

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 SPRING ROADS, ON THURSDAY FEBRUARY 27, 2014 AT**
5 **9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
6 **DISPATCH FEBRUARY 10, 2014, AND FEBRUARY 17, 2014.**
7

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

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 Mr. Wright - Good morning, ladies and gentleman. Welcome to the
10 February meeting of the Henrico County Board of Zoning Appeals. I'm going to
11 ask you if you would please stand and join me in the Pledge of Allegiance to the
12 flag of our country.

13
14 Thank you. Mr. Blankinship, would you please read our rules.

15
16 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
17 ladies and gentleman. 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 will then ask everyone who intends to speak to that
20 case to stand and be sworn in, and then the applicant will speak. Then anyone
21 else who wishes to speak will have an opportunity. After everyone has spoken,
22 the applicant, and only the applicant, will have an opportunity for rebuttal. After
23 the Board has heard all the testimony and asked any questions they may have,
24 they will take that matter under advisement and proceed to the next case. They
25 will render all of their decisions at the end of the meeting. So if you wish to hear
26 their decision on a specific case, you can either stay until the end of the meeting,
27 or you can check the Planning Department website this afternoon, or you can call
28 the Planning Department this afternoon.

29
30 This meeting is being recorded, so we will ask everyone who speaks to speak
31 directly into the microphone on the podium, state your name, and place spell
32 your last name so we can get it correctly in the record.
33

34 And finally, out in the foyer there are a couple of binders that contain the staff
35 report for each case, including the conditions that have been recommended by
36 staff. It's important that the applicants be familiar with those conditions.

37
38 Mr. Wright - Are there any deferrals that have been requested
39 today?

40
41 Mr. Blankinship - We have two, Mr. Chairman. The first is CUP2013-
42 00034, Bruce and Page Bourgeois. Is there anyone present this morning to
43 represent this case? This was the case that was waiting on the Planning
44 Commission. The Planning Commission met yesterday morning, and they
45 deferred action, so the Board can't act.

46
47 **CUP2013-00034 BRUCE AND PAGE BOURGEOIS** request a
48 conditional use permit pursuant to Section 24-95(i)(4) of the County Code to
49 allow a pool in the side yard at 2316 Persimmon Trek (LAKE LOREINE) (Parcel
50 743-754-0927) zoned R-2A, One-Family Residence District (Three Chopt).

51
52 Mr. Wright - So we defer that to the next meeting, I take it.

53
54 Mr. Blankinship - Yes sir.

55
56 Mr. Wright - The March meeting. The March meeting will be?

57
58 Mr. Blankinship - The twenty-seventh.

59
60 Mr. Wright - The March meeting is the twenty-seventh.

61
62 Mr. Blankinship - Yes sir.

63
64 Mr. Wright - All right. Do I hear a motion that we defer this case to
65 the March meeting?

66
67 Mr. Baka - I move.

68
69 Mr. Wright - Motion's made. Second?

70
71 Mr. Bell - Second.

72
73 Mr. Wright - Any discussion? Hearing none, all in favor say aye.
74 All opposed say no. The ayes have it; the motion passes.

75
76 All right, that will be deferred.

77
78 After an advertised public hearing and on a motion by Mr. Baka seconded by
79 Mr. Bell, the Board **deferred** application **CUP2013-00034, BRUCE AND PAGE**

80 **BOURGEOIS'** request for a conditional use permit pursuant to Section 24-
81 95(i)(4) of the County Code to allow a pool in the side yard at 2316 Persimmon
82 Trek (LAKE LOREINE) (Parcel 743-754-0927) zoned R-2A, One-Family
83 Residence District (Three Chopt).

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85

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

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90

91 Mr. Blankinship - The next case on the agenda has also requested
92 deferral. CUP2014-00005, Sharita Walker. Is there anyone here to address this
93 case? Ms. Walker was not available today, so she asked to defer.

94

95 **CUP2014-00005 SHARITA WALKER** requests a conditional use
96 permit pursuant to Section 24-12(g) of the County Code to operate a family day
97 home with employees at 2110 Rhudy Street (PEMBERTON PLACE) (Parcel 801-
98 734-3950) zoned R-4, One-Family Residence District (Fairfield).

99

100 Mr. Wright - Is there anyone here interested in this case? Do I
101 hear a motion on that?

102

103 Ms. Harris - I so move.

104

105 Mr. Wright - All right. Second?

106

107 Mr. Baka - Second.

108

109 Mr. Wright - Any discussion? Hearing none, all in favor say aye.
110 All opposed say no. The ayes have it; the motion passes. The case is deferred

111

112 After an advertised public hearing and on a motion by Ms. Harris seconded by
113 Mr. Baka, the Board **deferred** application **CUP2014-00005, SHARITA**
114 **WALKER's** request for a conditional use permit pursuant to Section 24-12(g) of
115 the County Code to operate a family day home with employees at 2110 Rhudy
116 Street (PEMBERTON PLACE) (Parcel 801-734-3950) zoned R-4, One-Family
117 Residence District (Fairfield).

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119

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

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125 Mr. Wright - Please call the first case.

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CUP2014-00006 VULCAN CONSTRUCTION MATERIALS, LP
requests a conditional use permit pursuant to Sections 24-52(d) and 24-103 of
the County Code to extract materials from the earth at 11400 Staples Mill Road
(Parcels 756-773-3302 and 759-773-4746) zoned A-1, Agricultural District, B-3,
Business District and M-2C, General Industrial District (Three Chopt).

Mr. Wright - All persons having an interest in the case, whether
speaking for or against, please stand and be sworn at this time. Would you
please raise your right hand.

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

Mr. Wright - All right. Would the person presenting the case please
come to the podium and present your case.

Mr. Carroll - Thank you, Mr. Chairman. My name is Tom Carroll—
C-a-r-r-o-l-l. I'm the director of Business Development with Vulcan Materials
Company.

Just to give you a little history on this. You saw the name Arundel Corporation.
That was a subsidiary of Florida Rock Industries, also known locally as Tidewater
Quarries. Vulcan acquired all of the assets in the United States of Florida Rock,
Arundel, and Tidewater back in 2007. This Board has a long history of Vulcan in
the County with the gravel operations that we used to operate at Curles Neck.
You may recall that we won a number of national and state reclamation and
conservation awards for that.

