

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM**
4 **AND HUNGARY SPRINGS ROADS, ON THURSDAY, FEBRUARY 26, 2009,**
5 **AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**
6 **TIMES-DISPATCH FEBRUARY 5, 2009, AND FEBURARY 12, 2009.**

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

Also Present: David D. O'Kelly, Assistant Director of Planning
Benjamin Blankinship, Secretary
Paul Gidley, County Planner
Miguel Madrigal, County Planner
Carla Brothers, Office Assistant IV
Angela Edmonds, Account Clerk III

8
9
10 Ms. Dwyer - Good morning. Welcome to the Board of Zoning
11 Appeals meeting for Henrico County. This meeting for Thursday, February the
12 26th, 2009, will please come to order. We'll begin our meeting with the Pledge of
13 Allegiance.

14
15 Ms. Dwyer - All right, Mr. Secretary, do we have any calls for
16 deferrals or withdrawals this morning.

17
18 Mr. Blankinship - Yes ma'am, we do. Do you want me to begin by
19 reading the rules?

20
21 Ms. Dwyer - All right.

22
23 Mr. Blankinship - Okay. The rules for this meeting are as follows:
24 Acting as Secretary, I will call each case, and as I'm speaking, the applicant
25 should come down to the podium. We will then ask everyone who intends to
26 speak on that case to stand and be sworn in. The applicant will speak, then
27 anyone else who wishes to speak will be given an opportunity, and then the
28 applicant will have the opportunity for rebuttal. After the case has been heard, the
29 Board will take the matter under advisement, and they will render all of their
30 decisions at the end of the meeting. I believe we're only to have one actual
31 decision on a case this morning, so that's not really that relevant. This meeting is
32 being recorded, so I will ask everyone who speaks to speak directly into the
33 microphone on the podium, state your name, and please spell your last name so
34 we get it correctly in the record. There is a binder in the foyer that contains the

35 staff report for each case, including the conditions that have been recommended
36 by the staff.

37

38 Madam Chairman, we have two requests for withdrawal without prejudice this
39 morning. We haven't actually done a withdrawal without prejudice for a little
40 while, so let me just briefly explain what that means. In the BZA Rules of
41 Procedure, it states "in any case in which an application has been denied by the
42 Board, or withdrawn after having been filed, no such applications shall be again
43 considered by the Board within one year from the date of such refusal or
44 withdrawal." We have two cases this morning, the landfill case and one of the
45 variances, where the applicant has been trying to get the case ready for hearing
46 and has been unable to do so. They would like to be heard within one year, but
47 they would like to withdraw this morning and come back in, say, three or four
48 months. If the Board chooses to allow that, then you can allow them to withdraw
49 without prejudice and then refile within less than a year.

50

51 Ms. Dwyer - Do we have anything in writing, any request in writing
52 from these two applicants?

53

54 Mr. Blankinship - We do. They should be in the files. The first is A-19-
55 2008. Also, both the applicants should be here this morning.

56

57 **A-019-08 VIRGINIA LANDBANK COMPANY** requests a
58 variance from Section 24- 9 to build a one-family dwelling at 2421 Hartman
59 Street (Montezuma Farms) (Parcel 801-728-7752), zoned R-4, One-family
60 Residence District (Fairfield). The public street frontage requirement is not met.
61 The applicant has 0 feet public street frontage where the Code requires 50 feet
62 public street frontage. The applicant requests a variance of 50 feet public street
63 frontage.

64

65 Ms. Dwyer - You're here to represent the applicant?

66

67 Mr. Hooker - Yes ma'am.

68

69 Mr. Archer - State your name, please.

70

71 Mr. Hooker - Randy Hooker—H-o-o-k-e-r.

72

73 Ms. Dwyer - Your request is to withdraw without prejudice with
74 leave to refile the case before one year has elapsed.

75

76 Mr. Hooker - Correct. Yes. We've deferred this case twice already,
77 and our client, his title insurance company has been working with Real Property.
78 Real Property has granted approval of use of the County land, which was
79 formally the Dominion Virginia Power property, which is a transmission right-of-
80 way. However, he still needs to obtain an easement or permission from

81 Dominion Virginia Power to have his driveway within that transmission right-of-
82 way. He also met with Public Utilities regarding connection to water and sewer.
83 Utility plans show a two-inch water line coming onto his property. We would then
84 need to tie into the sewer. However, the two-inch water line is a Sydnor system;
85 it's off of a community well. The County's purchased the Sydnor systems, and
86 there's a little question on how that's going to be done because the County is
87 going to need an easement. Who's going to handle what portions of giving an
88 easement because it is crossing two parcels, one of those being ours.

89
90 Ms. Dwyer - You have a lot details to work out.

91
92 Mr. Hooker - We still have quite a few. The last item is once we
93 get the Virginia Dominion Power permission, and the utility issues worked out,
94 we'll need to obtain Board of Supervisors' approval for using the County property
95 for the driveway.

96
97 Ms. Dwyer - That's going to take more than a year.

98
99 Mr. Hooker - Well, we sincerely hope not, but there's no telling.
100 That's why I talked to Ben. We don't know how long it's going to take. We
101 sincerely hope not a year. With not knowing, we don't want to continue to just
102 defer month after month.

103
104 Mr. Wright - I think the purpose of the one year is that if we hear a
105 case and determine it, we wouldn't want them, if we refuse or deny the
106 application, to be able to come back the next month or the next two or three
107 months. Since we haven't heard this case, I don't think that idea or that
108 philosophy applies.

109
110 Ms. Dwyer - Is there a motion on the case?

111
112 Ms. Harris - I so move that we defer this case.

113
114 Mr. Wright - Withdrawn without prejudice.

115
116 Ms. Harris - That this case be withdrawn without prejudice.

117
118 Mr. Wright - Yes. I second that motion.

119
120 Ms. Dwyer - Motion by Ms. Harris, seconded by Mr. Wright. Any
121 more discussion? All in favor say aye. All opposed say no. The ayes have it; the
122 motion passes.

123
124 After an advertised public hearing, and on a motion by Ms. Harris, seconded by
125 Mr. Wright, case **A-019-08, VIRGINIA LANDBANK COMPANY**, has been
126 **withdrawn without prejudice**.

