

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**
4 **SPRING ROADS, ON THURSDAY, MAY 24, 2012 AT 9:00 A.M., NOTICE**
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH MAY 7,**
6 **2012 AND MAY 14, 2012.**

7
Members Present: Helen E. Harris, Chairman
R. A. Wright, Vice Chairman
Greg Baka
Gentry Bell
James W. Nunnally

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

8
9 Ms. Harris - Good morning. Welcome to the May 24, 2012
10 meeting of the Henrico County Board of Zoning Appeals. Let's stand and recite
11 the Pledge of Allegiance.

12
13 Good morning, Mr. Blankinship. Please read the rules that govern this meeting. I
14 believe we have one deferral.

15
16 Mr. Blankinship - Good morning, Madam Chairman, members of the
17 Board, ladies and gentlemen. The rules for this meeting are as follows. Acting as
18 secretary, I will call each case. And as I'm speaking the applicant should come
19 down to the podium. We'll then ask everyone who intends to speak to that case
20 to stand and be sworn in. Then the applicant will give their presentation. Then
21 anyone else who wishes to speak will be given the opportunity. And after
22 everyone's had a chance to speak, the applicant and only the applicant will have
23 an opportunity for rebuttal. After the Board has heard all the testimony and asked
24 any questions, they'll take that matter under advisement and proceed with the
25 next case. They will render all of their decisions at the end of the meeting. If you
26 wish to know their decision on a specific case you can either stay until the end of
27 the meeting, or you can check the Planning Department website—we usually
28 update it about half an hour after the meeting ends, or you can call the Planning
29 Department this afternoon.

30
31 This meeting is being recorded, so we'll ask everyone who speaks to speak
32 directly into the microphone on the podium, state your name, and please spell
33 your last name for us so we get it correctly in the record.

35 And finally, there's a binder in the foyer containing the staff report for each case,
36 including conditions that have been recommended by staff. It is particularly
37 important that the applicants be familiar with the conditions that have been
38 recommended.

39

40 You mentioned a deferral, Madam Chair. I'm not sure who is deferring; that's
41 news to me.

42

43 Ms. Harris - We have a case that was deferred from—

44

45 Mr. Blankinship - Oh, deferred from last week. Okay. I thought you
46 were saying someone had requested a deferral this morning. All right. The first
47 case is CUP2012-00013.

48

49 **CUP2012-00013** **XIAO HUA PAN** requests a conditional use permit
50 pursuant to Section 24-12(d) of the County Code to allow a pigeon loft at 3913
51 Split Rail Road (STONEY CREEK) (Parcel 807-727-5913), zoned R-3AC, One-
52 Family Residence District (Conditional) (Varina).

53

54 Ms. Harris - All persons who wish to speak to this case, please
55 stand and raise your right hand so that you may be sworn in.

56

57 Mr. Blankinship - Raise your right hand, please. Do you swear the
58 testimony you're about to give is the truth and nothing but the truth so help you
59 God?

60

61 Mr. Pan - I'm interested in letting my wife speak.

62

63 Ms. Chen - Xiao Hua Pan requires a conditional use permit—

64

65 Mr. Blankinship - I'm sorry. Ma'am, could you get a little closer to the
66 microphone so we can record you correctly?

67

68 Ms. Chen - Xiao Hua Pan requires a conditional use permit
69 pursuant to Section 24-12 of the County Code to allow a pigeon loft at 3913 Split
70 Rail Road, Stony Creek, zoned One-Family Residence District.

71

72 Ms. Harris - Do we understand that since the last meeting Mr. Pan
73 has met with Planning—

74

75 Ms. Chen - Yes.

76

77 Ms. Harris - And you've seen the conditions that we have here in
78 the report?

79

80 Ms. Chen - Yes.

81
82 Ms. Harris - Do you agree with these conditions?
83
84 Ms. Chen - Yes.
85
86 Ms. Harris - Has anyone from Community Maintenance been back
87 to see the loft?
88
89 Mr. Blankinship - I don't know if Community Maintenance has been
90 back yet.
91
92 Ms. Harris - Was that expected for them to go back?
93
94 Mr. Blankinship - Mr. Gidley went out there.
95
96 Ms. Harris - Mr. Gidley went out? Okay. We have a picture of the
97 loft in the packet of information. Any questions for Mr. Pan?
98
99 Mr. Bell - How often will you be exercising your pigeons, if you
100 get them? Will you exercise them? How often?
101
102 Ms. Chen - How off?
103
104 Mr. Wright - How often do you let them out of the pen to fly? Do
105 they come out of the pen to fly any other time than when they race?
106
107 Ms. Chen - Maybe sometimes.
108
109 Mr. Blankinship - Every day? Once a week?
110
111 Ms. Chen - No, no, no, no.
112
113 Mr. Pan - Not every day.
114
115 Ms. Chen - Because all the time he's working. You know,
116 sometimes he is off. He says at most three—three, four day at one time.
117
118 Mr. Blankinship - Every three or four days.
119
120 Ms. Chen - Yes, yes. Weekend, he says.
121
122 Mr. Wright - How long are they allowed to stay out when they're
123 out of the loft, when they're doing this exercise, so to speak, or flying? How long?
124
125 Ms. Chen - Mmm, about two hours, he says.
126

127 Mr. Wright - About two hours?
128
129 Ms. Chen - Yes.
130
131 Mr. Nunnally - And how many do you have right now, eight?
132
133 Ms. Chen - Yes, he says eight, eight pigeons.
134
135 Mr. Nunnally - I understand that you're requesting for forty pigeons.
136 Is that correct?
137
138 Ms. Chen - He says he wants to keep forty, but right now only
139 eight. He just buy somewhere eight pigeons, he says. He says last time he show
140 the pigeon certificate or something. He says maybe eight pigeons right now.
141
142 Ms. Harris - But you're only allowed twenty. According to the
143 conditions here, this approval is for the keeping of not more than twenty.
144
145 Mr. Blankinship - Yes. Staff was uncomfortable with the number forty. It
146 just seemed like for the amount of space that forty was a lot of birds to be in that
147 small of a confined space. But I think that's really something the Board is going
148 to have to determine, what the appropriate number is.
149
150 Ms. Harris - So is twenty agreeable with you?
151
152 Ms. Chen - Yes, that's fine.
153
154 Ms. Harris - Twenty.
155
156 Ms. Chen - Yes.
157
158 Ms. Harris - Any other questions?
159
160 Mr. Wright - I wanted to try to understand the operation here, what
161 he does with these pigeons. I understand they race. How does that work? Can
162 you tell me how that takes place?
163
164 Ms. Chen - He says some people [unintelligible] my pigeons.
165
166 Mr. Wright - He says they race. What does that mean?
167
168 Ms. Chen - He says yes. Maybe [unintelligible] right now.
169
170 Mr. Wright - Last time he said something about taking them like
171 300 miles away?
172

173 Ms. Chen - He says not right now.
174
175 Mr. Wright - Not racing the pigeons right now?
176
177 Ms. Chen - No, not right now. Now is rest pigeons. Not right now.
178 Right now he's so busy, you know. I got two sons and then we got work and
179 everything. We—they don't have time. Will rest pigeons, we need time. And then
180 to—maybe three mile, five mile. You know, now from Richmond to Washington,
181 and then come back. And then I fly Richmond to New York, come back, like that.
182 They need the time, you know.
183
184 Mr. Wright - Yes, I understand. You mean you have to take the
185 pigeons to wherever they're going to come back from. Is that correct?
186
187 Ms. Chen - Yes. But not right now. Right now we don't have time.
188
189 Mr. Gidley - Can the speaker spell her last name please?
190
191 Mr. Blankinship - Yes ma'am. Could you spell your name for us so we
192 get it correctly in the record.
193
194 Ms. Chen - Okay. My last name Chen—C-h-e-n. First name
195 Shui—S-h-u-i. Middle name, Y-a-n.
196
197 Mr. Blankinship - Thank you.
198
199 Mr. Baka - I have a question about the photograph, Madam
200 Chairman.
201
202 Ms. Harris - Yes.
203
204 Mr. Baka - If I may, as we look at the photo I see a fence on the
205 left-hand side. Is that fence one that you constructed or is that your next door
206 neighbor's fence?
207
208 Ms. Chen - This one is my fence we're just making.
209
210 Mr. Baka - You just made that.
211
212 Ms. Chen - Yes.
213
214 Mr. Baka - Okay. And is that six feet tall? How tall is that fence?
215
216 Ms. Chen - He's saying maybe eight feet, I think.
217
218 Mr. Wright - Well, the loft has to be eight feet, doesn't it?

