked him that, though, his answer was the
1866 first hour, if I understood him correctly , because I asked that specific question. He said
1867 we operate 7 to 5, and I said, well why have you got 6 to 6. He said because we need
1868 to start operations.
1869

1870 Ms. Eggers - And if they operate in the summertime 6 to 6, then they start
1871 getting ready prior to 6.
1872
1873 Mr. Balfour - Well they're not supposed to do that. The restrictions are
1874 that they start at 6, but the operations would run 7 to 5 if I understood him, and in the
1875 wintertime, I suspect that means 8 to 4, if the rules follow consistently.
1876
1877 Mr. Kirkland - Mr. Blankinship, can I ask you a question? Who had this
1878 before? Was this Mr. Allard's?
1879
1880 Mr. Blankinship - It was Mr. Allard's. Mr. Leber has owned it, but Mr. Allard
1881 mined it.
1882
1883 Mr. Kirkland - Did we have any restrictions on direction of trucks before?
1884
1885 Mr. Blankinship - I believe all of the pits, there are several on Meadow Road in
1886 this area, and I believe all of them have had the same conditions.
1887
1888 Mr. McKinney - Mr. Blankinship, what does # 9 say, the last 2 words,
1889 "Thanksgiving or Christmas"? Does that mean that they cannot operate?
1890
1891 Mr. Blankinship - No operations are to be conducted on those days. If I
1892 remember the history, the standard condition is Saturdays, Sundays or holidays, and
1893 when – I think it was when Mr. Anderson came up before, and John Deal represented
1894 him – Mr. Deal asked us to strike Saturdays and to specify which holidays.
1895
1896 Ms. Eggers - I think 5 days a week is ample; Saturday and Sunday we
1897 need a little peace.
1898
1899 Mr. Balfour - Any other questions? Do you have a copy of these
1900 conditions ma'am?
1901
1902 Ms. Eggers - No sir, I do not.
1903
1904 Mr. Nunnally - On condition 10, it says all truck traffic to site shall approach
1905 from Williamsburg Road, but it's "all truck traffic leaving the site shall travel west on
1906 Meadow Road, then south on Drybridge Road to Williamsburg Road." Is that the way
1907 you want it to go, west on Meadow Road?
1908
1909 Ms. Eggers - West on the Meadow Road to Drybridge, yes sir.
1910
1911 Mr. Nunnally - That's what the condition says.
1912
1913 Ms. Eggers - To the immediate right of me is Green Meadow subdivision,
1914 and I understand there are about a hundred homes in there, and lots of young children,
1915 and there are lots of homes along the Meadow Road from Green Meadow to

1916 Williamsburg Road, and it's less congested to go the other way.
1917
1918 Mr. Balfour - That means you agree with this restriction, that they should
1919 travel west on Meadow Road?
1920
1921 Ms. Eggers - Yes, I would very much encourage that.
1922
1923 Mr. Balfour - Your other comment is, you would prefer they not operate on
1924 Saturday, and if they're going to start the machine, that they start it at 7 o'clock and not
1925 6:05 or something of that nature?
1926
1927 Ms. Eggers - Yes sir. I'm also concerned about the dust on this dry wash.
1928 I'm not familiar with that.
1929
1930 Mr. Balfour - He did say, when I asked him that first off, "there is no dust,"
1931 you may recall my asking.
1932
1933 Mr. Wright - It says, condition # 6, that he's responsible for controlling
1934 dust so that it does not affect any other property. We have a condition that would cover
1935 that if it's complied with.
1936
1937 Mr. Blankinship - Mr. Chairman, I have not been to this site for several weeks
1938 now, and I understand that Mike Hackett from the Department of Public Works has been
1939 out there recently, and I wonder if we could ask Mike to just give us a idea of the
1940 condition of the site.
1941
1942 Mr. Balfour - I think that might be of interest to the Board members, do
1943 you all agree?
1944
1945 Mr. McKinney - Mr. Secretary, let me ask you a question – these are
1946 companion cases – are they going to do both of them at the same time?
1947
1948 Mr. Blankinship - What do you mean by "do both of them"?
1949
1950 Mr. McKinney - Are they going to be working on both of them at the same
1951 time?
1952
1953 Mr. Blankinship - I would think so. They would extract the material, and then
1954 grade it before they haul it off.
1955
1956 Mr. McKinney - Because the conditions are not the same on both cases.
1957
1958 Mr. Blankinship - Right, because the standard mining conditions were put on
1959 the extraction case, and the conditions for the washing plant are a little bit different.
1960
1961 Mr. Kirkland - Because he's not doing a wash, does that mean that we're