127
128 Affirmative: Dwyer, Harris, Nunnally, Witte, Wright 5
129 Negative: 0
130 Absent: 0
131
132 Mr. Blankinship - A similar request is UP-002-09, The East End Landfill,
133 LLC.
134
135 **UP-002-09 THE EAST END LANDFILL, LLC** requests a
136 conditional use permit pursuant to Section 24-116(c)(3) to allow municipal solid
137 waste and industrial waste at 1820 and 1850 Darbytown Road (Parcels 808-706-
138 6679 and 809-707-1585), zoned B-3, Business District and M-2, General
139 Industrial District (Varina)
140
141 Ms. Dwyer - Is there anyone here to represent the applicant in this
142 case?
143
144 Mr. Gill - Good morning. My name is Christopher Gill. I'm with
145 Christian and Barton in Richmond.
146
147 Mr. Nunnally - How do you spell your last name, sir?
148
149 Mr. Gill - Gill—G-i-l-l.
150
151 Mr. Nunnally - Thank you.
152
153 Ms. Dwyer - Would you briefly state the reasons for your request?
154
155 Mr. Gill - After meeting with Mr. Blankinship and other staff at
156 the County, and other departments of the County, the East End Landfill feels that
157 it needs to re-look at its request, and analyze what exactly it really wants to do,
158 and to meet with the staff a little bit more, and figure out exactly how to make its
159 request to set forth the County's goals, as well as its own goals.
160
161 Ms. Dwyer - I assume staff has no objection?
162
163 Mr. Blankinship - No.
164
165 Ms. Dwyer - Is there a motion on the case?
166
167 Mr. Nunnally - I move we withdraw it without prejudice.
168
169 Mr. Wright - I second it.
170
171 Ms. Dwyer - Discussion? Mr. Wright, I think your comments earlier
172 also apply to this case.

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218

Mr. Wright - Yes.

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

After an advertised public hearing, and on a motion by Mr. Nunnally, seconded by Mr. Wright, case **UP-002-09, THE EAST END LANDFILL, LLC**, has been **withdrawn without prejudice**.

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

A-001-09 **HOWARD SIZEMORE** requests a variance from Section 24- 9 to build a one-family dwelling at 7256 Yahley Mill Road (Parcel 835-695-2250 (part)), zoned A-1, Agricultural District (Varina). The public street frontage requirement is not met. The applicant has 0 feet public street frontage where the Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet public street frontage.

Mr. Sizemore - Good morning everyone. My name is Howard Sizemore.

Ms. Dwyer - One moment please. Is there anyone else to speak to the case? You will all need to be sworn in.

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

Mr. Sizemore - Good morning everyone, my name is Howard Sizemore. S-i-z-e-m-o-r-e.

Ms. Dwyer - Tell us why you're hear this morning.

Mr. Sizemore - I'm here to ask for a variance for 1.4 acres that I purchased off of Yahley Mill Road. It has no road frontage, so I need a variance of 50 feet to build a dwelling in the rear of the property.

Ms. Dwyer - How long have you owned the property?

Mr. Sizemore - Probably about six months.

Ms. Dwyer - The lot was created—

219 Mr. Sizemore - Back in the '80's, 1980.
220
221 Ms. Dwyer - The requirement for road frontage for all lots was -
222 [inaudible].
223
224 Mr. Sizemore - 1960.
225
226 Mr. Wright - This says 1964.
227
228 Mr. Sizemore - The original dwelling was,
229
230 Mr. Wright - At the time it was required, were there two separate
231 lots?
232
233 Mr. Blankinship - It has kind of a confusing history. Do you know the
234 history of the property?
235
236 Mr. Sizemore - Yes. It was in the family, and they traded some land
237 for the land behind the house. That's how this separate parcel was created in
238 1980. That's how it became 1.6 acres and 1.4 acres.
239
240 Mr. Blankinship - Prior to 1980, one of the parcels involved was 61 feet
241 wide and over a thousand feet long. So, it almost looks like an old right-of-way or
242 something.
243
244 Mr. Sizemore - Yes, maybe it was a right-of-way to come in the rear
245 of the property. I have no idea why it was like that.
246
247 Mr. Blankinship - It divided another parcel north and south, and I guess
248 the intent was to consolidate all of that so that would be one parcel rather than
249 divided by this narrow strip. So, they swapped that long narrow strip of land for
250 equal acreage, which was created with no public street frontage.
251
252 Mr. Sizemore - That's as best as I can describe what happened.
253
254 Mr. Blankinship - It's really difficult for us to make any conclusion on
255 what is the property taken as a whole here.
256
257 Mr. Nunnally - It says property owners are Sizemore, Thomas H.,
258 and PRS. Who is Thomas Sizemore?
259
260 Mr. Sizemore - That's me, Thomas Howard Sizemore is my full
261 name.
262
263 Mr. Nunnally - Oh, I'm sorry. Okay.
264

265 Mr. Sizemore - PRS is my son, Phillip Sizemore. That's the whole
266 reason we purchased the property to give him a house, and hopefully I'll have a
267 stepson, too. We'll see if they can both get something out of this.
268

269 Ms. Dwyer - I don't see any indication as to what would be built on
270 the lot. Do you have plans?
271

272 Mr. Sizemore - Yes. I just put a 1200-square-foot rancher in my
273 application.
274

275 Ms. Dwyer - That's all the detail you have?
276

277 Mr. Sizemore - At this point, yes ma'am. It's just going to be a small
278 rancher, something a young person can afford.
279

280 Ms. Harris - Mr. Sizemore, do you own both of these parcels?
281

282 Mr. Sizemore - Yes ma'am.
283

284 Mr. Wright - How do you have access to this 1.4 acres?
285

286 Mr. Sizemore - When I had the property surveyed, I put a right-of-way
287 on my property to get to the rear of it. That was one question I wanted to ask you.
288 You sent me a map with a public street frontage pointing to the house, and a 50-
289 foot easement to the, I guess it would be the north side of the property.
290

291 Ms. Dwyer - Is that accurate?
292

293 Mr. Sizemore - Yes. That's how I had it surveyed. Then the County
294 sent me this. I figured you'd have a copy.
295

296 Mr. Blankinship - Yes.
297

298 Mr. Sizemore - So, I didn't know if you wanted me to use the
299 easement or use the right-of-way I supplied myself.
300

301 Mr. Wright - Which easement is he talking about, Ben?
302

303 Mr. Blankinship - Well, on the site map, the one that the County
304 produces, they are showing a 50-foot easement for right-of-way along the
305 northern boundary line. On his plat that he submitted, it shows a different
306 easement on the other side of the existing house. I guess you're saying that you
307 have the legal right to use either of those for that property. Is that correct?
308