219
220 Mr. Baka - Seven. I was guessing seven.
221
222 Mr. Wright - Two feet off the ground and eight feet tall.
223
224 Mr. Blankinship - No more than eight feet.
225
226 Mr. Wright - No more than eight feet. Oh, okay.
227
228 Mr. Baka - The reasoning for the two feet off the ground—a
229 question for Mr. Blankinship—is that for cleanliness?
230
231 Mr. Blankinship - I think so, yes, but I'm no expert.
232
233 Mr. Nunnally - When do you expect to complete this loft?
234
235 Ms. Chen - What?
236
237 Mr. Nunnally - When do you expect to complete this loft? It's not
238 completed yet. You haven't built it to Code yet.
239
240 Ms. Chen - You mean the fence?
241
242 Mr. Blankinship - No, the loft itself, the pigeon loft.
243
244 Mr. Nunnally - The pigeon loft.
245
246 Ms. Chen - Oh. You're saying the one we just viewed?
247
248 Ms. Harris - This one was just built, she said.
249
250 Ms. Chen - Because right now we don't use the old one. We're
251 using this one, the new one.
252
253 Ms. Harris - You have finished building it?
254
255 Ms. Chen - Yes, yes.
256
257 Ms. Harris - You had to put a new roof on.
258
259 Ms. Chen - Yes, yes, yes. Yes.
260
261 Ms. Harris - Shingles on the roof.
262
263 Ms. Chen - Because last time when people go to my house they
264 say we need to change the roof. Right now we change already.

265

266 Mr. Baka - One other question, if I may, about the loft. Have you
267 had—is there any way to describe what the noise or the potential impact would
268 be of twenty pigeons on the neighborhood? Have you had any concerns, or
269 letters received, or complaints from the neighbors about this?

270

271 Mr. Blankinship - We haven't received anything from the neighbors at
272 this point. This was actually observed by an inspector who was out looking at
273 another site. So we don't have any complaints on this. But with only eight birds it
274 would be a difference.

275

276 Mr. Baka - With eight birds in there right now, how would you
277 describe the noise level? I imagine birds are much quieter than other animals like
278 dogs, per se. But how noisy is it? How can you describe the noise?

279

280 Ms. Chen - We don't have any other animals, only pigeons. And
281 we have eight pigeons right now.

282

283 Mr. Baka - Is there any way to describe the noise of eight
284 pigeons or twenty pigeons? I was concerned what the impact might be on the
285 neighbors.

286

287 Ms. Chen - The neighbors, they didn't complain.

288

289 Mr. Baka - No complaints?

290

291 Ms. Chen - Yes.

292

293 Mr. Baka - All right. Thank you.

294

295 Ms. Harris - Are there any other questions? Thank you so very
296 much. We will vote on this case at the end of the meeting.

297

298 Ms. Chen - Okay, thank you.

299

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

303

304 Mr. Nunnally - I think it will affect the neighborhood to a certain
305 extent. However, since we don't have any opposition from the neighbors at all or
306 no one else, I move we approve it for not more than fifteen pigeons, after the
307 new loft is 100 percent complete, and approved, and inspected by the County.
308 That's my motion.

309

310 Ms. Harris - Is there a second on this motion?

356 Ms. Harris - All persons who wish to speak to this case please
357 stand and raise your right hand.
358
359 Mr. Blankinship - Do you swear the testimony you're about to give is
360 the truth and nothing but the truth so help you God?
361
362 Mr. Beasley - Yes I do.
363
364 Ms. Harris - Please state your case.
365
366 Mr. Beasley - Kevin Beasley—B-e-a-s-l-e-y.
367
368 Ms. Harris - Okay. What is it that you desire?
369
370 Mr. Beasley - We want to build a garage in the side yard of the
371 house.
372
373 Mr. Wright - What type of garage would you propose to build?
374
375 Mr. Beasley - Just a single-story 24' by 28'.
376
377 Mr. Wright - How about the siding and so forth?
378
379 Mr. Beasley - It's vinyl siding to match the house.
380
381 Mr. Wright - It will match the house?
382
383 Mr. Beasley - Yes.
384
385 Mr. Wright - Why do you have to build it in the side yard?
386
387 Mr. Beasley - We have a pond in the front yard, a well on the left
388 side, and a drainfield and all in the front side.
389
390 Mr. Wright - So you're pretty well hemmed in.
391
392 Mr. Beasley - Yes, yes.
393
394 Mr. Blankinship - Could you explain briefly to the Board what happened
395 with the driveway to this house, and how the front and rear got reversed?
396
397 Mr. Beasley - The entrance to the driveway used to come in off of
398 Yahley Mill Road. Years ago,, before the property was purchased, there was a
399 dispute and the landowner that gave them the right-of-way cut the right-of-way
400 off, and they had to relocate the driveway then, coming off of Bradbury Road.
401 That put the front of the house in the back, and the back of the house in the

402 front. So the driveway that's there now actually tied into the previous driveway
403 that came in off of Yahley Mill Road before it was cut off.

404

405 Mr. Wright - Which way does your house face? Does it face
406 toward Bradbury?

407

408 Mr. Beasley - The back of the house faces Bradbury. The front
409 faces Yahley Mill where the pond is.

410

411 Mr. Wright - I see.

412

413 Mr. Blankinship - So this is one of those cases where the Code did not
414 anticipate this sort of situation.

415

416 Mr. Wright - Does it meet all of the requirements?

417

418 Mr. Blankinship - It would, yes.

419

420 Mr. Nunnally - Did you read all of the suggested conditions, sir?

421

422 Mr. Beasley - Certainly.

423

424 Mr. Nunnally - Do you agree with that?

425

426 Mr. Beasley - Yes.

427

428 Ms. Harris - I have two questions. Can you show the picture of the
429 8140 Bradbury view of the proposed garage location? Yes, this is fine. I wanted
430 to see the red truck; that's fine. Where the trucks are, that's where your garage
431 will be?

432

433 Mr. Beasley - Yes. From the edge of where that tractor sits back to
434 the left side of that red truck. Basically in that bare spot right in front of that tree
435 stump.

436

437 Ms. Harris - And the other map that I need to see is the aerial
438 photo. This little cleared area back here—according to our map it looks like a
439 clear area.

440

441 Mr. Blankinship - On the neighboring property?

442

443 Ms. Harris - This is the map I need to see. Could I see the entire
444 map, please? This area where the pointer is right off of your site, I have a
445 concern about this. Is there any mining going on there?

446

447 Mr. Blankinship - It's not mining. A gentleman operates a tree service,
448 so he does have some—

449
450 Mr. Beasley - My next door neighbor runs PTD, which was
451 Petroleum Tank Disposal. And he got out of that business and went into tree
452 work. So it's PTD Tree Removal Service. That's what he does. He cuts trees and
453 stuff, cleans highways and all during ice storms or whatever.

454
455 Ms. Harris - So he's cleared that land? Is that land clear, free of
456 trees? Is there any excavation going on there?

457
458 Mr. Beasley - Part of it is. And the land in front of ours, the neighbor
459 just sold the timber off of it.