This application is a simple renewal of the existing CUP. We have not requested
any changes to the conditions that are there. Since acquiring this site in 2007,
we've continued with a liaison committee that we keep active in the community.
In fact, this Board may have seen some of the awards that we have won as a
result of our participation in the community. Most recently the Henrico County
School Board recognized us for a partnership that we have with Rivers Edge
Elementary, a sensory garden. And then we also participate very heavily with
Henrico County Fire Department on their training and educational activities there.

I'm here to answer any questions that you may have on the application, the
operation. But otherwise I defer to staff—

Mr. Wright - Have you read the conditions that are proposed?

Mr. Carroll - Yes we have.

Mr. Wright - And you're in accord with the conditions.

172
173 Mr. Carroll - Yes we are.
174
175 Mr. Wright - Are the conditions the same as the last time we
176 approved this?
177
178 Mr. Blankinship - Yes sir, with very minor changes.
179
180 Mr. Wright - All right. Any questions from members of the Board?
181
182 Mr. Bell - Any complaints over the last—
183
184 Mr. Carroll - No sir. In fact, we haven't had any complaints at this
185 facility since 2008 when we got involved.
186
187 Mr. Bell - I understand that the economy is allowing us to grow
188 a little bit more, so you might become a little bit more active in the next few
189 years?
190
191 Mr. Carroll - We would certainly hope so. I have a good friend of
192 mine that's in the brick business. He was explaining to a local chamber of
193 commerce the other day that he expects about a 20 percent increase in his
194 business in the coming year. But when you're 70 percent off of where you used
195 to be, that's not a lot to boast about. And I think our industry has been typically
196 about 50 percent of the levels that we have been historically.
197
198 Mr. Bell - Do you have any projections in terms of when you
199 start or increase the blasting that is needed as the growth continues?
200
201 Mr. Carroll - Typically, most of our facilities, whether they are large
202 or small, will average about once a week. So you're looking at about forty-five to
203 fifty a year, even at some of the peak production rates. It never exceeds that. It
204 would be a very unusual situation for that to occur. Again, we're hoping that the
205 local economy—there are quite a few other quarries in Goochland, and Hanover,
206 and other places, but this is the only one in Henrico.
207
208 Mr. Bell - Thank you, Mr. Carroll.
209
210 Mr. Carroll - Yes sir.
211
212 Mr. Wright - Any other questions?
213
214 Ms. Harris - Yes, I do. You said there will only be one blast per
215 week when you start blasting?
216
217 Mr. Carroll - Yes. That's on average.

218
219 Ms. Harris - On average.
220
221 Mr. Carroll - Yes.
222
223 Ms. Harris - Do you know how many decibels those—the loudness
224 of the blast, I'm concerned about how many. Before when we had the citizens
225 show up, that was their complaint.
226
227 Mr. Carroll - When you talk about loudness with respect to
228 blasting, it's on a different scale than what you may be referring to with
229 something audible. It's on an air overpressure scale. That can go up to—think of
230 wind blowing. It's not sound; it's a pressure wave. That goes up to 128, 133 dB.
231 But in conversational speech it's a different—it's dBA. The other one is a dBL. So
232 it's a different scale.
233
234 Mr. Blankinship - Can you talk a little about changes in blasting
235 technology over the last five or ten years?
236
237 Mr. Carroll - Oh, absolutely. Over the years, the technology that is
238 employed, we use electronic blasting systems here. These are actual computer-
239 programmable caps that can go in there. We can actually time the individual
240 delays between those down to milliseconds. And that's what you've seen with the
241 ability to implement that kind of technology. That's one of the reasons why we
242 think we have done such a successful job of getting along with the community
243 when our predecessor didn't particularly employ that kind of technology.
244
245 Ms. Harris - Do you notice the difference in the proximity to where
246 the residents actually live as to the affect they feel with the blasting?
247
248 Mr. Carroll - I'm not sure exactly what you—
249
250 Ms. Harris - For example, the last time we discussed this we had
251 one lady who I think lived in Hanover, but she did not have a problem with the
252 blasting. But the subdivision not too far away did have problems with it. And so I
253 wondered, is there a difference in the effect that is felt depending upon where
254 you actually live?
255
256 Mr. Carroll - Generally, yes, it's distance related, so the closer you
257 are to it—energy dissipates with distance just like sound does. Again, keep in
258 mind that when you talk about blasting operations, it's like buying energy when
259 you turn on a light switch or anything else. If we have energy go off in the way of
260 sounds or air blast or vibration, we're not using that energy to actually crack the
261 rock in the ground. So we have a real economic incentive to make sure that that
262 energy stays as much on our property as possible. So again, it goes back to the
263 design of the shot, how much explosive is used in each individual bore whole,

264 and how those bore holes go off in a sequential—they don't go off all at one time.
265 If you actually look at them in high-speed photography, they go off milliseconds
266 apart. The analogy is to take one big rock and throw it into a pond and get one
267 big wave that goes out. The opposite of that is to think of a very few little pebbles
268 that your throw out into a pond and you see the little ripples. That's the effect of
269 being able to time those things out so that you don't have that big impact as you
270 go off site. That energy is contained as closely as possible to the site and
271 dissipates much quicker.

272

273 Ms. Harris - Has that changed over the last five years?

274

275 Mr. Carroll - No. Actually, we haven't been blasting much in the
276 last five years. But that technology was employed as what I talk about—we
277 actually have totally in-house blasting experts that we use as opposed to again,
278 our predecessor that used a lot of outside contracting services. So we bring that
279 expertise in and analyze each site, the site characteristics, the geology, the
280 proximity of neighbors, and all of that goes into the design of the individual shots
281 as you move around the quarry.

282

283 Ms. Harris - Okay. Now I notice in your narrative that you talked
284 about depending on the weather conditions—undesirable effects might be
285 experienced depending on the weather conditions. Could you explain that?