309 Mr. Sizemore - Well, that's what I want you to tell me.
310

311 Mr. Blankinship - Oh.
312
313 Mr. Wright - We can't tell you that.
314
315 Ms. Dwyer - We're not your real estate agent.
316
317 Mr. Wright - Or we're not your attorney.
318
319 Mr. Sizemore - That's why I provided myself a right-of-way. But,
320 when you sent me this piece of property, I mean this map, I didn't know what you
321 meant by that. You're pointing to the house I want to build, and the 50-foot
322 easement. But you never made a statement about why you sent me that.
323
324 Mr. Blankinship - That's not the easement that you intend to use. You
325 intend to use—
326
327 Mr. Sizemore - I was intending to use this one.
328
329 Mr. Blankinship - Okay.
330
331 Mr. Sizemore - I provided my own.
332
333 Mr. Blankinship - I think it's just an inconsistency between our maps
334 and your plat.
335
336 Mr. Sizemore - Correct.
337
338 Mr. Blankinship - Your plat is more specific than anything.
339
340 Ms. Dwyer - You don't know anything about this 50-foot easement
341 that the County shows on its map?
342
343 Mr. Sizemore - Maybe these two can tell you more about it than I can.
344 It's on their property, I think, or between them and my property.
345
346 Mr. Wright - Your intent would be not to use that 50-foot easement
347 on there.
348
349 Mr. Sizemore - Actually, I'm here for you to tell me which one you'd
350 like for me to use. It doesn't matter to me. I can get to the property from either
351 one. But, if the County's going to make that a 50-foot easement that the
352 County's going to take possession of one day—
353
354 Mr. Blankinship - There's no indication of the County taking possession
355 of it.
356

357 Mr. Sizemore - Okay, okay. Well, I've provided my own easement,
358 and that's fine with me to use that.
359
360 Mr. Blankinship - Okay.
361
362 Ms. Dwyer - What is the width of the easement that you've
363 provided?
364
365 Mr. Sizemore - Twenty feet is what the surveyor put on there. I can
366 change that if I need to because I think I still have some room on that side
367 without encroaching on the existing house.
368
369 Mr. Wright - What is your intent, to deed this property to your son?
370
371 Mr. Sizemore - I'm going to give them an opportunity to buy it, at a
372 good price.
373
374 Mr. Wright - That would include the 20-foot easement, or would
375 that be just granted to them as an easement and not be part of the deed.
376
377 Mr. Sizemore - I would probably just use it as an easement because
378 it has that little parcel off to the side that you'd want to keep with the original 1.6
379 acres, I guess. Or it could be traded around.
380
381 Ms. Dwyer - In other words, this 20 feet would not be deeded with
382 the property, it would merely be allowing access across your property to the back
383 lot. Is that correct?
384
385 Mr. Sizemore - That would be a deed with the property.
386
387 Ms. Dwyer - Any other questions for Mr. Sizemore?
388
389 Ms. Harris - Mr. Sizemore, have you had any complaints from your
390 neighbors about the easement that you propose, the 20-foot easement?
391
392 Mr. Sizemore - If they have one, I haven't heard it.
393
394 Ms. Harris - Are the neighbors of Crabtree that are shown on this
395 map, this parcel?
396
397 Mr. Witte - I think they're the other side.
398
399 Mr. Sizemore - They're on the north side, I believe.
400
401 Ms. Harris - Which easement are you going to use? Are you going
402 to use the one that we see now on the screen?

403
404 Mr. Sizemore - Yes ma'am.
405
406 Ms. Harris - Okay. You're saying the Crabtree's are your
407 neighbors here?
408
409 Female: [Off mike.] No.
410
411 Ms. Harris - You're not.
412
413 Ms. McBride - Laura McBride. M-c-b-r-i-d-e.
414
415 Mr. Smart - Kenneth Smart. S-m-a-r-t.
416
417 Ms. Harris - I thought the 20-foot easement was on the north side.
418
419 Mr. Blankinship - Have you spoken to the Crabtree's about the case at
420 all? They would have been notified of the hearing.
421
422 Ms. Dwyer - Mr. Blankinship, what about this 50-foot easement
423 that the County picked up. Do you know what the status of that is?
424
425 Mr. Blankinship - I don't. It just shows on our map, as a 50-foot
426 easement of right-of-way.
427
428 Ms. Dwyer - Do we know who granted it?
429
430 Mr. Blankinship - No ma'am.
431
432 Ms. Dwyer - It's deeded? Do we know that?
433
434 Mr. Blankinship - All we know is that it shows on the map.
435
436 Ms. Dwyer - How would it get on the map?
437
438 Mr. Wright - These folks may be able to add something to it.
439
440 Ms. McBride - We were granted it when we built our house.
441 Originally, when we bought the house in back, which the Smart's now own, we
442 bought the property in front, which we now live on. It came with the house. So,
443 it's the land in front. He now owns the house that he's—Yes, to the south. We
444 were given a 50-foot easement to get onto our property.
445
446 Ms. Dwyer - Can we get a map on the screen so I can be oriented
447 to know exactly where you are.
448

449 Ms. Harris - You are Ms. Laura McBride?
450
451 Ms. McBride - Yes.
452
453 Ms. Dwyer - Your house is on this map?
454
455 Ms. McBride - Yes.
456
457 Ms. Dwyer - It is located where?
458
459 Mr. Blankinship - Just north of the easement and closer to Yahley Mill
460 Road.
461
462 Ms. McBride - Yes.
463
464 Mr. Sizemore - That's her house.
465
466 Mr. Blankinship - Mr. Smart is north of the easement, but farther to the
467 west.
468
469 Ms. Dwyer - So, the easement was granted across Ms. McBride's
470 property to give access to Mr. Smart.
471
472 Mr. Sizemore - Correct
473
474 Ms. McBride - Yes.
475
476 Ms. Dwyer - Would that also give access to the property in
477 question today?
478
479 Ms. McBride - It would, and that's why I'm here. I asphalted that
480 driveway, and I really don't like the idea—We both have to get to our houses
481 from that driveway. I don't really like the idea of builders coming down and
482 tearing my driveway up.
483
484 Mr. Smart - We never saw the 20-foot easement that he's taken
485 out on the other side.
486
487 Mr. Witte - The only part I didn't understand is why the 50-foot
488 easement goes through his property.
489
490 Mr. Blankinship - That's apparently an easement on his property. You
491 see on the side of Yahley Mill Road—
492
493 Mr. Sizemore - The 50-foot easement that possibly goes through my
494 property, we have a light pole right here, and the post back here. They have a

495 line buried on that easement. So, that part of the easement is possibly for
496 Virginia Power.