460
461 Ms. Harris - Can you point that out? This area right here is what?
462 Do you see the pointer? This is the area that's owned by the gentleman in the
463 tree stump business?

464
465 Mr. Beasley - No, that's [unintelligible] brother's house off of
466 Bradbury Road, Mr. Andrews.

467
468 Ms. Harris - The area looks similar to something we'll show a little
469 later on when excavation is going on.

470
471 Mr. Beasley - No.

472
473 Ms. Harris - Okay. So it's just no trees.

474
475 Mr. Beasley - No.

476
477 Ms. Harris - Okay. That was my concern.

478
479 Mr. Beasley - There's just a little tract between his house and where
480 [unintelligible] about ten feet. And then he cleared the rest of it out from there,
481 basically back to the driveway that runs between my house and the neighbors.

482
483 Ms. Harris - Those were my only questions. Are there any more
484 questions by Board members?

485
486 Mr. Bell - What's the purpose of the garage generally?

487
488 Mr. Beasley - Well with trees falling and all that, the ice storms and
489 everything, I want to protect my vehicles. And I need a man cave. I live with a
490 mother-in-law, daughter, and a wife-to-be; I have to have a hideout.

491

492 Ms. Harris - Are there any more questions from Board members?
493 Thank you so very much.

494
495 Mr. Beasley - Thank you.

496
497 Ms. Harris - Is there anyone else who wishes to speak to this
498 case? I think Mr. Beasley was the only one who stood. Okay, now we're ready
499 for the next case.

500
501 **[After the conclusion of the public hearings, the Board discussed the case**
502 **and made its decision. This portion of the transcript is included here for**
503 **convenience of reference.]**

504
505 Mr. Wright - I move we approve this petition on the grounds that it
506 won't adversely affect the health, safety, and welfare of the persons in the area.
507 It will not be incompatible with the objectives and plans of the official Land Use
508 Plan, and it will be accordance with the general purpose of our—

509
510 Mr. Nunnally - Second.

511
512 Ms. Harris - Moved by Mr. Wright, seconded by Mr. Nunnally that
513 this case be approved. Are there any questions on this motion? All in favor say
514 aye. All opposed say no. The ayes have it; the motion passes.

515
516 After an advertised public hearing and on a motion by Mr. Wright, seconded by
517 Mr. Nunnally, the Board **approved** application **CUP2012-00017, KATHY**
518 **BEASLEY's** request for a conditional use permit pursuant to Section 24-95(i)(4)
519 of the County Code to allow a garage in the side yard at 8140 Bradbury Road
520 (Parcel 837-686-2220), zoned A-1, Agricultural District (Varina). The Board
521 approved the use permit subject to the following conditions:

522
523 1. Only the improvements shown on the plot plan filed with the application may
524 be constructed pursuant to this approval. Any additional improvements shall
525 comply with the applicable regulations of the County Code. Any substantial
526 changes or additions to the design or location of the improvements will require a
527 new use permit.

528
529 2. The proposed garage shall comply with all required setbacks. The shed
530 located near the northwest corner of the house shall comply with all required
531 setbacks from property lines and distances to other structures.

532
533 3. The applicant shall obtain a building permit for the proposed garage.

534
535
536 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
537 Negative: 0

538 Absent:

0

539

540

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

543

544 **CUP2012-00018** **SIMONS HAULING CO., INC.** requests a conditional
545 use permit pursuant to Sections 24-52(d) and 24-103 of the County Code to
546 extract materials from the earth at 2655 Lacywood Lane (Parcel 840-722-1635),
547 zoned A-1, Agricultural District and C-1, Conservation District (Varina).

548

549 Ms. Harris - All persons who wish to speak to this case please
550 stand and raise your right hand to be sworn in.

551

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

554

555 Ms. Harris - I'll ask the applicant to come forward, or his designee,
556 and state the case.

557

558 Mr. Greenwood - Good morning. I'm Wayne Greenwood. That's spelled
559 G-r-e-e-n-w-o-o-d. I'm a vice president at Simons, and I'm representing the
560 company today to renew this CUP. I'll be glad to answer any questions you might
561 have.

562

563 Ms. Harris - What is the excavation depth of this site at the
564 present time, Mr. Greenwood?

565

566 Mr. Greenwood - We're approximately twelve to fourteen feet down
567 from the original ground.

568

569 Ms. Harris - Look at condition thirty. Do you see condition thirty,
570 as it applies to the water level, water table?

571

572 Mr. Greenwood - Yes I do.

573

574 Ms. Harris - Okay. In your narrative you said—if you look at C-1C
575 in your narrative, under the mining methods. You said due to site topography, it
576 is not anticipated that mining will occur below the water table. But if so, water will
577 be directed to settling basins and pumped out. Yet condition thirty says what? Is
578 that in contradiction to condition thirty?

579

580 Mr. Greenwood - Those two conditions do conflict, but we didn't write
581 those conditions, and we are staying above the water table for the entirety of the
582 excavation of the site.

583

584 Ms. Harris - Okay. So you do agree with condition thirty.
585
586 Mr. Greenwood - We do.
587
588 Ms. Harris - Okay. Is your site completely fenced in? I know we
589 have a gate, probably, but what about fences?
590
591 Mr. Greenwood - It is fenced in on the open side. That would be the
592 northwest side. The rest of the perimeter is wooded and inaccessible.
593
594 Ms. Harris - Are there any neighbors? How far are your neighbors
595 on that side?
596
597 Mr. Greenwood - The owner lives on the site. The owner of the property
598 lives on the site. The other closest neighbors would be the Stephanie Trace
599 subdivision, and they're buffered by a timberline.
600
601 Mr. Baka - How wide is that timberline buffer on that
602 northwestern edge that we're referring to?
603
604 Mr. Greenwood - The timberline is roughly about 100 feet. And then
605 there's an area about 100 feet into our pit that we restored a few years back to
606 maintain a 200-foot buffer.
607
608 Mr. Nunnally - This is only for Simon's use?
609
610 Mr. Greenwood - That is correct. Just for our construction projects.
611
612 Mr. Nunnally - No other contractors coming in at all?
613
614 Mr. Greenwood - No other contractors.
615
616 Mr. Nunnally - This has been going on for how many years now?
617
618 Mr. Greenwood - For twenty-two. Since 1990. I believe you and Mr.
619 Wright were on the Board when we got the original permit.
620
621 Ms. Harris - Mr. Greenwood, the reclamation, is it going to be
622 simultaneously done?
623
624 Mr. Greenwood - A good portion of the lower elevation of the pit is at
625 finished grade right now, and that's actually timbered in small pines. The area
626 that you're looking at right now on the screen is the area we're currently using.
627 That will be top-soiled and seeded as that area gets to grade.
628
629 Ms. Harris - When?

630
631 Mr. Greenwood - Well, if we have periods that we're not using the pit, it
632 will be seeded at that time. If not, at the time of completion of that area.
633
634 Ms. Harris - Have you had any complaints of noise in that area at
635 all?
636
637 Mr. Greenwood - We haven't had any complaints at all.
638
639 Ms. Harris - Are there any other questions from Board members?
640
641 Mr. Wright - Yes. This initial permit was issued in January of 1990,
642 I believe. That's what our information says.
643
644 Mr. Greenwood - Yes sir.
645
646 Mr. Wright - How much longer would you project that this would go
647 on?
648
649 Mr. Greenwood - We've used the pit for the last three years more so
650 than we did in the previous three to four years. The economy has had a big
651 effect on the schedule for getting that material out. My best educated guess
652 would be another five to seven years.
653
654 Mr. Wright - So you think it will all be mined out then?
655
656 Mr. Greenwood - Yes sir.
657
658 Mr. Wright - And then it will be restored as required by—
659
660 Mr. Greenwood - Restored for agricultural use.
661
662 Mr. Baka - Can I follow up on that question, Madam Chairman?
663
664 Ms. Harris - Yes.
665
666 Mr. Baka - Condition #27 specifies a two-year time frame,
667 excavation shall be discontinued by two years. So if your work won't be
668 completed within that time, are you in agreement with Condition #27, or in your
669 opinion is that too limiting of a period of time? Should it be extended for a longer
670 time?
671
672 Mr. Greenwood - That condition was initially placed in the permit so that
673 it could be reviewed every two years as we come back to renew the permit. That
674 gives the County a shorter time frame to expect us to shut it down if we don't
675 continue to use the permit.