1962 into a little different situation? This is not what was advertised, right.
1963
1964 Mr. Blankinship - Not exactly, yes. And I'm a little bit uncomfortable with that.
1965 Susan actually passed me a note earlier, asking me if we needed to re-advertise UP-26,
1966 and I don't know the answer to that question.
1967
1968 Mr. Balfour - There was a notice that went out, encompassing, and this
1969 second notice would be less restrictive. Of course someone who got notice, would have
1970 gotten notice of everything; if we sent a second notice, it would be something less. It
1971 wouldn't be anything different.
1972
1973 Mr. Kirkland - What did the notice say? I can't remember on the second
1974 case.
1975
1976 Mr. Blankinship - It says "sand and gravel washing," and that's the language in
1977 the Code.
1978
1979 Mr. Kirkland - And they're not washing, so that's not what we're doing.
1980
1981 Mr. Wright - But still, if it's less restrictive, I don't think it makes any
1982 problem?
1983
1984 Mr. Balfour - Any other questions of this lady at this moment?
1985
1986 Mr. McKinney - Do we want to hold this till the guy from Public Works
1987 comes.
1988
1989 Mr. Blankinship - He's here; let's hear from Mike.
1990
1991 Mr. Balfour - He's had a chance to think of his thoughts while we were
1992 talking.
1993
1994 Mr. Kirkland - Ma'am, did you have anything else you want to add first?
1995
1996 Mr. Balfour - All right, sir. Do you have the restrictions for both
1997 applications that you'd like to read in the meantime (directed at Ms. Eggers)?
1998
1999 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2000 truth, the whole truth, and nothing but the truth, so help you God?
2001
2002 Mr. Hackett - I do. I'm Mike Hackett; my title is Senior Environmental
2003 Inspector, Public Works, for Henrico County.
2004
2005 Mr. Balfour - Do you want to give us a report of what your investigation
2006 has shown.
2007

2008 Mr. Hackett - I've found the site to be in compliance with the approved
2009 erosion and sediment control plan. All the erosion control devices were in and
2010 functioning. All the run-off was going to the E & S devices. There is a large area
2011 towards the south of the disturbed area that is in the process of being recovered. He's
2012 done a lot of top soiling; it's nearly to the point where they can seed and mulch it.
2013 There's probably 3-4 acres that are going to be seeded soon, as was part of our original
2014 agreement. As far as basic erosion control, he's in compliance at this time. I'm
2015 comfortable with that. The dust control; I was there yesterday, and there were a few
2016 trucks running. I didn't notice anything yesterday that I would consider appreciable
2017 dust, although I don't live there. If I lived downwind of the site, I might feel differently. I
2018 didn't notice anything terribly dusty, and it is a particularly dry time. However, dust
2019 control is part of erosion control requirements, and normally we address it if we get
2020 complaints, and if he has to water the haul road, or water down the sifting operation,
2021 that would be part of erosion control like any other. I wasn't aware of any dust issues
2022 until this morning.

2023
2024 Mr. Balfour - What time of day were you out there?

2025
2026 Mr. Hackett - It was around 2:30.

2027
2028 Mr. Balfour - Were the trucks lined up?

2029
2030 Mr. Hackett - I saw 1 truck, 2 trucks, and I was there about 20 minutes.
2031 One was there when I got there; another one was coming in as I was leaving.

2032
2033 Mr. Balfour - Which way did they go? Did you see any leave?

2034
2035 Mr. Hackett - I saw one coming in down Meadow Road along the
2036 prescribed route. I would also like to mention; this isn't part of my realm of
2037 responsibilities, but he has a device at the entrance that prevents trucks from entering
2038 or exiting to the east. I don't think that large truck can even make that radius turn the
2039 way they've got it set up. I think that was done on purpose, to make sure they couldn't
2040 go that way. I thought I'd mention it; that's not part of my enforcement.

2041
2042 Mr. Balfour - That's fine; I think he would have mentioned it if you hadn't.
2043 Any questions?

2044
2045 Mr. Hackett - I would like to say that this site needs to be recovered in the
2046 manner in which he's proceeding. It's a big hole in the ground; if he gets denied this
2047 use permit, we're going to end up with a big hole in the ground with barely enough bond
2048 money to get it stabilized, definitely would not have enough bond money to get it filled.
2049 So environmentally, we'd like to see the recovery process continue. My office is
2050 comfortable with where we are now, even though we've had some difficulty to this point.
2051 Not only that, but area businesses that are being developed, need a place to waste
2052 material, and if we don't have a site that can readily accept material, that material's
2053 going to go somewhere, sometimes in people's back yards that we don't know about,

2054 sometimes wetlands get filled that we don't know about, and we get into enforcement
2055 procedures, so it does provide a service.

2056
2057 Mr. Balfour - You mentioned in your comment a second ago, some other
2058 problems we've had or something. Have you referred to any problems already, or are
2059 you referring to problems with the bond?

2060
2061 Mr. Hackett - The problems with the bond. When Mr. Anderson took over
2062 the site, he's been reasonably cooperative with us with erosion sediment control and
2063 complying with those standards. The big issue we had was getting the bond money in
2064 so we could sign the plan and approve it. We couldn't issue an approved plan without
2065 the bond, even though he was complying with the plan that we couldn't sign. So he did
2066 meet the requirements other than the bond, for the most part.