497
498 Mr. Blankinship - Do you see on the other side of Yahley Mill Road
499 there's another easement noted over there? There's an easement noted on the
500 map there. We just show that as a matter of information.

501
502 Ms. Dwyer - So we don't know the terms of the easement. We
503 don't know, for example, if the easement would allow use by this particular
504 property.

505
506 Mr. Witte - Mr. Sizemore may have no right to use that
507 easement.

508
509 Mr. Blankinship - It's like the easement on the other side of Yahley Mill,
510 he probably has no right to use that one either. But there is an easement there
511 and it shows on the map.

512
513 Ms. Dwyer - But we don't know any details about that easement.

514
515 Mr. Blankinship - No.

516
517 Mr. Wright - If we were to grant this, we could put a condition in it
518 that he would have to use his 20-foot easement for access. It's a legal issue on
519 the other one, the 50-foot. That's not before us.

520
521 Mr. Sizemore - But you sent me that, and I didn't understand why. I
522 didn't even know why you put it with this question. I didn't know if you were
523 telling me that if you wanted to develop this property you will have to use this
524 easement.

525
526 Mr. Blankinship - That easement shows for the same reason the one on
527 the other side of Yahley Mill shows. It's just a feature that's shown on our map.

528
529 Mr. Witte - You're satisfied with the 20-foot easement.

530
531 Mr. Sizemore - That's why I put on my own property, yes, my own
532 easement.

533
534 Mr. Blankinship - The neighbors are pleased if he uses his 20-foot
535 easement.

536
537 Ms. Dwyer - This is the kind of problem I think we get in when we
538 have lots without road frontage. We get into questions of who is entitled to use it,
539 who is going to maintain it. Whenever this Board grants a variance—

540

541 Mr. Sizemore - I've never asked to—
542
543 Ms. Dwyer - Excuse me, sir, I'm speaking. Sir, did you—
544
545 Mr. Sizemore - I never asked to use that.
546
547 Ms. Dwyer - I understand, I understand, I understand.
548
549 Mr. Sizemore - But it came in the packets, and I didn't understand
550 why it was in there.
551
552 Ms. Dwyer - Right. Because it just shows up on the map. I'm just
553 making an observation. Not about you in particular, but just an observation
554 that—
555
556 Mr. Sizemore - If that is the VEPCO easement, will that be used to
557 get to my property for VEPCO use or not?
558
559 Ms. Dwyer - We don't know. We don't know anything about the
560 status of that easement, is what's been made clear today.
561
562 Mr. Sizemore - Who would know?
563
564 Mr. Witte - That would be through VEPCO.
565
566 Mr. Sizemore - Through Virginia Power? I'd have to ask them? Once
567 I want to run power. I'm just asking.
568
569 Ms. Dwyer - Don't know.
570
571 Mr. Sizemore - Okay.
572
573 Ms. Dwyer - It sounds like it's an easement for access, as well as
574 perhaps an easement for utilities, but that's not before us today.
575
576 Mr. Wright - If we were to grant this, we would grant it requiring
577 you to use your 20-foot easement. I think we could place whatever conditions the
578 Board deems necessary on your case.
579
580 Mr. Sizemore - Yes sir.
581
582 Ms. Dwyer - Mr. Blankinship, as far as fire trucks are concerned,
583 what is the minimum easement that the fire department generally recommends?
584
585 Mr. Blankinship - Twenty feet. They like to have a clearing of 20 feet,
586 and 12 feet of surface, all-weather gravel surface.

587
588 Ms. Dwyer - Our conditions have addressed that. Is the 12 feet of
589 gravel hard surface?
590
591 Mr. Blankinship - That's my understanding. I don't have a
592 recommendation from them.
593
594 Ms. Harris - You just said 12 feet?
595
596 Ms. Dwyer - Twenty feet of road, 12 feet of hard gravel surface.
597 All right. Any more questions of any of the speakers today by Board members?
598 Any questions?
599
600 Mr. Nunnally - You did say you have 20 feet of easement there, and
601 you said you could make it a little larger if necessary?
602
603 Mr. Sizemore - If that's what you want. When they surveyed it, they
604 told me that was the requirement, 20 feet.
605
606 Mr. Nunnally - Right.
607
608 Ms. Dwyer - Any other questions by Board members? Have the
609 witnesses finished making statements that they intended to make? We'll go
610 ahead and make a decision on this case.
611
612 Mr. Sizemore - Thank you.
613
614 Ms. Dwyer - Is there a motion on the case?
615
616 Mr. Wright - I move that we approve it with the condition that the
617 20-foot easement as shown on the plat be used for access to the property. The
618 grounds for this is I think this parcel is not part of the other parcel because of its
619 history. I think taken as a whole, this parcel is 1.4 acres. If we deny this, it would
620 be a demonstrable hardship approaching confiscation because they could not
621 use the property.
622
623 Mr. Nunnally - I second it.
624
625 Ms. Dwyer - Motion by Mr. Wright, seconded by Mr. Nunnally. Is
626 there any discussion? No discussion. I'll just make a few comments. Just
627 hearing the discussion about this easement brings to mind some of the problems
628 that I think we then create for future homeowners with lots that don't have road
629 frontage to be created. My concern about this is that we had a legal lot when the
630 ordinance that requires road frontage was enacted. Subsequent to that ordinance
631 in 1980, this lot was created. I have a concern that we continue to approve and
632 encourage the development and proliferation of illegal lots being created out of

633 lots that originally were legal and had road frontage. My concern also is that this
634 is a recurring situation, and the ordinance requires that we specifically find that
635 the situation is not generally recurring.

636
637 We have a motion to approve and a second. All in favor say aye. All opposed
638 say no. The ayes have it; the motion passes.

639
640 After an advertised public hearing and on a motion by Mr. Wright, seconded by
641 Mr. Nunnally, the Board **approved** application **A-001-09, Howard Sizemore's**
642 request for a variance from Section 24- 9 to build a one-family dwelling at 7256
643 Yahley Mill Road (Parcel 835-695-2250 (part)), zoned A-1, Agricultural District
644 (Varina). The public street frontage requirement is not met.