676
677 Mr. Blankinship - That's been the Board's practice for about twenty
678 years. Back in the seventies and eighties they used to do them every year. And I
679 guess that just got to be too much busy work, so they started doing two-year
680 extensions.

681
682 Mr. Baka - Okay. Thank you.

683
684 Ms. Harris - Are all of the conditions agreeable with you?

685
686 Mr. Greenwood - Yes ma'am.

687
688 Ms. Harris - Are there any other questions from Board members?
689 Thank you so much, Mr. Greenwood. Is there anyone else who wishes to speak
690 to this case? If not, that concludes the case.

691
692 **[After the conclusion of the public hearings, the Board discussed the case**
693 **and made its decision. This portion of the transcript is included here for**
694 **convenience of reference.]**

695
696 Mr. Baka - I'll make a motion that we approve CUP2012-00018,
697 Simons Hauling, with the thirty-one proposed conditions as proposed by staff,
698 after hearing discussion that this case won't adversely affect the health, safety,
699 or welfare of the neighborhood and the general environment.

700
701 Mr. Nunnally - Second.

702
703 Ms. Harris - Moved by Mr. Baka, seconded by Mr. Nunnally that
704 this case be approved with the thirty-one conditions enumerated. Are there any
705 questions on the motion? All in favor say aye. All opposed say no. The ayes
706 have it; the motion passes.

707
708 After an advertised public hearing and on a motion by Mr. Baka, seconded by
709 Mr. Nunnally, the Board **approved** application **CUP2012-00018, SIMONS**
710 **HAULING CO., INC.** request for a conditional use permit pursuant to Sections
711 24-52(d) and 24-103 of the County Code to extract materials from the earth at
712 2655 Lacywood Lane (Parcel 840-722-1635), zoned A-1, Agricultural District and
713 C-1, Conservation District (Varina). The Board approved the conditional use
714 permit subject to the following conditions:

715
716 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24
717 of the County Code. The operation shall be conducted in accordance with the
718 plans and narrative submitted with the application, except as noted below.

719
720 2. Throughout the life of this permit, the applicant shall maintain surety bond #
721 30325299 in the amount of \$111,000, guaranteeing that the land will be restored

722 to a reasonably level and drainable condition, consistent with the elevation of the
723 land prior to the beginning of excavation. In the event of termination of that bond,
724 this permit shall be void, and excavation shall cease. Within the next 90 days of
725 termination, the applicant shall restore the land as provided for under the
726 conditions of this use permit. Termination of such financial guaranty shall not
727 relieve the applicant from its obligation to indemnify the County of Henrico for
728 any breach of the conditions of this use permit.

729

730 3. Throughout the life of this permit, the applicant shall continuously satisfy the
731 Department of Public Works (DPW) that erosion control procedures are in
732 accordance with the approved erosion and sediment control (E&S) plan and are
733 properly maintained. Due to changes in site conditions, an updated E&S plan
734 and subsequent revised E&S bond may be required as determined by DPW.

735

736 4. Throughout the life of this permit, the applicant shall maintain a mine license
737 from the Virginia Department of Mines, Minerals and Energy.

738

739 5. Throughout the life of this permit, the areas approved for mining under this
740 permit shall be delineated on the ground by five-foot-high metal posts at least
741 five inches in diameter and painted in alternate one foot stripes of red and white.
742 These posts shall be so located as to clearly define the area in which the mining
743 is permitted.

744

745 6. Throughout the life of this permit, the applicant shall comply with the
746 Chesapeake Bay Preservation Act and all state and local regulations
747 administered under such act applicable to the property, and shall furnish to the
748 Planning Department copies of all reports required by such act or regulations.

749

750 7. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Saving
751 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.

752

753 8. No operations of any kind are to be conducted at the site on Saturdays,
754 Sundays, or national holidays.

755

756 9. All access to the property shall be from the established entrance onto
757 Grapevine Road.

758

759 10. The applicant shall maintain the gate at the entrance to the property. This
760 gate shall be locked at all times, except when authorized representatives of the
761 applicant are on the property.

762

763 11. The applicant shall maintain the sign at the entrance to the mining site
764 stating the name of the operator, the use permit number, the mine license
765 number, and the telephone number of the operator. The sign shall be 12 square
766 feet in area and the letters shall be three inches high.

767

768 12. The applicant shall maintain "No Trespassing" signs every 250 feet along the
769 perimeter of the property. The letters shall be three inches high. The applicant
770 shall continue to furnish the Chief of Police an annual renewal letter authorizing
771 the Division of Police to enforce the "No Trespassing" regulations, and agreeing
772 to send a representative to testify in court as required or requested by the
773 Division of Police.

774
775 13. Standard "Truck Entering Highway" signs on Grapevine Road on each side
776 of the entrance to the property shall be maintained at the applicant's expense.

777
778 14. The applicant shall maintain a standard stop sign at the entrance to
779 Lacywood Lane.

780
781 15. The applicant shall provide a flagman to control traffic from the site onto the
782 public road, with the flagman yielding the right of way to the public road traffic at
783 all times. This flagman will be required whenever the Division of Police deems
784 necessary.

785
786 16. The paved entrance road shall be maintained from its intersection with
787 Lacywood Lane for a distance of 300 feet and a width of 24 feet. All roads used
788 in connection with this use permit shall be effectively treated with calcium
789 chloride or other wetting agents to eliminate any dust nuisance.

790
791 17. The operation shall be so scheduled that trucks will travel at regular intervals
792 and not in groups of three or more.

793
794 18. Trucks shall be loaded in a way to prevent overloading or spilling of materials
795 of any kind on any public road.

796
797 19. The applicant shall maintain the property, fences, and roads in a safe and
798 secure condition indefinitely, or convert the property to some other safe use.

799
800 20. If, in the course of its operations, the applicant discovers evidence of cultural
801 or historical resources, or an endangered species, or a significant habitat, it shall
802 notify appropriate authorities and provide them with an opportunity to investigate
803 the site. The applicant shall report the results of any such investigation to the
804 Planning Department.

805
806 21. If water wells located on surrounding properties are adversely affected, and
807 the extraction operations on this site are suspected as the cause, the effected
808 property owners may present to the Board evidence that the extraction operation
809 is a contributing factor. After a hearing by the Board, this use permit may be
810 revoked or suspended, and the operator may be required to correct the problem.

811

812 22. Open and vertical excavations having a depth of 10 feet or more, for a period
813 of more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to
814 protect the public safety.

815

816 23. Topsoil shall not be removed from any part of the property outside of the
817 area in which mining is authorized. Sufficient topsoil shall be stockpiled on the
818 property for respreading in a layer with five inches of minimum depth. All topsoil
819 shall be stockpiled within the authorized mining area and provided with adequate
820 erosion control protection. If the site does not yield sufficient topsoil, additional
821 topsoil shall be brought to the site to provide the required five-inch layer of cover.
822 All topsoil shall be treated with a mixture of seed, fertilizer, and lime as
823 recommended by the County after soil tests have been provided to the County.

824

825 24. No offsite generated materials shall be deposited on the mining site without
826 prior written approval of the Director of Planning. To obtain such approval, the
827 operator shall submit a request stating the origin, nature and quantity of material
828 to be deposited, and certifying that no hazardous material will be included. The
829 material to be deposited on the site shall be limited to imperishable materials
830 such as stone, bricks, tile, sand, gravel, soil, asphalt, concrete and like materials,
831 and shall not include any hazardous materials as defined by the Virginia
832 Hazardous Waste Management Regulations.