286

287 Mr. Carroll - Again, remember I referred to the air blast or the
288 pressure wave that comes off. Think of that body of rock as it moves forward. It's
289 somewhat like pushing this forward that rock shoves the air. And so what
290 happens is if you have a cloudy, overcast day or a thermal inversion, you can
291 actually have that act as an artificial ceiling. What we do is we make sure that
292 we're not doing blasting activities on those days. We have the flexibility to be
293 able adjust throughout the week.

294

295 Ms. Harris - So you're saying on cloudy days you probably would
296 not blast?

297

298 Mr. Carroll - Well it's not necessarily cloudy days it deals with.

299

300 Ms. Harris - Overcast?

301

302 Mr. Carroll - Overcast, the temperature inversion. We check the
303 weather conditions each and every day that we do those shots.

304

305 Ms. Harris - Okay. Thank you.

306

307 Mr. Wright - Any further questions? Any other questions from
308 members of the Board?

309

310 Mr. Baka - Just one briefly. Do you have an approximate
311 estimate of the lifespan of the quarry as far as the rock capacity, how many years
312 in the future?

313
314 Mr. Carroll - Several decades. You get this kind of question often,
315 but I'll give you some quick math. If you had a hundred million tons of rock sitting
316 in the ground and you did a million tons a year, that would be a 100-year quarry,
317 right. But if you did four million tons a year, you'd be a 25-year quarry. So it really
318 depends on the market demand. And hopefully this economy will improve and
319 our life expectancy will go down.

320
321 Mr. Baka - Thank you.

322
323 Ms. Harris - I'm sorry, there was another question about the
324 reclamation plan that you mentioned several times here. Have you done any
325 reclamation at all in the years that you've been there?

326
327 Mr. Carroll - Yes. Obviously, any of the external peripheral areas
328 around the quarry, the berms and everything are all seeded and stabilized. They
329 have vegetation on them. We are also very active in habitat preservation. Many
330 of our operations have active wildlife management programs associated with
331 them. But the pit itself stays active. And obviously, as I indicated before, our site
332 is designed such that the pit acts as a large storm water retention—detention
333 basin. So all the water that hits that site actually drains into the pit. And if and
334 when we need to discharge, we discharge it meeting the permit conditions that
335 we have with the state. Those are oftentimes much better than the water quality
336 in the stream that we discharge to.

337
338 Ms. Harris - So you're still stockpiling topsoil?

339
340 Mr. Carroll - No. The pit is at its perimeter that it is now. So the
341 only thing that we're doing out of there is pulling rock, running it through our
342 crushing plant from time to time, and selling to our customers. We had some
343 sales this week, as a matter of fact, despite the weather.

344
345 Mr. Wright - Any further questions? Is anyone here in opposition to
346 this request? Hearing none, that concludes the case. Thank you very much for
347 appearing.

348
349 Mr. Carroll - Thank you, sir.

350
351 **[After the conclusion of the public hearings, the Board discussed the case**
352 **and made its decision. This portion of the transcript is included here for**
353 **convenience of reference.]**

354
355 Mr. Wright - Do I hear a motion on this case?

356

357 Mr. Baka - Mr. Chairman, I move that we approve CUP2014-
358 00006, Vulcan Materials, with the twenty-one conditions as presented in the staff
359 report. Based on testimony and an indication that this would cause no further
360 adverse impact on the surrounding properties or surrounding property values, I
361 make a motion that we approve this case.

362

363 Mr. Wright - All right. Is there a second to that?

364

365 Mr. Nunnally - Second.

366

367 Mr. Wright - It's moved and seconded. Is there any discussion?

368

369 Ms. Harris - Yes. I'm going to vote for the case, but I do have
370 some reservations in view of the fact that so many years ago we had all these
371 people come before us. And I think they could not prove that the crack in their
372 window was directly related to the blasting. We could not prove—it was not
373 proven that the pavement on 295, the problems with pavement, were directly
374 related to the quarry. But I think that the owners of Vulcan are trying to do the
375 right thing. They seem to be involved in the community. My only reservation that
376 I'm just wondering about is if the blasting is going to cause any ill effects on the
377 neighborhood not too far away. If they only blast once a week, I think that helps.

378

379 Mr. Wright - All right. Any other further discussion? Hearing none,
380 all in favor say aye. All opposed say no. The ayes have it; the motion passes.

381

382 After an advertised public hearing and on a motion by Mr. Baka, seconded by
383 Mr. Nunnally, the Board **approved** application **CUP2014-00006, VULCAN**
384 **CONSTRUCTION MATERIALS, LP** request for a conditional use permit
385 pursuant to Sections 24-52(d) and 24-103 of the County Code to extract
386 materials from the earth at 11400 Staples Mill Road (Parcels 756-773-3302 and
387 759-773-4746) zoned A-1, Agricultural District, B-3, Business District and M-2C,
388 General Industrial District (Three Chopt). The Board approved the conditional
389 use permit subject to the following conditions:

390

391 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24
392 of the County Code. The operation shall be conducted in accordance with the
393 plans and narrative approved with the use permit, except as noted below.

394

395 2. The applicant shall maintain a financial guaranty in an amount of \$3,000 per
396 acre for each acre of land to be disturbed, for a total of \$267,300, guaranteeing
397 that the land will be restored to a safe, stable, and usable condition. The form of
398 the financial guaranty shall be subject to approval by the County Attorney.

399

400 3. If required, the applicant shall apply for and obtain approval of revised erosion
401 and sedimentation control plans from the Department of Public Works (DPW).

402 Throughout the life of the operation, the applicant shall continuously satisfy DPW
403 that erosion and sedimentation control is performed and maintained in
404 accordance with the approved plan. The erosion control bond shall remain active
405 throughout the life of the project.

406

407 4. The applicant shall maintain a mine license from the Virginia Department of
408 Mines, Minerals and Energy.

409

410 5. All areas approved for mining under this permit shall be marked off with metal
411 posts. The posts shall be 5 feet high and 5 inches in diameter, and shall be
412 painted in alternating 1-foot stripes of red and white.

413

414 6. The applicant shall comply with the Chesapeake Bay Preservation Act and all
415 state and local regulations administered under such act applicable to the
416 property, and shall furnish to the Planning Department copies of all reports
417 required by such act or regulations.