2067
2068 Mr. McKinney - Are you saying that the bond is not enough? You said if he
2069 walked away from it tomorrow, you wouldn't have enough money to fix it.

2070
2071 Mr. Hackett - We might have enough money to topsoil and seed the
2072 disturbed area, but we would not have enough money to fill the hole in the ground that
2073 would be left behind.

2074
2075 Mr. McKinney - So you're saying the bond is short?

2076
2077 Mr. Hackett - It's short for total recovery. Maybe with us and what
2078 Planning has in their restoration bond, we might get a little further along, but I suspect
2079 we'd still fall a little short with total recovery costs. That's my guess and estimate.

2080
2081 Mr. McKinney - So that needs to be looked at in the future.

2082
2083 Mr. Hackett - Well, you're right.

2084
2085 Mr. Blankinship - Are you talking about the bond that's in place now, or the
2086 one that would be required by this permit, because we put our standard \$2,000 per acre
2087 on this, which would be another, well, they're only excavating 5 acres.

2088
2089 Mr. Hackett - The \$2,000 per acre might cover topsoil and seeding, but I
2090 doubt if it would cover filling the excavated area.

2091
2092 Mr. McKinney - How much do you think it would take to cover it?

2093
2094 Mr. Hackett - To tell you the truth, I'm not that keyed into cost per cubic
2095 yard of material. I could guess like any one of you, but I really don't know.

2096
2097 Mr. Wright - How often do you monitor this site?

2098
2099 Mr. Hackett - Once the erosion control devices are set in place, and they

2100 are here, my inspectors try to visit the site at least once a month, unless there's new
2101 activity that's clearing a new area, where we need new erosion control; then they will
2102 visit more often. But once that's established, they go at least once a month. I think
2103 Planning also inspects it.
2104
2105 Mr. Blankinship - Right. It is 2 separate visits each month.
2106
2107 Mr. Wright - And they're unannounced? Those visits are unannounced?
2108
2109 Mr. Hackett - Generally.
2110
2111 Mr. Balfour - Are you ever there at 6:30 in the morning, to see what's
2112 going on?
2113
2114 Mr. Hackett - My guy would get overtime if we did that. We come to work
2115 at 8, and they operate at their own schedule after that, my inspectors.
2116
2117 Mr. Wright - Is part of their inspection requirement to check for dust?
2118
2119 Mr. Hackett - Yes sir. However, often what we consider to be a dust
2120 problem may not be the same as what a neighbor would consider a dust problem, and
2121 we would look at it more seriously once we get a complaint, especially if sometimes we
2122 get health issues that are addressed, breathing of the dust, and we look at it a lot more
2123 closely once we know there is a problem or a complaint being generated.
2124
2125 Mr. Wright - So if a neighbor has a complaint about dust, all they need to
2126 do is call your office, and you would investigate it pretty quickly.
2127
2128 Mr. Hackett - That's correct. The state erosion and control requirements
2129 address dust control, as sediment leaving the site.
2130
2131 Mr. Balfour - You probably need to give your card to that lady then.
2132
2133 Mr. Hackett - Yes, I will.
2134
2135 Mr. Balfour - Any other questions. Thank you. Anyone else want to
2136 speak on this matter. All right.
2137
2138 Mr. Anderson - Dust is a problem. And we're trying to keep it controlled, as
2139 best as we can. The hall road, coming in and out, has been paved, where our
2140 predecessor had none. We have 200 feet of it that's currently unpaved, but as the
2141 trucks ingress and egress and carry a little bit of dirt out with them, it gets on the paved
2142 road, and we'll keep that swept. I wasn't aware of any complaints from any of the
2143 neighbors, but I'm glad that was brought to my attention. We'll address that.
2144
2145 Mr. Balfour - How much time do you need to crank up, because you heard

2146 the lady say that it doesn't take you an hour.
2147
2148 Mr. Deal - The gate, the secretary, the pit operator, she normally gets
2149 there at 7:30 every morning. With the plant, our posted hours of operation are 7:30 to 5.
2150 There have been trucks hanging out on the highway last week, when the pit lady wasn't
2151 there till 7:45, we had 2 trucks sitting on Meadow Road.
2152
2153 Mr. Balfour - Are you saying, if we said "7:30 to 5," that would not hamper
2154 you too much?
2155
2156 Mr. Deal - Would not help us too much?
2157
2158 Mr. Balfour - Hamper, would not hamper you if we made it 7:30, since she
2159 said she
2160
2161 Mr. Anderson - With the plant that we've got to crank up in the mornings,
2162 7:00 o'clock would be fine. You can off the 6:00 o'clock to 6:00. We need to close
2163 down the plant in the evening, push the rest of the material that's on the hill down the
2164 hill, after we have officially closed the gate, which is at 5:00 o'clock.
2165
2166 Mr. Balfour - I'm not sure what you said on your beginning time, what did
2167 you say we could put that? Did you say change that to 7:00?
2168
2169 Mr. Anderson - You can change that to 7:00, if you like, on the opening.
2170
2171 Mr. Wright - How about Saturdays?
2172
2173 Mr. Anderson - There is life after work , and I think weekends need to be
2174 enjoyed by other people. The contracts that are coming in from Motorola required us to
2175 be open on Saturday, to fulfill some of their truck requirements, and Motorola's
2176 requirements, getting material off the site, that they couldn't do during the 5-day work
2177 week.
2178
2179 Mr. Wright - Are you saying that you do not need Saturdays now, or not
2180
2181
2182 Mr. Anderson - I don't need Saturdays.
2183
2184 Mr. Balfour - Bottom line, we can take that and add that as a restriction,
2185 Saturdays and Sundays.
2186
2187 Mr. Anderson - I didn't realize she was that close to the property. There are
2188 tenants living on this property, in a rental house owned by Mr. Leber. On the complaint
2189 of starting up early in the morning, the pit itself does not own a truck, except a water
2190 truck, and I just got it started yesterday because of the dust. I went to fill it with water
2191 and did some dust control yesterday. We don't start operations with any equipment or