833

834 25. A superintendent, who shall be personally familiar with all the terms and
835 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the
836 terms and conditions of this use permit, shall be present at the beginning and
837 conclusion of operations each work day to see that all the conditions of the Code
838 and this use permit are observed.

839

840 26. A progress report shall be submitted to the Board on May 31, 2013. This
841 progress report shall contain information concerning how much property has
842 been mined to date of the report, the amount of land left to be mined, how much
843 reclamation has been performed, when and how the remaining amount of land
844 will be reclaimed, and any other pertinent information about the operation that
845 would be helpful to the Board.

846

847 27. Excavation shall be discontinued by May 31, 2014 and restoration
848 accomplished by not later than May 31, 2015, unless a new permit is granted by
849 the Board of Zoning Appeals.

850

851 28. The reclamation of the property shall take place simultaneously with the
852 mining process. Reclamation shall not be considered completed until the mined
853 area is covered completely with permanent vegetation.

854

855 29. All drainage and erosion and sediment control measures shall conform to the
856 standards and specifications of the Mineral Mining Manual Drainage Handbook.
857 Any drainage structures in place prior to October 14, 1992 and which do not

858 conform to the Mineral Mining Manual Drainage Handbook may remain in place
859 until such time as any reconstruction is required at which time said structures
860 shall be brought into conformance with the Mineral Mining Manual Drainage
861 Handbook.

862
863 30. All excavation shall take place above the water table.

864
865 31. Failure to comply with any of the foregoing conditions shall automatically void
866 this permit.

867
868
869 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
870 Negative: 0
871 Absent: 0

872
873
874 **[At this point, the transcript continues with the public hearing on the next**
875 **case.]**

876
877 **CUP2012-00019** **STYLECRAFT HOMES** requests a temporary
878 conditional use permit pursuant to Section 24-116(c)(1) of the County Code to
879 allow a temporary sales office at 342 Wilmer Avenue (HUNTINGTON PLACE)
880 (Parcel 791-746-3111), zoned R-3, One-Family Residence District) (Fairfield).

881
882 Ms. Harris - All persons who wish to speak to this case please
883 stand so that you may be sworn in.

884
885 Mr. Blankinship - Raise your right hand, please. Do you swear the
886 testimony you're about to give is the truth and nothing but the truth so help you
887 God?

888
889 Ms. Harris - We ask the applicant to come forward and state the
890 case.

891
892 Mr. Horton - Good morning. My name is Larry Horton from
893 StyleCraft Homes. H-o-r-t-o-n. Staff did a good job on this report, but I'd like to
894 explain a little bit and maybe see if I could maybe request some changes.

895
896 The first one is fine with me. What we have here that's a little unusual is we
897 typically have furnished models, but in this particular case we didn't go with the
898 typical sales trailer, modular trailer that you are used to seeing. This is just a
899 regular RV that we rent on a monthly basis. It's not occupied every day. What
900 we're looking at for the East End is we have a furnished model down at
901 Darbytown and Laburnum. That's where the sales agent is every day. We have
902 another subdivision across from the Showplace, where it's a mixed use. There
903 are townhouses on Mechanicsville and single-family development behind it. And

904 in there, we sold our model. It took us three or four times but we finally sold it. So
905 over there we just have a spec house that they meet at.

906
907 Over here, this was a contractual obligation for us to have to put in this trailer.
908 We had the model—if you pull up the aerial—it was right across the street.
909 We've been in there since about '06, I guess, '07. Times are still tough in the
910 housing business.

911
912 Finally when we sold our model, we didn't really have anything. We would build a
913 spec house; let the agent sit in there. Once we sold it we'd do another one. And
914 then we got away from that. So this is more or less just a temporary place where
915 the agent, if she has an appointment out there, she would meet the people out
916 there and use it there. So sometimes we man it if we have something special
917 going on, but it's not like it's manned every day, as in most cases you all are
918 accustomed to when they put up a modular trailer the salesman is in there every
919 day until the model is built. In this particular case we are not planning on building
920 a model. We'll build a spec, put her in it, take this away. When we sell that we'll
921 start another one. And then we have the gap. So that's why we're using the RV
922 trailer. So I wanted to explain that a little bit.

923
924 But it is a contractual obligation. The reason we always do the models and the
925 developer—although we're developers in this particular case, we're just a
926 homebuilder in this subdivision. We had a clause in there that we would always
927 have a model, but in this economy we just can't afford to have one anymore. So
928 kind of as a negotiated thing he says if you keep a spec or two going all the time,
929 and have a sales trailer out there it will be okay. That's why we did what we did
930 as far as putting this thing out there. Like I say, it's an RV.

931
932 The thing about the parking spaces, I guess, as you can see it's a cleared lot.
933 This is not a cut-through to anywhere. There is plenty of off-street parking. We
934 had just planned on hopefully just using parking in the street. If that's a
935 requirement where we have to go on site, do some grading, put in some gravel, I
936 can do it. But the reason this lot was selected, is that it's a corner lot across the
937 street from where our model used to be, so it's visible when you come into the
938 subdivision on Wilmer. As you can see from there, it's a wide street. The guy that
939 lives across the street faces the other way. It's not a cut-through. So we were
940 hoping that we would just be able to use that temporarily, which in most cases
941 probably would just be the agent and her car, and probably the couple would
942 come. So six is a little bit of overkill, and the way I'm trying to do it with this trailer
943 with kind of moving it around. If that's a requirement that has to stick that's fine,
944 but I just wanted to explain to you that's why we have it right on the edge of the
945 curb right there. That picture doesn't show it very well, but basically where those
946 doors are, you can just step right onto the street, and that's why we put it there.
947 In that side view you can see the step where you can step right into the gutter.
948 That's the way we had hoped to do it. If it's such that I have to get it back into the
949 buildable area, like I was building a house, we're willing to do that. But I just

950 wanted to explain that's why we had done it that way, just the ease of people
951 standing in the street, walking to it, as opposed to me having it ten feet back. It
952 just makes it easier. And you can see that street is clear, plenty of room there for
953 off-street parking. So that's what we had hoped to do on this since it is unusual.

954

955 The hours are okay. There's only one other thing I'd like to question as far as not
956 being able to renew it. We have probably about thirty-some lots. If you pull up
957 the big aerial you can see any vacant ones we have. The market is still slow. I'd
958 like to say we'd be out of there in a couple years. Pretty much from Huntington
959 going back you can see all the vacant lots we have back there. This subdivision
960 was about ninety lots, it was recorded, if you can believe it, in 1948. The ones in
961 the back are basements, and then the ones behind the model are lots that are
962 just flat ones. So we don't know how long it's going to be, so what I was trying to
963 explain—and I had met with Mr. Blankinship to try to explain it since it's a little bit
964 unusual. We're going to always have a spec house under construction. If we sell
965 it—of course that's what we want to do. But if we get it completed, we would put
966 the agent in there with a desk, when she needs to meet people, and take this
967 away, because it costs us a small fortune. If we sell it, I would need this
968 temporary RV to use until I get another spec going. So I just wanted to give you
969 all a little bit more on it because it's so unusual from what you all are used to.

970

971 This is not occupied by a salesman every day with ads in the paper like you all
972 are accustomed to. This is just sort of a temporary thing that is manned.
973 Sometimes we might have a sales assistant out there for a week, and then we
974 may not have it manned for a while. We may just use it as a meeting place for
975 the agent to meet our prospective customers. With that I'll be glad to address
976 any questions.

977

978 Ms. Harris - You asked for two years, but you're saying that it
979 probably will be longer than two years?

980

981 Mr. Blankinship - There is nothing this Board can do about that; that's a
982 limit that's in the code.

983

984 Mr. Horton - Okay, if that's a code thing. I just didn't understand. I
985 was just listening to the extraction permit where he just gets his renewed every
986 couple of years.