418

419 7. Hours of operation shall be limited to 9:00 a.m. to 5:00 p.m. Monday through
420 Friday for blasting, 6:00 a.m. to 8:00 p.m. Monday through Saturday for shipping,
421 and 7:00 a.m. to 6:00 p.m. Monday through Saturday for all other operations. No
422 operations of any kind are to be conducted at the site on Sundays or national
423 holidays.

424

425 8. All access to the property shall be from the established entrance onto Staples
426 Mill Road as shown on the approved plans. The applicant shall erect and
427 maintain gates at all entrances to the property. The gates shall be locked at all
428 times except when authorized representatives of the applicant are on the
429 property.

430

431 9. The existing access road leading from Staples Mill Road to the property shall
432 be maintained in good repair at all times. All roads used in connection with this
433 use permit shall be effectively treated with calcium chloride or other wetting
434 agents to eliminate any dust nuisance.

435

436 10. The applicant shall maintain a standard stop sign at the entrance to Staples
437 Mill Road. The applicant shall pay the expense for the county to maintain
438 standard "Truck Entering Highway" signs along Staples Mill Road on each side of
439 each entrance to the property.

440

441 11. The applicant shall maintain a sign at the entrance to the mining site stating
442 the name of the operator, the use permit number, the mine license number, and
443 the telephone number of the operator. The sign shall be 12 square feet in area
444 and the letters shall be 3 inches in height.

445

446 12. The applicant shall maintain a continuous fence around the quarry. The
447 applicant shall maintain "No Trespassing" signs every 250 feet along the

448 perimeter of the property. The letters shall be 3 inches in height. The applicant
449 shall authorize the Division of Police to prosecute trespassers, and shall send a
450 representative to testify in court at the request of the Division of Police.
451

452 13. Trucks leaving the site shall travel at reasonable intervals and not in groups
453 of three or more. At any time the Division of Police deems it necessary, the
454 applicant shall provide a flagman to control traffic from the site onto the public
455 road, with the flagman yielding the right of way to the public road traffic at all
456 times. Trucks shall be loaded in a way to prevent overloading or spilling of
457 materials of any kind onto any public road.
458

459 14. To protect the public safety, excavations having a depth of 10 feet or more,
460 for a period of more than 30 days, shall be benched in conformance with MSHA
461 and DMME regulations or graded to a slope of 2:1 or flatter. The applicant shall
462 maintain the property, fences, and roads in a safe and secure condition
463 indefinitely, or convert the property to some other safe use.
464

465 15. All power-driven or power-producing machinery shall be located within the
466 boundary of the 89-acre disturbed area and shall be at least 600 feet from any
467 adjacent property.
468

469 16. No offsite-generated materials shall be deposited on the mining site without
470 prior written approval of the Director of Planning. To obtain such approval, the
471 operator shall submit a written request stating the origin, nature and quantity of
472 material to be deposited, and certifying that no hazardous material will be
473 included. The material to be deposited on the site shall be limited to imperishable
474 materials such as stone, bricks, tile, sand, gravel, soil, concrete and like
475 materials, and shall not include any hazardous materials as defined by the
476 Virginia Hazardous Waste Management Regulations.
477

478 17. A superintendent, who shall be personally familiar with all the requirements
479 of Section 24-103 of Chapter 24 of the County Code, as well as the conditions of
480 this use permit, shall be present at the beginning and conclusion of operations
481 each work day to ensure that all applicable requirements are observed.
482

483 18. Blasting shall be conducted in conformance with standards promulgated by
484 the Virginia Department of Mines, Minerals and Energy and shall not endanger
485 the public health or safety. The amount of explosives shall be limited to 1,000
486 pounds per time delay. Blasting shall not be conducted when atmospheric
487 conditions would produce undesirable effects. The operator shall submit a record
488 of all blasting to the Planning Department every three months.
489

490 19. A progress report shall be submitted to the Board on or about April 30 of
491 each year. The progress report shall state how much property has been mined
492 to date of the report, how much land is left to be mined, how much rehabilitation
493 has been performed, when and how the remaining amount of land will be

494 rehabilitated, and any other pertinent information about the operation that would
495 be helpful to the Board.

496
497 20. Excavation shall be discontinued by April 30, 2019, and restoration
498 accomplished by not later than April 30, 2020, unless a new permit is granted by
499 the Board of Zoning Appeals. Rehabilitation shall not be considered completed
500 until the mined area is covered completely with permanent vegetation or water as
501 shown on the reclamation plan.

502
503 21. Failure to comply with any of the foregoing conditions shall automatically
504 void this permit.

505
506
507 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
508 Negative: 0
509 Absent: 0

510
511
512 **[At this point, the transcript continues with the public hearing on the next**
513 **two cases.]**

514
515 Mr. Blankinship - Mr. Chairman, the next two are companion cases.
516 Would you like me to call them together?

517
518 Mr. Wright - I think that would be a good idea.

519
520 **CUP2014-00007 VERIZON WIRELESS** requests a conditional use
521 permit pursuant to Section 24-116(c)(1) of the County Code to allow a temporary
522 communication tower at 3810 Meadowbridge Road (Parcel 794-737-7079) zoned
523 B-3, Business District (Fairfield).

524
525 **CUP2014-00008 VERIZON WIRELESS** requests a conditional use
526 permit pursuant to Section 24-116(c)(1) of the County Code to allow a temporary
527 communication tower at 5209 Wilkinson Road (Parcel 794-745-8161) zoned B-3,
528 Business District (Fairfield).

529
530 Mr. Wright - Anyone desiring to speak on these cases, please
531 come down to the rostrum.

532
533 Mr. Baka - Mr. Chairman, if I may. At this time I'm going to
534 recuse myself from CUP2014-00007 and CUP2014-00008.

535
536 Mr. Wright - All right.

537
538 Mr. Baka - Thank you.