2192 trucks until it's time to push, which is 7:30, 8:00 o'clock, when trucks come in, we need
2193 to push. Sometimes when we haven't pushed the previous evening, we've got to push
2194 in the morning to get the trucks ready, also to safe the site, insure its safety.

2195
2196 Mr. Balfour - I think I hear you saying so far that we can change the
2197 weekday operations for daylight savings time to, from 6 to 7. How about afternoons,
2198 moving that back to 5?

2199
2200 Mr. Anderson - I need a little bit of time, in case we've got hit at 5 o'clock
2201 with a bunch of trucks, and we've got to get the material pushed, in case of inclement
2202 weather coming in, evening thunderstorms and things. We do need to work,
2203 sometimes, just the machinery, not the trucks ingress and egress, till 6 o'clock.

2204
2205 Mr. Balfour - And then you're saying we can add Saturday as a day of no
2206 operations, and I'm not sure I got an answer to the dust, but you're probably going to
2207 get some complaints.

2208
2209 Mr. Anderson - I'm going to take care of the dust.

2210
2211 Mr. Balfour - Any other comments?

2212
2213 Mr. Wright - Just another reference to the entrance. I understand that the
2214 entrance is so designed so that trucks must go west, is that correct?

2215
2216 Mr. Anderson - Yes sir, and if a trailer or a dump truck was to attempt to
2217 make a left hand turn, he'd have a hurt truck. There's also a sign there that says that
2218 you can't turn left, there's a sign that says "no trucks, no left turn," and if a truck was to
2219 come in from New Kent County and wasn't familiar with the ingress and egress of the
2220 operation, a new truck driver, whatever, and he comes down Meadow Road from the
2221 Texaco, past the subdivisions, he wouldn't be able to make a right hand turn, plus there
2222 will be a sign there, so he'd have to go up the road, U-turn, and come back in that way,
2223 and that would be his last time coming down.

2224
2225 Mr. Wright - I thought a sign would be a good idea, but you've already got
2226 a sign.

2227
2228 Mr. Anderson - The wash plant – the material that we're excavating is wet
2229 when it's pulled up. It'll be, not stockpiled and then put through the machine, it'll be put
2230 through the machine at the time it is extracted. So the material is dripping wet when it
2231 comes out, and it'll be separated from there, so the dust on that won't be a problem. If it
2232 ever becomes a problem, we'll have the dust controlled on it.

2233
2234 Mr. Balfour - On the non-daylight savings times, you already had 7 to 5.
2235 You want to leave that the way that it is, not change it to 8?

2236
2237 Mr. Anderson - Right?

2238
2239 Mr. Balfour - Any other questions by Board members? I think you two can
2240 talk in the hall if you want to, any further. Thank you.

2241
2242 On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **granted** the request
2243 for condition use permit application **UP-25-2002**.

2244
2245 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2246 Negative: 0
2247 Absent: 0

2248
2249 The Board granted the conditional use permit subject to the following conditions:

2250
2251 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of
2252 the County Code.

2253
2254 2. Before beginning any work, the applicant shall provide a financial guaranty in an
2255 amount of \$2,000 per acre for each acre of land to be disturbed, for a total of \$10,600,
2256 guaranteeing that the land will be restored to a reasonably level and drainable condition.
2257 This permit does not become valid until the financial guaranty has been approved by the
2258 County Attorney. The financial guaranty may provide for termination after 90 days
2259 notice in writing to the County. In the event of termination, this permit shall be void, and
2260 work incident thereto shall cease. Within the next 90 days the applicant shall restore
2261 the land as provided for under the conditions of this use permit. Termination of such
2262 financial guaranty shall not relieve the applicant from its obligation to indemnify the
2263 County of Henrico for any breach of the conditions of this use permit. If this condition is
2264 not satisfied within 90 days of approval, the use permit shall be void.