987

988 Mr. Blankinship - They're under a different section of the code.

989

990 Mr. Horton - Okay. If this code says only two years, then that's
991 good. I just wanted to explain the nature of how we're trying to have a place for
992 our salesmen to meet out there. But if two years is what the code says, that's
993 what the code says.

994

995 Ms. Harris - How long has the trailer been there, Mr. Horton?

996

997 Mr. Horton - Probably about a couple months or so. What
998 happened is when we went back and renegotiated with the developer on the
999 take-down schedule—because we've purchased a bunch of lots that we own.
1000 The way it is, if somebody wants to buy a house, they can either buy a lot that
1001 we've already paid for, that we own, or if they want one the developer owns, then
1002 of course I buy one from the developer. And, of course, he expects us to buy
1003 them all, which over time we will. But in this market we're just not in a position to
1004 buy a bunch of lots that we're sitting on. I'm kind of thinking through this because
1005 I don't want to say anything that may be proprietary or anything of that nature.
1006 He owns lots; we own lots. We just, obviously, want to try to build and sell a
1007 house. But because the market is such, and we have these other subdivisions
1008 down there, we just can't afford the expense of having a full-blown decorated
1009 model like we had for many, many years. That's why we're trying to do this
1010 situation. Does that sort of answer your question?

1011

1012 Ms. Harris - Yes.

1013

1014 Mr. Horton - Okay, thank you.

1015

1016 Ms. Harris - Where is the speculative house going to be built?

1017

1018 Mr. Horton - If you could pull back up the aerial I could show you.
1019 It's under construction now. Well, it's kind of off the map, but if you see where—
1020 on the right where it says, "O'Brien," right in there, it's right in that vicinity
1021 somewhere where we have one being built.

1022

1023 Ms. Harris - But you're saying that if you build that, and if you sell
1024 it, you're still going to need the trailer.

1025

1026 Mr. Horton - Yes ma'am. Our plan is to save a little money by
1027 using the RV as opposed to a permanent modular thing. Once the spec house is
1028 complete and unsold, then we would put an agent in there and try to carry this
1029 away. If she sells it before it's complete, then we're back at square one where I
1030 need to start another one. That's why I'm trying to meet my contractual
1031 obligations by having a designated place where we can have a site presence on
1032 a daily basis. In the old days when I had the furnished model, no problem. But
1033 nowadays I don't have that, so this is a place that allows me to have a physical
1034 place where my sales agent can conduct business on a daily basis, if need be,
1035 but is a little less expensive than having a full-blown house with \$60,000 worth of
1036 furniture in it, not to mention utility bills every day and things like that.

1037

1038 Ms. Harris - Right. You say you can construct the parking spaces
1039 if we—

1040

1041 Mr. Horton - Yes ma'am. That lot is clear. As you can see from the
1042 picture it is grassy. The reason we selected this lot is—as you can see where it
1043 says, "Huntington," that's a dead-end street back there, and it's just so much on-
1044 street parking. And I'm not anticipating—if this was a modular trailer that I would
1045 have for a good while I would think the parking lot would be necessary, but since
1046 I have it right there by a paved street—these streets may even be in the system.
1047 I don't know if the developer owns them or not; that's probably academic. But I
1048 was hoping to just use the street parking. And since it's a not a cut-through, it's
1049 not like I would be blocking traffic or anything. As far as putting the skirt up
1050 around it, that's something that makes sense. I mean it's just an RV, but we
1051 didn't put anything up when we rented it because we just didn't know.

1052
1053 But the reason it was put in prior to me coming to speak to this body was just
1054 from a contractual obligation we just had to put it in. And it's kind of after the fact.
1055 So for that I do apologize for not coming to you to get it approved before we put
1056 it in there.

1057
1058 Ms. Harris - Okay. You've seen the other conditions, have you
1059 not?

1060
1061 Mr. Horton - Yes ma'am.

1062
1063 Ms. Harris - Okay. And do you know that you have to move it
1064 more than three feet from the street. Ten feet.

1065
1066 Mr. Horton - Yes ma'am. That's why I wanted to explain why we
1067 have it where we have it now. I'd like to leave it there because people can step
1068 right into the gutter. But if I need to back it into the buildable ten feet, it's just a
1069 matter of getting the person we rent it from to pull it over ten feet. Then I can put
1070 some gravel to get to it. When it was brought in it was just to meet the
1071 contractual obligation, and just to get it there and have it convenient where we
1072 could use it right away. That's why it's sitting right there where it is.

1073
1074 When I first went out and found out that we had to get the permit, and took my
1075 measurements and that sort of thing, and talked to Mr. Blankinship, that's
1076 when—I knew it should have been in the buildable area, but they just did this. If
1077 they had come to me first and said this is what's going on, we have to put this
1078 thing out there. And I'd say wait a minute, I need to get it approved first. But you
1079 are going to drag it out there, at least pull it ten feet back to get it in the buildable
1080 area like we would use once we build a house. But that was not done.

1081
1082 Ms. Harris - Due to the fact that it's going to be used for probably
1083 a long time, the conditions that we have outlined, can you comply with those
1084 conditions?

1085

1086 Mr. Horton - Yes ma'am. I can comply with them; I just wanted to
1087 explain to see if I could—

1088
1089 Ms. Harris - We understand.

1090
1091 Mr. Horton - —do what I have done. But if that's what you all come
1092 back with and say slide it over ten feet, put in a gravel parking lot, surely, I can
1093 do that. I was just hoping that I could leave it like it is for the ease of what I have.
1094 But if those are your conditions, and that's what you wish, then yes ma'am, I will
1095 comply.

1096
1097 Ms. Harris - Other questions by Board members?

1098
1099 Mr. Bell - Yes, Madam Chairman. What I'm hearing is that
1100 we're going to have a gravel lot and it's going to be there for a while. You'll have
1101 a trailer and then a gravel lot, and then a trailer and a gravel lot. Right? So as the
1102 neighborhood grows and people start landscaping, that is going to be part of the
1103 area for them, right? That's going to wind up—I guess what I'm thinking is will it
1104 be detracting from the area that's being developed around it.

1105
1106 Mr. Horton - Yes, eventually we'll build a house on it.

1107
1108 Mr. Bell - But for a long time it's going to be a gravel lot and a
1109 trailer.

1110
1111 Mr. Horton - We would like to reserve this because of the visibility
1112 of it; that's why this corner was picked. It's not my call, of course, but I would
1113 think if somebody wanted to buy this lot, we would probably sell it. The developer
1114 owns that lot, so I think if we came to him and said I do have a conditional use
1115 permit for my trailer. We just sold it, so you're getting the money for the lot, and
1116 this has to go. Then I would have to come back before you to see about putting it
1117 somewhere else. But the lot is a cleared lot, and it has very few trees on it, as
1118 you can see. Looking at this area you can see one that's a little bit in the back.
1119 But your buildable area right there, it's just grass.

1120
1121 Mr. Bell - I hadn't noticed. It seemed like it was built around it
1122 more so—

1123
1124 Mr. Horton - Well it is. If you pull the other aerial up I can show
1125 you. See where it's hatched, you can see across the street it's a vacant lot that
1126 we reserved and just maintain it. Where you come in, the second house on
1127 Wilmer on the Azalea side—because this thing touches Henrico High School
1128 was our model. So we saved these two lots here for the future in case the market
1129 doesn't turn, and we might need to change our product and build another model,
1130 we wanted to have some visibility. As you can see, what we did back when we
1131 first started, although we've changed it now, was when we started building in

1132 there we started on Wilmer and we went methodically down the street and tried
1133 to bring the construction traffic in on O'Brien so we wouldn't be there for the
1134 neighbors. Where Wilmer ties back into O'Brien is 100 percent built out, and
1135 where Wilmer loops back around into O'Brien to the right, east, which is kind of
1136 heading to Wilkinson Road, that is mostly built out. The portion of the site that is
1137 not built out is what you can see right here. Just looking at it now you can see
1138 what, five houses, and this is probably a current map. You can see those are the
1139 lots we have. Plus there are some more to the right that you can't see, lots that
1140 are left. But, Wilmer is 100 percent built out. Back in those days for us not to
1141 have the construction traffic coming by the neighbors as we tried, we lost sales
1142 that way, but it's kind of like this next one as you go down the street. But
1143 nowadays, in this market we need a sale any way we can get, and if you want to
1144 buy somewhere, I'll be glad to build it and sell it to you, so we don't hold to that
1145 theory anymore as you can see from the random looking nature of the houses
1146 we have built there.