539

540 Mr. Wright - All right, sir, please state your name for the record.
541 Have you been sworn?
542

543 Mr. Blankinship - No.
544

545 Mr. Wright - You haven't been sworn yet? Okay.
546

547 Mr. Blankinship - Were you going to speak? If you would both stand
548 and raise your right hands. Do you swear the testimony you're about to give is
549 the truth and nothing but the truth so help you God?
550

551 Mr. Wright - Please state your name for the record and present
552 your case.
553

554 Mr. Geiger - Mr. Chairman, members of the Board, my name is
555 Jeff Geiger. I'm here on behalf of Verizon Wireless. With me as well is Stuart
556 Squier, a consultant on behalf of Verizon Wireless.
557

558 Mr. Gidley - [Off microphone.] How is your last name spelled?
559

560 Mr. Geiger - G-e-i-g-e-r.
561

562 Mr. Gidley - [Off microphone.] Thank you.
563

564 Mr. Geiger - Thank you. We are here before you this morning to
565 request a temporary conditional use permit to allow a temporary communication
566 site in support of the NASCAR races at Richmond International Raceway on April
567 26 and September 6. These two temporary sites will ensure that Verizon
568 Wireless's 4G LTE network can support the 100,000-plus fans that we expect to
569 be in attendance for these races. In addition, these temporary sites will allow
570 area businesses and residences to maintain service for the duration of each
571 race. Network users will be able to use their smartphones and other mobile
572 devices to promote their experience at the races and in the County. They will be
573 able to locate their family and friends that are in attendance, find their way to and
574 from Richmond International Raceway, and, if necessary, avoid roads congested
575 with race traffic. Maintaining a reliable service also ensures that a high-quality
576 wireless network is available in the area to support the needs of emergency
577 communication by residents, fans, and by Henrico's first responders using the
578 network.
579

580 These temporary sites will both consist of a 120-foot retractable lattice structure.
581 Antennas installed on the towers will match the color of the towers. Transmitting
582 equipment will be located within and contained within a box truck at the base of
583 the towers. And a portable generator will also be located at the base of the tower.
584 Both of these installations are of the type that you previously approved for the
585 summer race this last year.

586

587 The first property that we are requesting the temporary conditional use permit for
588 is commonly known as the Crawley Funeral Home property. It is zoned B-3 and
589 designated commercial arterial on the 2026 Land Use Plan. Surrounding
590 properties are zoned B-3, B-1, and there's an R-6 property across the Richmond-
591 Henrico Turnpike.

592

593 The installation on this property will be within a wooded portion of the property
594 where surrounding mature trees will screen the view of the structure from the
595 surrounding properties. This is the same site location that was approved for last
596 summer's race.

597

598 The second property for which we are requesting a temporary conditional use
599 permit we commonly refer to as the Azalea flea market site. It is zoned B-3 and
600 designated office/service on the 2026 Land Use Plan. This temporary installation
601 will be within a large parking lot backing up to one of the existing structures that
602 is used for the flea market. Surrounding properties are zoned B-1, M-1, and A-1,
603 with the nearest residential property about 500 feet away. Again, this is same
604 location that has been previously approved by the Board for the races.

605

606 Both requests before you today meet all Henrico County code requirements for
607 approval. The property—both properties are appropriately zoned and in fact are
608 zoned with permanent uses that are a much higher intensity than the temporary
609 use that is requested today. Both sites will be consistent with the land use plan.
610 Both requests will promote the health, safety, and welfare with the enhancement
611 of the wireless network during this high-demand time, allowing for spectators and
612 area residents and businesses to use a high-quality network for their personal
613 and business needs, for the communication with emergency services, and by
614 allowing emergency responders to continue to use the network.

615

616 Prior temporary installations at both properties have demonstrated that this
617 temporary use will not have an effect on the adjacent uses and structures, nor
618 impact the character of the district and adjacent districts, nor have an impact on
619 property values. In addition, both of the prior installations have demonstrated that
620 this temporary tower and the associated ground equipment will not have an
621 unreasonable impact on adequate supply of light and air. It will not increase
622 congestion in the streets. It will not increase public danger from fire, but will
623 promote public safety.

624

625 The applicant does not have any concerns with the staff's proposed conditions.
626 The applicant requests that you approve the temporary conditional use permits
627 for both locations.

628

629 Mr. Wright - So you do agree to all of the conditions as proposed?

630

631 Mr. Geiger - Yes sir.

632

633

Mr. Wright - Is there anything here that's different from what we approved last time?

634

635

636

Mr. Geiger - It is the same request that you looked at before the summer race of last year.

637

638

639

Mr. Wright - So no change at all.

640

641

Mr. Nunnally - Would you give me the dates again on that. I see that it was changed on the application. What dates are you going to use them?

642

643

644

Mr. Geiger - We will be installing them consistent with the dates requested—you know, proposed by staff. The spring race will be March 17th to May 10th is when the facility will be in place. We will then take it down—take them down. And then for the summer race we will put them back up starting July 27th and take it back down July 20th.

645

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650

Mr. Blankinship - September 20th.

651

652

Mr. Geiger - Sorry, September 20th.

653

654

Mr. Wright - Okay. The only question I have, and I think you've addressed it, would this have any impact on the homes around there so far as their equipment is concerned, like telephones or TVs or anything like that.

655

656

657

658

Mr. Geiger - It does not. We are a regulated industry. We have to operate within our licensed frequencies. The federal government, the FCC, you know, ensures that the different—radio waves that are being used by the different technologies that you mentioned do not interfere with each other or cause any interference.

659

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Mr. Wright - Any questions from members of the Board?

665

666

Mr. Bell - Why the lengthy time span, about seven weeks, like two weeks after they'll still be up and about three or four weeks before? Why that time span?

667

668

669

670

Mr. Geiger - These are not simple items that we can just flip a switch and pop up. We do need time to get them installed, get them set up. And then we have to get them tested to make sure that they are communicating with the surrounding towers so that they can handle the handoffs in the communication of the—or continue the service as the mobile devices are moving from one tower to the next. There is also the function of making sure that our connection back to the main switch is established and tested.