645
646 Affirmative: Harris, Nunnally, Witte, Wright 4
647 Negative: Dwyer 1
648 Absent: 0

649
650 Ms. Dwyer - Next item on our agenda is approval of the minutes.
651 Any corrections, amendments for January?

652
653 Mr. Wright - I didn't see any glaring errors. I move they be
654 approved as submitted.

655
656 Ms. Harris - Second the motion.

657
658 Ms. Dwyer - Motion by Mr. Wright, seconded by Ms. Harris to
659 approve the minutes as presented for January. All in favor say aye. All opposed
660 say no. The ayes have it; the motion passes.

661
662 On a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **approved** the
663 **Minutes of the January 22, 2009** Henrico County Board of Zoning Appeals
664 meeting.

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

669
670 Ms. Dwyer - The next item on our agenda is a discussion of the
671 Horses in Service case, UP-024-07. This was a case that was approved in 2007
672 by this Board. There has been a request to schedule a show cause hearing. All
673 of those who are interested in speaking to this case, if you would prepare
674 yourselves, and come down to the front. Please have a seat for now. I'm going
675 to ask staff to make a statement before we get into testimony.

676
677 Mr. Blankinship, does staff have a position on this request?
678

679 Mr. Blankinship - Thank you, Madam Chairman. In December, we
680 brought before you some complaints, testimony, and evidence that had been
681 offered by a neighbor to this case. We discussed that, and the Board decided to
682 take this matter up again after the staff had had an opportunity to do some more
683 extensive investigation of the site. During December and January, with a break
684 over the holidays, the staff has visited this site every Monday, Wednesday, and
685 Friday. They've taken photographs, and those have been provided to you. Earlier
686 this month, we sent you a letter with about half of those photographs, and this
687 morning, I've provide you the other half. The complainant has submitted a video
688 that they would like to show to you this morning; and we have it cued up and
689 ready for you to review. There has been quite a bit of testimony, both from the
690 complainant and from neighbors. Most of that from the neighbors has been
691 received in the last two days, so it was copied and left on the table in front of you
692 there.

693
694 Procedurally, I think the question that is before the Board is whether you want to
695 hold a hearing, what we call a "show cause" hearing, to allow the two sides to put
696 on evidence in a more formal manner, and allow the Board to make the
697 determination of whether the conditions of the use permit have been violated.
698 When you issue a use permit, the Code states that you have the authority to
699 revoke it for cause, but only after a hearing. So, in order to revoke the use permit,
700 you would have to first schedule a public hearing, and then at that hearing you
701 would have to make a finding that the conditions of the use permit have been
702 violated. Then you would have the ability to revoke that permit if you choose to
703 do so.

704
705 Ms. Dwyer - Just to summarize, the question today is whether we
706 think there is sufficient reason to even schedule a show cause hearing.

707
708 Mr. Blankinship - Yes ma'am.

709
710 Ms. Dwyer - This is not the show cause.

711
712 Mr. Blankinship - Right. That has not been advertised; it has not been
713 notified. So, it would not be appropriate for you to actually hold the hearing today.

714
715 Ms. Dwyer - The question today is a procedural one, that is, shall
716 we hold a show cause hearing.

717
718 Mr. Blankinship - Yes ma'am.

719
720 Ms. Harris - Mr. Blankinship, can you review the conditions of the
721 use permit?

722
723 Mr. Blankinship - Certainly. The purpose of the use permit was to allow
724 an activity called Horses in Services, which is a therapeutic riding club. The

725 Wagner's property is zoned agricultural, and so, of course, they have the right to
726 keep their own horses and to operate a horse farm. The operation of a riding club
727 is permitted only by a conditional use permit. That was why they first came
728 before you. The use permit was approved I believe in March of 2008. I'm having
729 trouble putting my fingers on the approval letter.

730

731 There were a total of seven conditions. The first states that only the activities
732 directly associated with Horses in Service and the improvements shown on the
733 plot plan filed with the application are authorized by this approval. The second is
734 a distance requirement. The barns, stables, sheds, and riding arena shall be
735 located at least 300 feet from any lot occupied by a dwelling other than a farm
736 dwelling. Number 3 is that the riding club shall be operated on a non-profit basis
737 for the purpose of providing therapy to persons with disabilities. Number four is
738 there shall be no more than ten horses on the premises at any time. Number five
739 is the hours of operation, limited to 5:30 to 7:45 p.m. Monday through Friday, and
740 2 to 5:30 p.m. Saturday and Sunday. Number six is the one where we have the
741 specific allegations of non-compliance. Number six says the applicant—I'm just
742 going to read it in full, even though it's sort of lengthy. "The applicant shall
743 maintain the property so that odors, noise, and other impacts are controlled.
744 Manure shall be stored and disposed of in compliance with Virginia Department
745 of Agriculture and Consumer Services' requirements, and any other applicable
746 standards, including the Virginia Agricultural Stewardship Act guidelines of Jun 7,
747 2004. All manure shall be removed from the premises every two weeks, and may
748 be re-deposited only to areas under cultivation during the growing season, and in
749 agronomic rates. Number seven requires that on May 1, 2008, September 1,
750 2008, and on or about September 1st of each year thereafter, the applicant shall
751 submit necessary information to the Virginia Department of Agriculture and
752 Consumer Services, Department of Conservation and Recreation, and the
753 Henrico County Department of Public Works to ensure compliance with
754 requirements of the Chesapeake Bay Preservation Act."

755

756 Mr. Nunnally - That Number Six that you have, Mr. Blankinship, have
757 you found where they have not gone by that rule? You say you've been sending
758 people out there two or three times a week.

759

760 Mr. Blankinship - The conclusion that the inspectors have reached is
761 that the property is maintained in compliance to that condition. But that
762 conclusion has been challenged, and the Board will have to make a finding of
763 fact in that.

764

765 Ms. Harris - When we send people to take these pictures, and to
766 see if it, in fact, HIS is complying, do they observe the removal of the manure? I
767 was looking at where it says remove every two weeks and re-deposited on the
768 areas that are needed. Are we there during that process?

769

770 Mr. Blankinship - I don't know that we have ever actually been on site
771 at the same time as the gentleman removing the manure. The Wagner's were
772 kind enough to give us the contact information for that person. The Enforcement
773 Supervisor, Mr. Short, has spoken to that person to confirm his schedule for
774 removal.