2265
2266 3. Before beginning any work, the applicant shall submit erosion control plans to the
2267 Department of Public Works for review and approval. Throughout the life of the
2268 operation, the applicant shall continuously satisfy the Department of Public Works that
2269 erosion control procedures are properly maintained, and shall furnish plans and bonds
2270 that the department deems necessary. The applicant shall provide certification from a
2271 licensed professional engineer that dams, embankments and sediment control
2272 structures meet the approved design criteria as set forth by the State. If this condition is
2273 not satisfied within 90 days of approval, the use permit shall be void.

2274
2275 4. Before beginning any work, the applicant shall obtain a mine license from the
2276 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
2277 within 90 days of approval, the use permit shall be void.

2278
2279 5. Before beginning any work, the areas approved for mining under this permit shall
2280 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
2281 and painted in alternate one foot stripes of red and white. These posts shall be so
2282 located as to clearly define the area in which the mining is permitted. They shall be

2283 located, and their location certified, by a certified land surveyor. If this condition is not
2284 satisfied within 90 days of approval, the use permit shall be void.

2285
2286 6. In the event that the Board's approval of this use permit is appealed, all
2287 conditions requiring action within 90 days will be deemed satisfied if the required actions
2288 are taken within 90 days of final action on the appeal.

2289
2290 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
2291 state and local regulations administered under such act applicable to the property, and
2292 shall furnish to the Planning Office copies of all reports required by such act or
2293 regulations.

2294
2295 8. Hours of operation shall be from 7:00 a.m. to 6:00 p.m. when Daylight Savings
2296 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times. (Amended)

2297
2298 9. No operations of any kind are to be conducted at the site on Saturdays, Sundays,
2299 New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving or
2300 Christmas. (Amended)

2301
2302 10. All means of access to the property shall be from the established entrance onto
2303 Meadow Road. All truck traffic to the site shall approach from Williamsburg Road north
2304 on Drybridge Road, then east on Meadow Road. All truck traffic leaving the site shall
2305 travel west on Meadow Road, then south on Drybridge Road to Williamsburg Road.

2306
2307 11. The applicant shall erect and maintain gates at all entrances to the property.
2308 These gates shall be locked at all times, except when authorized representatives of the
2309 applicant are on the property.

2310
2311 12. The applicant shall post and maintain a sign at the entrance to the mining site
2312 stating the name of the operator, the use permit number, the mine license number, and
2313 the telephone number of the operator. The sign shall be 12 square feet in area and the
2314 letters shall be three inches high.

2315
2316 13. The applicant shall post and maintain "No Trespassing" signs every 250 feet
2317 along the perimeter of the property. The letters shall be three inches high. The
2318 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
2319 enforce the "No Trespassing" regulations, and agreeing to send a representative to
2320 testify in court as required or requested by the Division of Police.

2321
2322 14. Standard "Truck Entering Highway" signs shall be erected on Meadow Road on
2323 each side of the entrances to the property. These signs will be placed by the County, at
2324 the applicant's expense.

2325
2326 15. The applicant shall post and maintain a standard stop sign at the entrance to
2327 Meadow Road.

2328

- 2329 16. The applicant shall provide a flagman to control traffic from the site onto the
2330 public road, with the flagman yielding the right of way to the public road traffic at all
2331 times. This flagman will be required whenever the Division of Police deems necessary.
2332
- 2333 17. All roads used in connection with this use permit shall be effectively treated with
2334 calcium chloride or other wetting agents to eliminate any dust nuisance.
2335
- 2336 18. The operation shall be so scheduled that trucks will travel at regular intervals and
2337 not in groups of three or more.
2338
- 2339 19. Trucks shall be loaded in a way to prevent overloading or spilling of materials of
2340 any kind on any public road.
2341
- 2342 20. The applicant shall maintain the property, fences, and roads in a safe and secure
2343 condition indefinitely, or convert the property to some other safe use.
2344
- 2345 21. If, in the course of its preliminary investigation or operations, the applicant
2346 discovers evidence of cultural or historical resources, or an endangered species, or a
2347 significant habitat, it shall notify appropriate authorities and provide them with an
2348 opportunity to investigate the site. The applicant shall report the results of any such
2349 investigation to the Planning Office.
2350
- 2351 22. If water wells located on surrounding properties are adversely affected, and the
2352 extraction operations on this site are suspected as the cause, the effected property
2353 owners may present to the Board evidence that the extraction operation is a contributing
2354 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
2355 the operator may be required to correct the problem.
2356
- 2357 23. Open and vertical excavations having a depth of 10 feet or more, for a period of
2358 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
2359 public safety.
2360
- 2361 24. Topsoil shall not be removed from any part of the property outside of the area in
2362 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
2363 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
2364 within the authorized mining area and provided with adequate erosion control
2365 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought
2366 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
2367 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
2368 tests have been provided to the County.
2369
- 2370 25. Each month the operator shall submit to the County a detailed record of any
2371 offsite-generated materials deposited on the mining site, stating the origin, nature and
2372 quantity of the material, and certifying that no contaminated or hazardous material are
2373 included. The material to be deposited on the site shall be limited to imperishable
2374 materials such as stone, bricks, tile, sand, gravel, soil, asphalt, concrete and like

2375 materials, and shall not include any hazardous materials as defined by the Virginia
2376 Hazardous Waste Management Regulations.