671

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677

678 Mr. Bell - Did you receive any complaints over the installations
679 concerning last year's CUP?
680
681 Mr. Geiger - No.
682
683 Mr. Wright - Any complaints?
684
685 Mr. Blankinship - No sir, we have not heard any complaints.
686
687 Ms. Harris - Mr. Geiger, how long does it take to set up these
688 towers?
689
690 Mr. Geiger - It can take a couple days to actually put them up into
691 place. And then the testing takes—you know, it just depends on the availability of
692 the RF engineers to come out and do the testing.
693
694 Ms. Harris - The one on Wilkinson Road was 120 feet too last
695 year?
696
697 Mr. Geiger - Yes.
698
699 Ms. Harris - It was. Okay. Do you foresee technology advancing to
700 the point that you no longer need the temporary towers?
701
702 Mr. Geiger - If you are bringing 100,000 people into one space,
703 technology in the near future will not allow us to handle that kind of demand with
704 the towers that exist today. It's just not possible. As you know, there are 100,000
705 people who have their devices and are pointing at the existing tower. They can
706 get service, but it's a question of are they going to get in, because these
707 antennas only have a certain amount of capacity for these people to come in.
708 And that's why—you might be able to see that you have a signal, but you might
709 be trying to make a phone call and you can't get out. There are stories from the
710 inauguration and other types high-attendance events where people can't make a
711 phone call, can't get their pictures out, they can't get their Twitters going. So we
712 need these extra antennas to ensure that we have the capacity for people to be
713 able to use their mobile devices for communication.
714
715 Mr. Blankinship - Aren't you in the process of applying for permanent
716 towers for both of these locations?
717
718 Mr. Geiger - My understanding is that Verizon has submitted an
719 application for permanent towers at these locations so that we don't have to
720 come back each year for these.
721
722 Ms. Harris - You submitted the application to whom for
723 permanent—

724
725 Mr. Geiger - I believe it's been submitted to Planning staff.
726
727 Mr. Blankinship - The Planning Commission and the Board of
728 Supervisors.
729
730 Ms. Harris - So it's already been submitted.
731
732 Mr. Geiger - Yes.
733
734 Ms. Harris - Okay. Did you have any transmission problems last
735 year with the races?
736
737 Mr. Geiger - Not that I'm aware of. As you have probably noted,
738 instead of coming in for three, we're only coming in for two. The reason for that is
739 the third site we found wasn't necessary. We can measure the users on those
740 antennas, and the demand wasn't there for that site.
741
742 Ms. Harris - Okay.
743
744 Mr. Wright - I imagine this is quite an expensive operation.
745
746 Mr. Geiger - These are not cheap to install.
747
748 Mr. Wright - So you wouldn't be doing it unless you needed it?
749
750 Mr. Geiger - Most definitely.
751
752 Ms. Harris - You don't have any problem with air traffic?
753
754 Mr. Geiger - No. These are 120 feet tall. You don't have to have
755 lights or register them until they get to 200 feet and above.
756
757 Ms. Harris - Okay. Will these have lights on them?
758
759 Mr. Geiger - No.
760
761 Mr. Wright - Any further questions? Is anyone here in opposition to
762 these requests? Hearing none, that concludes the two cases. Thank you very
763 much for appearing.
764
765 Mr. Geiger - Thank you.
766
767 **[After the conclusion of the public hearings, the Board discussed the two**
768 **cases and made their decisions. This portion of the transcript is included**
769 **here for convenience of reference.]**

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Mr. Wright - Do I hear a motion on CUP2014-00007?

Ms. Harris - Yes, Mr. Chairman. I move that we approve this conditional use permit. I don't believe that it will adversely affect the health, safety, or welfare of the neighborhood. In fact, it will help the transmission for our social media.

Mr. Wright - Is there a second on that motion?

Mr. Bell - Second it.

Mr. Wright - Moved and seconded. Any discussion? Hearing none, all in favor say aye. All opposed say no. The ayes have it; the motion passes.

Mr. Baka - One recused.

Mr. Wright - Yes, yes.

After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Bell, the Board **approved** application **CUP2014-00007, VERIZON WIRELESS'** request for a conditional use permit pursuant to Section 24-116(c)(1) of the County Code to allow a temporary communication tower at 3810 Meadowbridge Road (Parcel 794-737-7079) zoned B-3, Business District (Fairfield). The Board approved the temporary conditional use permit subject to the following conditions:

1. Only the temporary wireless telecommunication facility as shown on the plans filed with the application may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new use permit.
2. Installation and removal of the temporary wireless telecommunication facility shall adhere to the following dates: spring, March 17 through May 10, 2014; summer, July 27 through September 20, 2014. This permit shall expire on September 21, 2014.
3. The height of the temporary cellular tower shall not exceed 120 feet.
4. The applicant shall obtain necessary building permits for the erection of the temporary tower, anchoring system, and connection to a power generator.
5. Refueling or servicing of the temporary electrical generator shall only occur during the hours of 7:00 am to 10:00 pm, exclusive of the communication equipment.

816

817

6. Temporary security fencing shall be setback 25 feet from the east and west property lines.

818

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Affirmative: Bell, Harris, Nunnally, Wright 4

822

Negative: 0

823

Absent: 0

824

Abstain: Baka 1

825

826

827

Mr. Wright - Do I hear a motion on CUP2014-00008?

828

829

Ms. Harris - Mr. Chairman, I also move that we approve this conditional use permit for the same reasons that I gave in CUP2014-00007.

830

831

832

Mr. Wright - All right. Is there a second? Do I hear a second to that motion?

833

834

835

Mr. Bell - Second it.

836

837

Mr. Wright - It's seconded. Any discussion? Hearing none, all in favor say aye. All opposed say no. The ayes have it; the motion passes.

838

839

840

Mr. Baka - Recused.

841

842

After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Bell, the Board **approved** application **CUP2014-00008, VERIZON WIRELESS'** request for a conditional use permit pursuant to Section 24-116(c)(1) of the County Code to allow a temporary communication tower at 5209 Wilkinson Road (Parcel 794-745-8161) zoned B-3, Business District (Fairfield). The Board approved the temporary conditional use permit subject to the following conditions:

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1. Only the temporary wireless telecommunication facility as shown on the plans filed with the application may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new use permit.

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2. Installation and removal of the temporary wireless telecommunication facility shall adhere to the following dates: spring, March 17 through May 10, 2014; summer, July 27 through September 20, 2014. This permit shall expire on September 21, 2014.