1147

1148 Mr. Bell - Thank you.

1149

1150 Mr. Horton - Thank you.

1151

1152 Ms. Harris - How many feet do you think the five parking spaces
1153 will take of the lot?

1154

1155 Mr. Blankinship - Forty-five by eighteen is what it would normally be.

1156

1157 Ms. Harris - Okay.

1158

1159 Mr. Horton - Whatever the math came out, that's what I would do.
1160 Unless you all allow me to—instead of having six off-street—be able to use the
1161 street. That changes things. But if I have to have six off-street parking spaces in
1162 the yard, then whatever the math came out to.

1163

1164 Ms. Harris - Condition #35.

1165

1166 Mr. Horton - That's what I would do then. And I'd have to have
1167 room for people to back up and all, so the exact dimensions I'd probably need to
1168 think about a little bit. But we would just clear an area and put down some gravel.

1169

1170 Ms. Harris - What is the size of your lot?

1171

1172 Mr. Horton - Sixty-seven point five by—

1173

1174 Ms. Harris - One forty-five?

1175

1176 Mr. Horton - —one sixty-three.

1177

1178 Mr. Nunnally - One forty-five.
1179
1180 Mr. Horton - Well see, you have your radius up at the corner. So if
1181 you look at the distance between lot thirty and lot thirty-one it's 163.59'. That's
1182 probably closer to the depth, because right up there at the corner we have the
1183 buildable area. So from the buildable area back to the rear property line is 145',
1184 which you still have the distance up to the radius. I think the overall distance
1185 shown between lot thirty and lot thirty-one is 163.5'. It's good on that side.
1186
1187 Ms. Harris - You still would have quite a bit of grass available for
1188 aesthetic purposes. In other words, the whole lot won't be graveled.
1189
1190 Mr. Horton - No ma'am.
1191
1192 Ms. Harris - Just for those five spaces.
1193
1194 Mr. Horton - Yes. That's why we were trying to do what we did and
1195 use the street for parking, as opposed to coming on site. But if I have to come on
1196 site, then I will put a curb cut in, clear it out a bit, and put some gravel in to make
1197 a parking lot.
1198
1199 Ms. Harris - Thank you.
1200
1201 Mr. Horton - Thank you.
1202
1203 Ms. Harris - Anyone else who wishes to speak to this case, please
1204 come forward. You've been sworn in. Please identify yourself and let us know
1205 how you feel.
1206
1207 Mr. Johnson - My name is Edward Johnson.
1208
1209 Ms. Hill-Johnson - My name is Marcie Hill-Johnson.
1210
1211 Ms. Harris - How do you spell "Marcie"?
1212
1213 Ms. Hill-Johnson - M-a-r-c-i-e.
1214
1215 Ms. Harris - Talk in the microphone, please.
1216
1217 Ms. Hill-Johnson - M-a-r-c-i-e. Last name Hill—H-i-l-l, hyphenated,
1218 Johnson.
1219
1220 Ms. Harris - Thank you. What is it that you want to share with the
1221 Board?
1222

1223 Mr. Johnson - We were there before they came to develop this area.
1224 We were impacted greatly by that.
1225
1226 Mr. Wright - Where do you live, sir?
1227
1228 Mr. Johnson - We live opposite the trailer.
1229
1230 Mr. Blankinship - So 400 Wilmer Avenue.
1231
1232 Mr. Johnson - 400 Wilmer.
1233
1234 Mr. Wright - Okay.
1235
1236 Mr. Johnson - The statement was made that it's on Wilmer, but the
1237 actual trailer faces us, so we see that every day. Also, where they're building
1238 around the corner, there are a lot of places around there that they could put the
1239 trailer where it wouldn't impact people who don't live in the development. As it
1240 stands right now, only people that don't live in the development are impacted by
1241 the visual look of the trailer every day, and who knows how long that's going to
1242 be.
1243
1244 Mr. Wright - Right now the maximum would be two years.
1245
1246 Mr. Johnson - That's quite an inconvenience.
1247
1248 Mr. Wright - I understand. I understand that.
1249
1250 Mr. Johnson - The street we live on is in a nice quiet neighborhood.
1251 Not that we are against progress, but all of that changed. And then now they put
1252 a trailer up. It's really an eyesore because, as we said, it's on wheels; it's not
1253 skirted, it's not anything. And it looks kind of tacky. We are here to ask that since
1254 they have all this development around the corner, and they're going to be around
1255 there for a while, all they have to do is put up signs directing people to where
1256 their trailer is going to be, and put it around there so that it doesn't impact us.
1257
1258 Ms. Hill-Johnson - We bought the house that we are living in
1259 approximately ten years ago. And as my husband said, the house that we built, it
1260 was built about 1990, so that was not a really new house, but it was something
1261 that we wanted to live in. It was not a side street; it was totally—I mean you could
1262 come down the street and you might see one person coming down the street,
1263 maybe, you know, every hour or every half hour. So we bought that house based
1264 on the fact that it was a nice place for us to live. We don't have any objections to
1265 the development because we know people have to develop and build new
1266 houses. But the fact that we have to look at that trailer. I go to work every day
1267 and I come home and see that trailer. And if they're not using that trailer except
1268 for their sales people, then why does it have to be where it is? We really don't

1269 like looking at it. It's a nice trailer if you want to go camping or whatever, but it's
1270 not something I want to see every day after I've worked hard all day.

1271

1272 We have a neighbor who lives on the other side of us, but she wasn't able to
1273 come in today. But she also objects to it. She lives at 401 Wilmer. She also
1274 objects to the trailer being where it is.

1275

1276 Ms. Harris - We'll get Mr. Horton to come back and address your
1277 questions. But let me ask you this question. Did you get a copy of the report?
1278 You probably need to get a copy of the report. Would it make any difference to
1279 you if the trailer was skirted, if it were moved back in the lot ten feet, as we
1280 require.

1281

1282 Ms. Hill-Johnson - We'd still see it as we come out the door.

1283

1284 Ms. Harris - You still would see it, but it would be ten feet back. It
1285 wouldn't be right there on the curb.

1286

1287 Ms. Hill-Johnson - We would still see it. And the fact that, you know,
1288 back and forth, back and forth. And as I said, if it was not a trailer and they were
1289 using it more than they are, but they're not. They have people coming in to use it
1290 when they're using it. And to me, like my husband said, they need to move it
1291 somewhere else.

1292

1293 Mr. Blankinship - I'd like to ask one question, if I may. I understand that
1294 you would like it to be somewhere else, but assuming for a moment that it does
1295 get approved where it is, which has not been decided—

1296

1297 Ms. Hill-Johnson - We might decide to move.

1298

1299 Mr. Blankinship - Assuming that—I'm sure you followed the
1300 conversation about the gravel parking. Normally for a temporary office, modular
1301 office, we require five graveled parking spaces. In a case like this it's not clear
1302 how to apply that. I know you don't speak for the neighborhood, you just speak
1303 for yourself, but would you prefer to have a graveled parking area on that lot or to
1304 just have people park on Huntington?