2377
2378 26. A superintendent, who shall be personally familiar with all the terms and
2379 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms
2380 and conditions of this use permit, shall be present at the beginning and conclusion of
2381 operations each work day to see that all the conditions of the Code and this use permit
2382 are observed.

2383
2384 27. A progress report shall be submitted to the Board on June 27, 2003. This
2385 progress report must contain information concerning how much property has been
2386 mined to date of the report, the amount of land left to be mined, how much rehabilitation
2387 has been performed, when and how the remaining amount of land will be rehabilitated,
2388 and any other pertinent information about the operation that would be helpful to the
2389 Board.

2390
2391 28. Excavation shall be discontinued by June 27, 2004, and restoration
2392 accomplished by not later than June 27, 2005, unless a new permit is granted by the
2393 Board of Zoning Appeals.

2394
2395 29. The rehabilitation of the property shall take place simultaneously with the mining
2396 process. Rehabilitation shall not be considered completed until the mined area is
2397 covered completely with permanent vegetation.

2398
2399 30. All drainage and erosion and sediment control measures shall conform to the
2400 standards and specifications of the Mineral Mining Manual Drainage Handbook. Any
2401 drainage structures in place prior to October 14, 1992 and which do not conform to the
2402 Mineral Mining Manual Drainage Handbook may remain in place until such time as any
2403 reconstruction is required at which time said structures shall be brought into
2404 conformance with the Mineral Mining Manual Drainage Handbook.

2405
2406 31. Failure to comply with any of the foregoing conditions shall automatically void this
2407 permit.

2408
2409 On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **granted** the request
2410 for conditional use permit application **UP-26-02**.

2411
2412 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2413 Negative: 0
2414 Absent: 0

2415
2416 The Board granted the variance subject to the following conditions

2417
2418 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of
2419 the County Code.

2420

2421 2. Before beginning any work, the applicant shall submit erosion control plans to the
2422 Department of Public Works for review and approval. Throughout the life of the
2423 operation, the applicant shall continuously satisfy the Department of Public Works that
2424 erosion control procedures are properly maintained, and shall furnish plans and bonds
2425 that the department deems necessary. The applicant shall provide certification from a
2426 licensed professional engineer that dams, embankments and sediment control
2427 structures meet the approved design criteria as set forth by the State. If this condition is
2428 not satisfied within 90 days of approval, the use permit shall be void.

2429
2430 3. The applicant shall comply with the Chesapeake Bay Preservation Act and all
2431 state and local regulations administered under such act applicable to the property, and
2432 shall furnish to the Planning Office copies of all reports required by such act or
2433 regulations.

2434
2435 4. Hours of operation shall be from 7:00 a.m. to 6:00 p.m. when Daylight Savings
2436 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times. (Amended)

2437
2438 5. The plant shall not operate on Saturdays, Sundays, New Years Day, Memorial
2439 Day, Independence Day, Labor Day, Thanksgiving or Christmas. (Amended)

2440
2441 6. The operator shall be responsible for controlling dust from the plant such that it
2442 does not affect any other property, including the public road.

2443
2444 7. All power-driven machinery or equipment shall be at least 600 feet from any
2445 occupied dwelling.

2446
2447 8. Any ponds to be used pursuant to this use permit shall be periodically circulated,
2448 agitated or otherwise treated to prevent the propagation of algae or insect larvae.

2449
2450 9. The operator shall post and maintain safety notices at the exit from the property
2451 reminding drivers to yield to and show consideration for local traffic.

2452
2453 10. Only material extracted from the subject property may be processed pursuant to
2454 this use permit.

2455
2456 11. This permit shall expire on June 27, 2004 unless a new permit is granted by the
2457 Board of Zoning Appeals.

2458
2459 12. Failure to comply with any of the foregoing conditions shall automatically void this
2460 permit.

2461
2462 The Board granted the request because it found the proposed use will be in substantial
2463 accordance with the general purpose and objectives of Chapter 24 of the County Code.

2464
2465 **A -120-2002** **CANAAN LAND COMPANY** requests a variance from Sections 24-
2466 94 and 24-9 of Chapter 24 of the County Code to build a one-family

2467 dwelling at 8415 Bronwood Road (Parham Hills) (Parcel 755-749-
2468 4176), zoned R-3, One-family Residence District (Three Chopt).
2469 The lot width requirement and public street frontage requirement
2470 are not met. The applicant has 62.61 feet lot width and 36 feet
2471 public street frontage, where the Code requires 80 feet lot width
2472 and 50 feet public street frontage. The applicant requests a
2473 variance of 17.39 feet lot width and 14 feet public street frontage.
2474

2475 Mr. Balfour - Is there anyone to speak on these cases, if so please raise
2476 your right hand and be sworn in.
2477

2478 Mr. Blankinship - All raise your right hand please. Do you swear that the
2479 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
2480 help you God?
2481