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3. The height of the temporary cellular tower shall not exceed 120 feet.

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4. The applicant shall obtain necessary building permits for the erection of the temporary tower, anchoring system, and connection to a power generator.

Affirmative:	Bell, Harris, Nunnally, Wright	4
Negative:		0
Absent:		0
Abstain:	Baka	1

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

VAR2014-00002 DEON AND JESSICA LOGAN request a variance from Section 24-9 of the County Code to build a one-family dwelling at 7018 Messer Road (Parcel 807-698-9411) zoned R-2A, One-Family Residence District (Varina). The public street frontage requirement is not met. The applicant propose 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. Wright - Anyone desiring to speak on this case, please come to the rostrum. Would all persons desiring to speak on this case please stand and be sworn.

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

Ms. Logan - Yes.

Mr. Wright - Please state your case—your name for the record and state your case.

Ms. Logan - My name is Jessica Logan. Logan is L-o-g-a-n. I am standing to request a variance for the property, parcel number 807-698-9411, to build a one-family dwelling home. Right now the property does not have any road frontage, and we're requesting that—well, Henrico County requires that there be a fifty-foot public street frontage, so we're requesting a variance for the road frontage.

Mr. Wright - What is the size of the property?

Ms. Logan - It's an acre and a half.

908 Mr. Wright - How would you access this property?
909
910 Ms. Logan - We'll be coming from Messer Road onto the—it's a
911 parking lot there. I believe it's Henrico's public school (vehicle) driving range.
912
913 Mr. Wright - What is your legal right to access the property?
914
915 Ms. Logan - Prior to me coming to this hearing, we had requested
916 it previously. My father-in-law has access of easement to go through that property.
917
918 Mr. Nunnally - Do you have approval from the County of Henrico to
919 use that as access? You say your father has it?
920
921 Ms. Logan - My father-in-law has it.
922
923 Mr. Nunnally - Father-in-law?
924
925 Ms. Logan - Yes.
926
927 Mr. Wright - Have you read the conditions proposed for this case?
928
929 Ms. Logan - Yes, I have.
930
931 Mr. Wright - You notice that you have to have a legal right to use
932 that access. Even if we were to approve this, that is one of the conditions. You'd
933 have to demonstrate to the Planning office that you have a legal right to access
934 the property before they would issue a building permit. Is that correct? Do you
935 understand that?
936
937 Ms. Logan - Yes.
938
939 Mr. Wright - How wide is that access road, do you know?
940
941 Ms. Logan - I'm not sure.
942
943 Mr. Blankinship - The easement was—yes, twenty-seven-foot access
944 right-of-way is shown on the plat. The actual surface is probably eleven—ten,
945 eleven, twelve feet of gravel.
946
947 Mr. Wright - How far is it from the property here to the highway,
948 the public road?
949
950 Ms. Logan - How far?
951
952 Mr. Wright - I was just wondering what distance it is, what is it from
953 the public road to your property? It doesn't indicate on this.

954
955 Mr. Baka - It's about two fifty?
956
957 Mr. Blankinship - To the driveway that's probably about—
958
959 Mr. Wright - About two fifty.
960
961 Mr. Baka - Approximately.
962
963 Mr. Wright - All right. Any questions from members of the Board.
964
965 Ms. Harris - Yes. Ms. Logan, you were granted a request before
966 for a variance on this land, this property, right?
967
968 Ms. Logan - Yes.
969
970 Ms. Harris - And it expired last year?
971
972 Ms. Logan - That's correct.
973
974 Ms. Harris - Okay. Can you tell us what happened, the reason you
975 were not able to complete the process?
976
977 Ms. Logan - Just different areas as far as getting the land survey—
978 it was a lot of work prior, and we just ran out of time. And then my father-in-law
979 passed. And it's just—it has been just a whole lot of family stuff going on. So we
980 were just kind of delayed on the project.
981
982 Ms. Harris - So you came before this Board in 2011?
983
984 Ms. Logan - Yes.
985
986 Ms. Harris - Thank you.
987
988 Mr. Blankinship - Do you anticipate that you will be able to build within
989 the next two years?
990
991 Ms. Logan - Yes.
992
993 Mr. Wright - Are there any further questions from members of the
994 Board? Is anyone here in opposition to this request? Hearing none, that
995 concludes the case. Thank you very much for appearing.
996
997 Ms. Logan - Thank you.
998

999 [After the conclusion of the public hearings, the Board discussed the case
1000 and made its decision. This portion of the transcript is included here for
1001 convenience of reference.]
1002

1003 Mr. Wright - Do I hear a motion on VAR2014-00002?
1004

1005 Mr. Nunnally - I move we approve that, Mr. Chairman. That's the
1006 only thing they can use it for, a dwelling. They have plenty of land and all that.
1007

1008 Mr. Wright - Motion by Mr. Nunnally. Is there a second?
1009

1010 Ms. Harris - I second.
1011

1012 Mr. Wright - It's seconded. Is there any discussion? Hearing none,
1013 all in favor say aye. All opposed say no. The ayes have it; the motion passes.
1014

1015 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
1016 Ms. Harris, the Board **approved** application **VAR2014-00002, DEON AND**
1017 **JESSICA LOGAN's** request for a variance from Section 24-9 of the County
1018 Code to build a one-family dwelling at 7018 Messer Road (Parcel 807-698-9411)
1019 zoned R-2A, One-Family Residence District (Varina). The public street frontage
1020 requirement is not met. The Board approved the variance subject to the
1021 following conditions:
1022

1023 1. This variance applies only to the public street frontage requirement for one
1024 dwelling only. All other applicable regulations of the County Code shall remain in
1025 force.
1026

1027 2. Only the improvements shown on the plot plan filed with the application
1028 may be constructed pursuant to this approval. Any additional improvements shall
1029 comply with the applicable regulations of the County Code. Any substantial
1030 changes or additions to the design or location of the improvements will require a
1031 new variance.
1032

1033 3. Approval of this request does not imply that a building permit will be
1034 issued. Building permit approval is contingent on Health Department
1035 requirements, including, but not limited to, soil evaluation for a septic drain field
1036 and reserve area, and approval of a well location.
1037

1038 4. At the time of building permit application, the applicant shall submit the
1039 necessary information to the Department of Public Works to ensure compliance
1040 with the requirements of the Chesapeake Bay Preservation Act and the code
1041 requirements for water quality standards.
1042

1043 5. The applicants shall obtain any required permits from the Corps of
1044 Engineers and the Virginia Department of Environmental Quality in the event
1045 wetlands are present on the property.