775
776 Ms. Dwyer - Staff's position is embodied in this January 26th letter?
777

778 Mr. Blankinship - Yes ma'am.
779

780 Ms. Dwyer - From the Director of Planning, stating that, "To the
781 best of my knowledge, the Wagner's are in compliance."
782

783 Mr. Blankinship - Yes ma'am.
784

785 Ms. Dwyer - Any other questions of Mr. Blankinship by the Board?
786

787 All right. So, we have a request for a show cause hearing. Staff has determined,
788 as far as they're concerned, there is compliance. But we do want to hear from the
789 parties involved in this case. Again, I want to remind you that this is not the show
790 cause hearing. The only question before us today is a procedural question of
791 whether there's enough evidence to warrant a show cause hearing. I would ask
792 the complainant to come forward and make a statement. I will limit both sides to
793 ten minutes. Please state your reasons for requesting a show cause hearing.
794

795 Ms. Akers - I appreciate it. Karol Akers, daughter of Ann and Jerry
796 Akers. They are the neighbors. A-k-e-r-s. We're the ones that have been
797 complaining essentially since June and July of last year. I'll try to keep it really
798 quick.
799

800 Basically, we observed the Wagner's collecting manure and removing it from the
801 site every two weeks for the months of March and April, immediately after the
802 issuance of the conditional use permit. After that, they ceased collecting and
803 removing the manure from the site. The odor started up, and we started
804 contacting Mr. Blankinship and the County, reporting that they weren't collecting
805 the manure. This went on for June and July. During that time, instead of
806 collecting the manure and removing it from the site, the Wagner's went back to
807 their old practice of mowing and chopping the manure so that you couldn't tell
808 that it hadn't been picked up. When the inspectors were coming were weekdays.
809 This was always occurring on Saturdays and Sundays when the inspectors were
810 not there. The odors persisted, and we continued with the complaints. Once in
811 August, Mr. Wagner got back out there again with his little vacuum machine, and
812 he collected when we had complained a whole bunch of times to the County. He
813 did that one time, and then he stopped doing it again. September and October,
814 the odors got enormous. They still were not removing the manure. They were

815 still chopping on a regular basis. Both Mrs. Wagner and Mr. Wagner were doing
816 this.

817

818 We again persisted with complaints to the County. The County inspectors called
819 us up—actually, an inspector supervisor—to chastise both me and my mother,
820 that we were wasting the County’s time and money, that they had other work to
821 do, that they thought they were in compliance, and even if the Wagner’s were
822 chopping the manure, as we suggested, if he saw it, he would just conclude they
823 were cutting grass, even though there was a drought and there was no grass.
824 And in the winter, there was no grass. In his opinion, manure that is chopped is
825 nearly turned to dirt. I tried to explain that dirt comes from the erosion of rock, not
826 from the erosion of manure. He then contacted my father one day when I wasn’t
827 around and my mother wasn’t around to suggest to him that he may want to rein
828 the women of the family in because we were being a problem, and that we had to
829 stop complaining to the County because this was getting annoying, and he was
830 getting in trouble. We weren’t really concerned about him; our problem was the
831 odors from the site, the clear non-compliance. We would be standing there on
832 the weekends watching them mow and chop manure. They’re just standing there
833 doing it in front of us. The County doesn’t see it; the County says it’s not
834 happening.

835

836 Again, we were complaining. Finally when the complainants got so much, and
837 we met in December, the County suggested they were going to increase the
838 inspections and try to see what was going on. During that time, twice, once at
839 the end of December, and once at the end of January, the Wagner’s brought in
840 an outside party—there is only two times in the last year, and it was a month in
841 between that—to come around the site and pick it up with a front-end loader. We
842 didn’t see him remove it from the site, but we did see him pick it up with a front-
843 end loader. What he did with it after that, we don’t know.

844

845 All along, the County has maintained they’re in compliance, they’re not chopping
846 and mowing, and we could see that they were. They said they were not allowed
847 to confirm that the manure was being removed from the site, that this was
848 against their rules. All they could do was take pictures and see what they could
849 conclude from that.

850

851 Basically, that’s why we’re here today. I told the County back in early January
852 that while they were still doing their survey, their increased inspections, that we
853 actually had a videotape. It’s not necessarily great quality. We have an old
854 camera that’s 20-some years old. The battery no longer works. We set it up in
855 our Florida room so that they could shoot through the woods and see what was
856 going on. So, we told the County we had video evidence that the manure was
857 getting chopped, and mowed, and left on site. When the County comes, they
858 think it’s been picked up, but it hasn’t been. The County was not interested at all.
859 They didn’t ask to see the video or anything. After we received the letter dated
860 January 26 where the Director of Planning concluded that to the best of his

861 knowledge, they were in compliance, and the odors were not unusual—which to
862 us, they are unusual—I then delivered a copy of the video. It was actually an old
863 VHS tape that I converted to a DVD, so I would hope it would play on the County
864 system. It was a bad quality, and it's even less quality now. That's what we
865 presented to the County Manager, and asked that that be forwarded to you all for
866 consideration.

867

868 The last time we were here, I believe our complaints were termed harassment.
869 When you couple the County's statements that I can assure you they are fully in
870 compliance when we're saying they're not, you know, what is that saying about
871 what we're saying. We wanted you to see first hand what's going on. This has
872 been going on constantly since June of last year, mowing and chopping, and not
873 collecting and removing the manure. Granted, they have gotten someone to
874 come in at the end of December and the end of January to come in with a front-
875 end loader and collect the manure. This is only after constant complaints. It's
876 become annoying that we have to be the enforcement people here. We said
877 there was going to be a problem enforcing this permit when we discussed it back
878 in March of last year. It's even in the record that how are you going to enforce it
879 because they're just going to continue chopping and mowing like they have been
880 all along. I believe Mr. Nunnally had turned to Mr. Blankinship and said, "You're
881 not going to allow that to happen." And Mr. Blankinship said, "No, we're going to
882 enforce this permit and that won't be allowed to happen." And it's been
883 happening constantly.

884

885 Ms. Dwyer - What's the length of this video?

886

887 Ms. Akers - It's maybe five minutes.

888

889 Ms. Dwyer - Would you like to see the video presentation? Do you
890 have that cued?

891

892 Mr. Blankinship - I believe so. Fred?

893

894 Mr. Wright - Based on what she says, I think we should go ahead
895 and grant the hearing. I think we should grant the hearing and give them an
896 opportunity to prove this one way or the other. It sounds like to me that if this
897 testimony is correct, they have not been removing the manure every two weeks,
898 like we said they should. Chopping it up and leaving it there is not removing it. I
899 think we should have specific evidence as to how it's removed, and when it's
900 removed, and some specific data on that.