2482 Mr. Hairston - I do. My name is William Hairston, and I'm one of the co-
2483 owners of the property. We are wanting to use it in accordance with the R-3 zoning,
2484 which the property is designated. It was first subdivided in 1942 so it is considered an
2485 exception parcel; it is a classic case where the current standards were imposed upon it.
2486 I also wanted to point out that if the variance is not granted, the land could not be used
2487 for more than a lawn mower exercise area. The area is 37,191 according to the survey,
2488 which a robust size for a lot. I think that is an awful lot of area to keep it from being
2489 used. Unlike some of the requests for screened porches or sunrooms, it is quite a
2490 profound hardship to be able to use for the use it is able to be used.
2491

2492 Mr. Balfour - Are there any questions?
2493

2494 Mr. Wright - Mr. Blankinship, didn't this Board approve this same request
2495 in 1991?
2496

2497 Mr. Blankinship - Yes sir.
2498

2499 Mr. Wright - What has changed since 1991?
2500

2501 Mr. Blankinship - Nothing that I am aware of that would directly affect the
2502 case.
2503

2504 Mr. Hairston - I think the only thing was the time limit on acting on the
2505 approval.
2506

2507 Mr. Wright - What is this business about the utility easement?
2508

2509 Mr. Blankinship - In 1991 the Department of Public Works suggested that some
2510 changes might be necessary there, and that was made a condition of that request. So
2511 we brought that forward for this request on the Department of Public Works

2512 recommendation. I am not sure that they know what they want, but they want to be able
2513 to work out whatever needs to be done.

2514
2515 Mr. Wright - Are you happy with these conditions?

2516
2517 Mr. Hairston - Yes. I am supportive of all of them. I think to approve this
2518 would be a good opportunity for the land to be developed in accordance with the goals
2519 of the Public Works Department.

2520
2521 Mr. Balfour - We used to approve flag lots, and we approved pie shaped
2522 lots; if we approve this, we will approve a ham-shaped lot.

2523
2524 Mr. Wright - What is the area of that lot?

2525
2526 Mr. Hairston - 37,192 square feet. It exceeds the lot area requirement; it is
2527 just an odd shaped lot. When they created this lot, they were not advised as to what the
2528 regulations in the future would be. So when it was imposed upon it, it something that
2529 wasn't foreseeable in 1952.

2530
2531 Mr. Balfour - Any other questions? Thank you. I think 2 other people
2532 were sworn in and wanted to speak. Are you for or against? Against? Ok.

2533
2534 Mr. Tate - I am Blant B. Tate, I own the property surrounding this lot.
2535 At one time it was a lake, when they widened Parham Road, they put the debris and
2536 back fill from the road construction in the lake to fill it in. The easement going into the
2537 site is mostly a ditch that used to be the access to the old lake. I was concerned about
2538 the house being wedged up to the front of the lot instead of centered in the lot and how
2539 that would look. I own the lot that it backs up to, but I have not developed that property,
2540 and I've owned for more than 40 years.

2541
2542 Mr. Wright - Have you seen the proposed layout of the lot and where they
2543 want to place the house?

2544
2545 Mr. Tate - Yes sir.

2546
2547 Mr. Wright - It is well off the road.

2548
2549 Mr. Tate - It is back off the road, but it is very close to lot 4. It will be
2550 approximately 30 feet from the rear of lot 4. There is a big area farther back, and I
2551 don't know why it is so close... It was originally part of the builders lot and part of the
2552 development and because it was a lake, it was never surveyed until the late 80's. At
2553 that time, it was declared a buildable lot and went to the sheet sale. It was sold for back
2554 taxes.

2555
2556 Mr. Balfour - Are you asking that it not be approved at all, or do you not
2557 like where he is putting the house?

2558
2559 Mr. Tate - I really don't like where he is putting the house, and I prefer
2560 that it not be approved.
2561
2562 Mr. Balfour - Who is going to keep it up?
2563
2564 Mr. Tate - I have been keeping the lot in front of him clean, and prior to
2565 his buying it, I kept it cut.
2566
2567 Mr., McKinney - Mr. Blankinship, the side yards meet the R-2A zoning
2568 classification, don't they?
2569
2570 Mr. Blankinship - Yes sir.
2571
2572 Mr. Balfour - Any other questions? Thank you. Next.
2573
2574 Mr. Londeree - My name is William Londeree, I live at 8413, right next door.
2575 I am completely opposed to this. To further state, this property is a lake bed. I
2576 checked into this property several years ago and I am under the impression that you
2577 have to go down at least 20 feet get a firm foundation, then you have sewage
2578 connections on top of that. If this house is put in there, you are talking about a lot of
2579 money to develop the property and I don't want to see someone get stuck with a piece
2580 they can't afford to do anything with. I do not agree with the variances that have been
2581 asked for on this piece of property. I realize that variances are given, but this a terrific
2582 variance on lot size and road frontage and all. I don't think the code should be
2583 stretched to such limits.
2584
2585 Mr. McKinney - You can do a monolithic floating slab on fill and you don't
2586 have to dig so deep for the foundation.
2587
2588 Mr. Londeree - There is not much there but road debris.
2589
2590 Mr. Balfour - Are you opposing any house or just the location of the house
2591 on the property?
2592
2593 Mr. Londeree - I oppose the location and variances from the code.
2594
2595 Mr. Balfour - Any other questions? Thank you. Any further comments?
2596
2597 Mr. Hairston - Some of the concerns about the setback and location of the
2598 house will be dealt with in the approval process, and no house will be built in violation of
2599 the code. Concerns about the fill will be met in the building permit process. It is not a
2600 variance issue but a building issue.
2601
2602 Mr. McKinney - Does your company intend to build this house?
2603