1305

1306 Mr. Johnson - We would prefer that it be moved somewhere else.

1307

1308 Ms. Hill-Johnson - We're just being honest, based on the fact that, like I
1309 said, people come on Sundays looking at it. And we have not really seen that
1310 many people coming out actually looking. So to sit there and look at that as we're
1311 coming back and forth, back and forth, I'm just letting you know our opinion. I
1312 stayed off work today because I wanted to come here and address the issue. I
1313 really don't want to see that trailer there at all.

1314

1315 Mr. Blankinship - I understand. I wasn't trying to make it sound like you
1316 agreed with that. As staff we're not really sure where to go with the parking
1317 question either, and I was just wondering how a neighbor would react to that
1318 question. But I understand your response.

1319
1320 Ms. Harris - So you're saying even if it were skirted, moved ten
1321 feet back, you still would not want it there.

1322
1323 Ms. Hill-Johnson - Moved to maybe just around an area where the
1324 building—

1325
1326 Mr. Johnson - Maybe on O'Brien where they are actually building.

1327
1328 Mr. Baka - The long side of the trailer currently faces Huntington
1329 Avenue. Would you have any concerns if it were to face on the same lot, so that
1330 the long side of it faces Wilmer?

1331
1332 Ms. Hill-Johnson - It's still there.

1333
1334 Mr. Johnson - Yes, it is there. The problem would be if they put it on
1335 Wilmer, then they can't park on the street. So they're still going to have to put a
1336 gravel parking lot on this side of Huntington.

1337
1338 Ms. Hill-Johnson - Because of the length of the trailer.

1339
1340 Ms. Harris - Okay. Are there any other questions by Board
1341 members? Thank you.

1342
1343 Ms. Hill-Johnson - Thank you.

1344
1345 Ms. Harris - Mr. Horton, would you come back?

1346
1347 Mr. Horton - I'm sorry she had to take off work to come down here
1348 today. I don't know how to address it. As she said, she has to look at it every
1349 day, but it is a brand new, expensive-looking RV. An RV is an RV, but we did
1350 think about that, as far as getting something we thought would be as attractive as
1351 we could get as opposed to just a bare-bones one that you see. When she
1352 moved there, like I mentioned earlier, this subdivision has been recorded for
1353 many, many, many years and just got developed; so it was recorded when she
1354 moved there. I don't know how to address it anymore. This is where I would like
1355 to keep it for the sales reasons, it being the corner. But if this body decides that I
1356 need to do something else, I'll just have to comply.

1357
1358 With us doing it the way we're doing it, it was just a contractual obligation, and
1359 the developer was saying, quite frankly, you need to put it there or we're going to
1360 have to go to court. You need to have a physical presence out there every single

1361 day like we agreed upon in 2005. He is also, more or less, a commercial builder,
1362 and is not a housing builder. He understands the market, but there again he just
1363 wants me to buy lots. But it was agreed upon that we had to have a physical
1364 presence where an agent could be there every day, or as necessary. And this
1365 was kind of a compromise from a contract that we signed back in late '04, '05 to
1366 have a physical presence. When the market was good, hey, we had a furnished
1367 model. Back in '07 when times were real tight, I was sitting there in that model
1368 many an afternoon trying to sell a house, unsuccessfully, I might add. But at
1369 least I was sitting out there trying to. The practicality of it with explaining how we
1370 have three subdivisions in eastern Henrico with one agent covering three of
1371 them—back when times were good, we would have an agent at each site. It's
1372 just working out now where we have one agent that from a pricing standpoint,
1373 the one in Varina is the most expensive and that's about a 200-lot one. Pricewise
1374 this is the second one. And the one across from the Showplace has the lower-
1375 priced units. So when she has a customer it's easier for her if they like StyleCraft
1376 homes as a builder, we have three locations in the East End. And I'm from the
1377 East End, so I consider this the East End, although maybe some people might
1378 think it's Northside. I think it's the East End because it was when I grew up down
1379 there.

1380
1381 So that's the way we're looking at it. And I'm just trying to have a physical
1382 presence like my contract with the developer stated that I have to do. I couldn't
1383 talk him out of it. He said if you don't put something in we're going to court. Well,
1384 I don't need to do that.

1385
1386 Mr. Wright - That doesn't mean you have to put it on this lot, does
1387 it?

1388
1389 Mr. Horton - No sir.

1390
1391 Mr. Wright - Your physical presence could be anywhere in that
1392 area.

1393
1394 Mr. Horton - Yes sir. The only thing I can say is I do know when it
1395 was put out there—which I didn't handle—we did pay extra to get the fanciest,
1396 prettiest trailer that we could—

1397
1398 Mr. Wright - A trailer is a trailer.

1399
1400 Mr. Horton - It's a trailer. We thought if we have to put one out
1401 there, let's at least rent the nicest looking one we can. We did try to get a fancier
1402 one as opposed to just a basic one.

1403
1404 Ms. Harris - Thank you.

1405
1406 Mr. Horton - Thank you.

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

Ms. Harris - I'm going to move that this case be denied because we've had neighbors complain that it is adversely affecting the appearance of the neighborhood. I feel that the owners of the property have other options with other lots that they own, other properties that they own.

Mr. Wright - I'll second that motion.

Ms. Harris - Moved by Ms. Harris, seconded by Mr. Wright that this case be denied. Are there any questions on this motion? All in favor say aye. All opposed say no. The ayes have it; the motion passes. This case has been denied.

After an advertised public hearing and on a motion by Ms. Harris seconded by Mr. Wright, the Board **denied** application **CUP2012-00019, STYLECRAFT HOMES'** request for a temporary conditional use permit pursuant to Section 24-116(c)(1) of the County Code to allow a temporary sales office at 342 Wilmer Avenue (HUNTINGTON PLACE) (Parcel 791-746-3111), zoned R-3, One-Family Residence District (Fairfield).

Affirmative:	Baka, Bell, Harris, Nunnally, Wright	5
Negative:		0
Absent:		0

Ms. Harris - Let's look now at the minutes from the last meeting. Are there any corrections or additions to the minutes? If not, a motion is in order for approval.

Mr. Baka - One change real quick. Line 59. Tommy Branin is the chairman from the Planning Commission; it should be Ms. Harris.

Ms. Harris - All right. Are there any more corrections to the minutes? Okay, a motion is in order to approve the minutes as corrected.

Mr. Bell - I move that the minutes be approved.

Mr. Wright - Second.

Ms. Harris - Motion by Mr. Bell, seconded by Mr. Wright. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1454 On a motion by Mr. Bell, seconded by Mr. Wright, the Board **approved as**
1455 **corrected the Minutes of the April 26, 2012**, Henrico County Board of Zoning
1456 Appeals meeting.
1457

1458
1459 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1460 Negative: 0
1461 Absent: 0
1462

1463
1464 Ms. Harris - Our next meeting is the 28th of June. A motion is in
1465 order that we adjourn.
1466

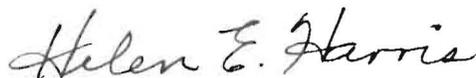
1467 Mr. Nunnally - So moved.
1468

1469 Mr. Wright - Second.
1470

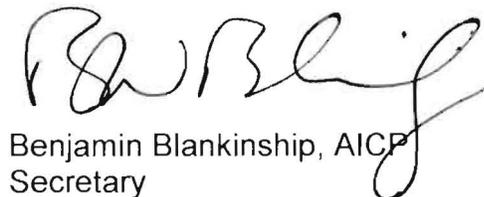
1471 Ms. Harris - Moved by Mr. Nunnally and seconded by Mr. Wright
1472 that we adjourn the meeting. All in favor say aye. All opposed say no. The ayes
1473 have it; the motion passes.
1474

1475
1476 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1477 Negative: 0
1478 Absent: 0
1479

1480
1481 Ms. Harris - The meeting is adjourned.
1482

1483
1484 

1485
1486 Helen E. Harris
1487 Chairman
1488

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1490 
1491
1492 Benjamin Blankinship, AICP
1493 Secretary
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