901

902 Ms. Dwyer - If you'll have a seat, please, Ms. Akers, and we'll
903 allow the Horses in Service representative.

904

905 Female - Are you going to watch the video?

906

907 Ms. Dwyer - Not right now. We might not need to.
908
909 Mr. Wright - If you chop it up and ground it into the ground, it's not
910 visible. Does that prove that it's been removed?
911
912 Mr. Nunnally - Chop up grass and then you say you cut your grass,
913 but there's still some down on the ground.
914
915 Mr. Wright - Our condition was that they remove it every two
916 weeks. I want evidence one way or the other of whether it's been removed.
917 Testimony from people that did it who could say they did it. This testimony was
918 that they haven't removed it, that they chop it up. That's not permitted. We didn't
919 say they could chop it up and leave it. We said it had to be removed.
920
921 Ms. Dwyer - It appears there's an issue that needs to be resolved.
922
923 Mr. Wright - It has to be resolved, yes.
924
925 Ms. Dwyer - All right. Please state your name.
926
927 Ms. Hudson - Good morning. Lisa Taylor Hudson—H-u-d-s-o-n—at
928 Sands Anderson Marks & Miller. I'm the volunteer president of Horses in Service
929 since April of last year. I'm pleased to be here today to address these concerns.
930 I understand we're specifically here on whether there should be a show cause on
931 the manure removal issue. I would like to point to the fact that I have been
932 involved in the Board meetings when we purchased this manure vacuum. I know
933 of the three individuals who drive that manure vacuum for the volunteer hours.
934 Reports are made to me for insurance and risk management, and allocations of
935 dollars. I had to be involved personally in the donations, because we are a non-
936 profit, to purchase this \$4,000 machine. I'm also aware of the onerous and
937 expensive nature of it to the County to have people come out and take piles of
938 pictures three days a week. I'm aware that Mr. Kenny Crochren—C-r-o-c-h-r-e-
939 n—is the volunteer remover who comes to pick up and remove this manure. I
940 have not personally spoken to him, but I've been privy to numerous Board
941 meetings. I've been onsite probably 12 different times for volunteer functions,
942 anywhere from one to six hours at a time, weekends, week nights. Never
943 personally observed an odor. I show up after work at Sands Anderson like this, in
944 these suits and these shoes. I'm probably one of the more feminine people out
945 there. I'm not in the ring. I raise money, I write grants, and I'm a lawyer.
946
947 I can say we're serving County kids, 60 of them. It almost makes me cry to talk
948 about this, but individuals like this that go from braces on their legs to walking
949 and horses, and an organization run by people for charitable purposes and
950 religious purposes that's being restricted in this nature is unfathomable to me
951 There has been no complaint in the four years we've been operating that has
952 ever come from a child of this County, or a child of Sussex, Hanover,

953 Chesterfield, the City of Richmond—any other child, or the hundreds of
954 volunteers that stand on the right of that house, the left of that horse, the front of
955 the horse, the back of the horse; the people that certify; our instructors; the
956 people that write our insurance policies so we have no incidents; the Eagle
957 Scouts who build our shelters and our pole barns; and the family that is the
958 nucleus, the Wagner's, Fritz and Martha Wagner.

959

960 I have the privilege of attending Greenwood United Methodist Church with one of
961 their cousins, an elderly gentleman, who recruited me to this Board. I remember
962 telling him, "Mr. Wagner, I don't even have enough hours to bill at my law firm or
963 sleep, let alone see my fiancée. But if you tell me that there is a need at this
964 organization to keep it viable for funding in this economy, I'm going to be a part of
965 it. I'm not personally affected by cerebral palsy, spina bifida, or paralysis, or
966 things of this nature, but what I've seen, and what you've told me, and the
967 spaghetti dinners I've attended, and the calendars the you sell knocking on
968 doors, it's real. It's people being touched by this.

969

970 This condition was onerous and these people are very shy and very timid. They
971 probably didn't have the best legal advice in Mach of 2008; I say that respectfully
972 because they had pro bono help. Now, they have been affiliated with legal help. I
973 work with the local government department at my firm. They reviewed that
974 permit and said this is A-1. These people could have numerous horses; they've
975 been restricted to ten. They've given away pets to run this program. They
976 operate at a loss right now in this economy, and they're serving many, many
977 people. We're the only site east of Charlottesville, west of Tidewater. People
978 drive many, many miles to come to us. We are in compliance completely. The
979 County has documented this with pictures, documented it with reports, and I say
980 ad nauseam because it is so tedious to come that many times.

981

982 If we didn't operate this riding facility, we could have many more horses, and
983 much more manure or waste. It is only because we are operating this non-profit,
984 County-serving, handicapped organization for children and adults up to 170
985 pounds that we have these conditions. One individual who has complained today
986 doesn't even live there, the person who spoke. She lives off site, and her
987 parents are out of the line of sight. So, they are trespassing to the property to do
988 whatever they are doing. I really don't think it's necessary to address that,
989 because I'm here today to say it's unwarranted to have a show cause hearing,
990 but if we have to keep jumping through hoops, we're going to keep jumping
991 through hoops because there is a passion here stemming through this board
992 that's only six or eight strong I think right now. We will do what it takes to serve
993 these families, because I can tell you, I'm not going to look in the faces of those
994 people and say we shut down over a manure restriction. You may cut our hours,
995 you may cut our days, you may cut our number of hours. But I can tell you
996 specifically, Henricopolis Sewer and Water District, Barbara McGarry; the Natural
997 Resources Conservation Services' Kilby Majette; the Virginia Department of
998 Agriculture and Consumer Services' Darrell Marshall; and your own inspector,

999 Jerry Peay, Zoning Enforcement Officer from the Department of Planning, all can
1000 come testify at the show cause hearing that we are in compliance. We have not
1001 violated, they do not support these conditions, they will not be involved in the
1002 enforcement of these conditions, that these conditions are onerous and are
1003 beyond what should have been put in place, but it is in place.
1004