2604 Mr. Hairston- No, there is someone interested in buying the lot and they
2605 are the ones proposing the location of the dwelling.

2606
2607 Mr. Balfour- Any other questions? Thank you.

2608
2609 On a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted** the request
2610 for variance application **A-120-2002**.

2611
2612 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2613 Negative: 0
2614 Absent: 0

2615
2616 The Board granted the variance subject to the following conditions:

2617
2618 1. Only the improvements shown on the plan filed with the application may be
2619 constructed pursuant to this approval. No substantial changes or additions to the layout
2620 may be made without the approval of the Board of Zoning Appeals. Any additional
2621 improvements shall comply with the applicable regulations of the County Code.

2622
2623 2. At the time of building permit application, the applicant shall submit the
2624 necessary information to the Department of Public Works to ensure compliance with the
2625 requirements of the Chesapeake Bay Preservation Act and the code requirements for
2626 water quality standards. The applicant shall also satisfy the Department of Public
2627 Works with respect to lot grading and extension of the storm sewer.

2628
2629 The Board granted this request, as it found from the evidence presented that, due to the
2630 unique circumstances of the subject property, strict application of the County Code
2631 would produce undue hardship not generally shared by other properties in the area, and
2632 authorizing this variance will neither cause a substantial detriment to adjacent property
2633 nor materially impair the purpose of the zoning regulations.

2634
2635 **A -121-2002** **SALDUS-WEST, LLC** requests a variance from Section 24-94 of
2636 Chapter 24 of the County Code to build a one-family dwelling at
2637 10106 Telegraph Road (proposed Trivett Woods) (Parcel 785-765-
2638 6083 (part)), zoned R-2A, One-family Residence District (Fairfield).
2639 The rear yard setback is not met. The applicant has 12 feet rear
2640 yard setback, where the Code requires 45 feet rear yard setback.
2641 The applicant requests a variance of 33 feet rear yard setback.

2642
2643 Mr. Balfour - Is there anyone to speak on these cases, if so please raise
2644 your right hand and be sworn in.

2645
2646 Mr. Blankinship - All raise your right hand please. Do you swear that the
2647 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
2648 help you God?

2649
2650 Mr. Jalbert - I do. My name is Paul Jalbert, I am the engineer for
2651 this subdivision. We are requesting a variance in the rear yard setback for lot 1.

June 27, 2002

2652 During my conditional subdivision approval, one of the comments of the Planning
2653 Office is that they would like to see all the homes face the proposed Trivett
2654 Woods Court. In doing this, technically the frontage of the lot was on Battlefield
2655 Road, but esthically the front would be on Trivett Woods Court. Thus we turned
2656 the house to face that road, and the side yard would be on the east side of lot
2657 one. That is why we are requesting the 30-foot variance.
2658

2659 Mr. Balfour - What is your front yard setback?
2660

2661 Mr. Jalbert - The front yard setback is 45 feet and that is measured
2662 on Battlefield Road because that is technically the front of the lot because it is the
2663 narrowest part of the lot. These building envelopes were typical and not exactly
2664 where the house will sit.
2665

2666 Mr. Balfour - Any questions by Board Members? Thank you. Any
2667 one else to testify on this case, if not that concludes the case.
2668

2669 On a motion by Mr. McKinney, seconded by Mr. Wright, the Board **granted** the request
2670 for variance application **A-121-2002**.
2671

2672 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2673 Negative: 0

2674 Absent: 0
2675

2676 The Board granted the variance subject to the following condition:
2677

2678 1. This variance applies only to the rear yard setback requirement. All other
2679 applicable regulations of the County Code shall remain in force.
2680

2681 The Board granted this request, as it found from the evidence presented that, due to the
2682 unique circumstances of the subject property, strict application of the County Code
2683 would produce undue hardship not generally shared by other properties in the area, and
2684 authorizing this variance will neither cause a substantial detriment to adjacent property
2685 nor materially impair the purpose of the zoning regulations.
2686

2687 There being no further business, and on a motion by Mr. Nunnally, seconded by
2688 Mr. McKinney, the Board adjourned until July 27, 2002, at 9:00 am.
2689
2690

2691
2692 Daniel T. Balfour,
2693 Chairman
2694

2695
2696
2697 Benjamin Blankinship, AICP
2698 Secretary