1005 It's for another day whether or not we seek removal of those conditions or an
1006 amendment of those conditions, but I can tell you that almost defies logic to me
1007 that we would have to come back and show that we are in compliance with the
1008 volume of pictures every three days. Whether there's chopping or mulching or
1009 whatever, I'm not here to speak to that today; I haven't interviewed the Wagner's
1010 on that. But I know Mr. Crochren is independent of their family. I know he comes
1011 to the site. I know these pictures don't lie. I know it's happening every three
1012 days, and I know we have a \$4500 Zamboni manure vacuum machine that we
1013 say late Board members are going to have to ride for 45 minutes if they come
1014 late to Fox Chase Farm for any of their meetings. Fortunately, I haven't had the
1015 privilege of that yet, but my day will probably soon come.
1016

1017 I don't know what this video is. I don't know what these people are seeing out of
1018 the line of sight, but I can tell you, I go on site, I go to meetings, I raise money.
1019 I'm working for this organization on my volunteer time, in addition to Make a
1020 Wish, Cancer Society, everything else, and I see no problem with these people
1021 other than their heart is too big.
1022

1023 I respectfully respect that this Board consider this very minority position that does
1024 not comport with the positions of the County representatives, and with my
1025 eyewitness testimony. I have no physical connection to this farm. I have no
1026 property ownership in this farm. All of the folks that could come forward in
1027 support of this organization to say that this is distracting from us serving the
1028 County. This is taking away our hours and our manpower to continue to answer
1029 to what may be deemed harassing minority complaints. So, I thank you for your
1030 time.
1031

1032 Ms. Dwyer - Thank you, Ms. Hudson. Any questions by Board
1033 members?
1034

1035 Mr. Wright - There is one issue here. I'm certainly in sympathy,
1036 and I think it's a wonderful operation. But that's not the issue. The sole issue here
1037 is very simple, and is whether or not the manure has been removed every two
1038 weeks. I have heard no evidence at this point that would convince me one way
1039 or the other that would satisfy me that the manure has been removed. Pictures
1040 don't do it, they won't cut it. I think we simply need to have a hearing to
1041 determine that one issue. That should be able to be proved one way or the
1042 other.
1043

1044 Ms. Dwyer - Any other comments?

1045
1046 Mr. Nunnally - Does anyone on your staff have proof that it's being
1047 removed, Mr. Blankinship?
1048
1049 Mr. Blankinship - What we have are the inspections when we go out to
1050 the site.
1051
1052 Mr. Wright - The pictures won't tell you that. Probably his staff
1053 people can tell you, but they haven't told us.
1054
1055 Ms. Dwyer - That would be the point of the show cause hearing, to
1056 have staff—
1057
1058 Mr. Wright - It's simple. We have to have it resolved one way or
1059 the other. We have to have sufficient evidence to convince me, and I haven't
1060 heard it one way or the other.
1061
1062 Ms. Dwyer - Which would be the purpose of the show cause
1063 hearing.
1064
1065 Mr. Wright - That's the purpose. That one issue. Nothing else.
1066
1067 Ms. Dwyer - Any other comments by Board members? Do I have
1068 a motion?
1069
1070 Mr. Wright - I move that we grant the show cause hearing on that
1071 one issue. Restrict it to that one issue. All we want is evidence of whether or not
1072 the manure is being removed every two weeks.
1073
1074 Ms. Dwyer - Second?
1075
1076 Ms. Harris - I'm going to second it, and if I may make a comment.
1077 This is a very tedious problem, but maybe having the show cause hearing, we
1078 can go on with the business of approving or not approving variances, and
1079 granting conditional use permits, and letting the Planning Commission do what
1080 they've been hired to do. I think this has consumed a lot of time, a lot of
1081 frustrations, a lot of emotions, and I could feel the passion as I read the many
1082 letters that we received on both sides. Maybe we can resolve it once and for all if
1083 we have a show cause hearing. So, I second it.
1084
1085 Mr. Wright - I think this hearing should be limited to that one issue.
1086 That's the only issue we're concerned with. We shouldn't get into all the needs
1087 for the facility.
1088
1089 Ms. Harris - That's Condition #6.
1090

1091 Mr. Blankinship - Yes ma'am.
1092
1093 Ms. Dwyer - All right. So, the motion is that we should have a show
1094 cause hearing on the sole question of whether Horses in Service is in compliance
1095 with Condition #6 relating to the removal of manure from the site every two
1096 weeks. That motion has been seconded by Ms. Harris. All in favor say aye. All
1097 opposed say no. The ayes have it; the motion passes.
1098
1099 After an advertised public hearing and on a motion by Mr. Wright, seconded by
1100 Ms. Harris, the Board **approved** the request for a show cause hearing regarding
1101 **Horses In Services'** compliance with Condition #6 involving removal of manure
1102 every two weeks.
1103
1104 Affirmative: Harris, Dwyer, Wright 3
1105 Negative: Nunnally, Witte 2
1106 Absent: 0
1107
1108 Ms. Dwyer - Mr. Blankinship, the next part of the process is to
1109 provide notice, public notice that we will have this hearing in March.
1110
1111 Mr. Blankinship - Yes ma'am. March 26th. I believe we only have one
1112 other case scheduled for March, so it still should not
1113 be too long of a meeting.
1114
1115 Ms. Dwyer - This case will be limited to that one issue.
1116
1117 Mr. Wright - That's the only issue I want to hear.
1118
1119 Female - [Off mike.] Will they show my video then?
1120
1121 Mr. Wright - I don't think a video will tell us whether or not the
1122 manure has been removed. I want evidence whether or not the manure has been
1123 removed. That's all.
1124
1125 Female - [Off mike.] The video shows them chopping the
1126 manure.
1127
1128 Ms. Dwyer - In response, you can certainly present whatever
1129 evidence you want to at the show cause hearing; that's the purpose of the show
1130 cause hearing, for both sides to present whatever they want for the issue.
1131
1132 Thank you. Is there any other business to be brought before the Board this
1133 morning? If not, do I hear a motion for adjournment?
1134
1135 Ms. Harris - So move.
1136 Mr. Nunnally - Second.

1137
1138
1139
1140
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Ms. Dwyer - Motion by Ms. Harris, seconded by Mr. Nunnally. All in favor say aye. All opposed say no. The ayes have it; the motion passes. The meeting is adjourned.

There being no further business, the Board adjourned until the March 26, 2009 meeting at 9 a.m.

Elizabeth G. Dwyer
Chairman

Benjamin Blankinship, AICP
Secretary