1046
1047 6. The applicants shall present proof with the building permit application that
1048 a legal access to the property has been obtained.

1049
1050 7. The applicants shall record a corrected plat with Clerk's Office of the
1051 Circuit Court to address the incorrect GPIN from which the new lot is derived
1052 from.

1053
1054 8. The applicants shall install a post with the house address at the
1055 intersection of their private driveway and the private road as per §R319.1 of the
1056 2009 Virginia Residential Code.

1057
1058 9. The applicants shall re-gravel the existing private road along their property
1059 frontage up to the northern edge of their lot.

1060
1061
1062 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1063 Negative: 0
1064 Absent: 0

1065
1066
1067 **[At this point, the transcript continues with the public hearing on the next**
1068 **case.]**

1069
1070 **VAR2014-00003 BECKY SPICER BARNARD** requests a variance
1071 from Section 24-9 of the County Code to build a one-family dwelling at Patch
1072 Road (Parcel 771-778-4736) zoned A-1, Agricultural District (Brookland). The
1073 public street frontage requirement is not met. The applicant proposes 0 feet
1074 public street frontage, where the Code requires 50 feet public street frontage.
1075 The applicant requests a variance of 50 feet public street frontage.

1076
1077 Mr. Wright - All persons desiring to speak with reference to this
1078 case, please stand and be sworn.

1079
1080 Mr. Blankinship - Do you swear the testimony you're about to give is the
1081 truth and nothing but the truth so help you God?

1082
1083 Mr. Wright - Please state your name for the record and present
1084 your case.

1085
1086 Ms. Barnard - Becky Barnard.

1087
1088 Mr. Wright - All right, Ms. Barnard.

1089
1090 Ms. Barnard - I'm just requesting that I get approval for a variance
1091 to—for street frontage so that I can put a single-dwelling home on a family
1092 subdivision lot beside my brother.
1093
1094 Mr. Wright - How long have you owned this property?
1095
1096 Ms. Barnard - I don't own it yet. It belongs to my parents, but they
1097 are going to give the land to me if I get approval.
1098
1099 Mr. Wright - How long have they owned it?
1100
1101 Ms. Barnard - Oh, since...since my nanny died.
1102
1103 Mr. Wright - Our records say 1945. Is that correct?
1104
1105 Ms. Barnard - That's the original land. But they've owned it since my
1106 nanny passed away.
1107
1108 Mr. Wright - How would you access this property?
1109
1110 Ms. Barnard - Through an easement that is already there in the
1111 driveway.
1112
1113 Mr. Wright - That is a recorded easement?
1114
1115 Ms. Barnard - Yes.
1116
1117 Mr. Wright - It is recorded?
1118
1119 Ms. Barnard - Yes.
1120
1121 Mr. Blankinship - Would you show the photograph of that road, Paul?
1122
1123 Mr. Baka - Who owns the property within the road itself?
1124
1125 Ms. Barnard - I don't know.
1126
1127 Mr. Wright - Would you please state your name and address?
1128
1129 Mr. Spicer - I'm Gary Spicer. I'm currently on the property. The
1130 actual acreage for the easement is owned by the surviving members of Virginia
1131 Spicer who would be Joyce Spicer, Mary Spicer, and Robbie Spicer.
1132
1133 Mr. Wright - It's a family?
1134

1135 Mr. Spicer - Correct.
1136
1137 Mr. Wright - How long has it been used?
1138
1139 Mr. Spicer - As an easement? Since '07. The easement was in
1140 place prior to that. The road was put in actually in '06, and it's been used since
1141 '07.
1142
1143 Mr. Wright - All right. Have you read the conditions proposed for
1144 this case? Are you in accord with those conditions? As I said before, one of the
1145 conditions requires you to prove to the Planning staff that you have legal access.
1146 We're not determining that here today. You have to satisfy the Planning staff that
1147 you do have legal access. That's very important. That's why they have the
1148 requirement of the fifty feet. Are there any questions from members of the
1149 Board? Anyone here in opposition to this request? Hearing none, that concludes
1150 the case. Thank you very much for appearing.
1151
1152 **[After the conclusion of the public hearings, the Board discussed the case**
1153 **and made its decision. This portion of the transcript is included here for**
1154 **convenience of reference.]**
1155
1156 Mr. Wright - Do I hear a motion on VAR2014-00003?
1157
1158 Mr. Bell - I move that we approve it. I don't see where it will
1159 create any adverse health, safety, or welfare issues for persons living in the area.
1160 And I think it meets the qualifications of any exception that deals with any of the
1161 legal ramifications.
1162
1163 Mr. Wright - All right. Motion's made. Is there a second?
1164
1165 Mr. Baka - Second.
1166
1167 Mr. Wright - It's seconded. Is there any discussion?
1168
1169 Ms. Harris - Yes. Since this is a variance case, I would vote for it
1170 because I believe that two other variances were granted for this family acreage.
1171 So I think we need to indicate—normally we don't readily approve variances
1172 since the Cochran case, but in view of the fact that other variances have been
1173 given to this family division, I am in favor of it.
1174
1175 Mr. Wright - All right. Any further discussion? All in favor say aye.
1176 All opposed say no. The ayes have it; the motion passes.
1177
1178 After an advertised public hearing and on a motion by Mr. Bell, seconded by
1179 Mr. Baka, the Board **approved** application **VAR2014-00003, BECKY SPICER**
1180 **BARNARD's** request for a variance from Section 24-9 of the County Code to

1181 build a one-family dwelling at Patch Road (Parcel 771-778-4736) zoned A-1,
1182 Agricultural District (Brookland). The public street frontage requirement is not
1183 met. The Board approved the variance subject to the following conditions:
1184

1185 1. This variance applies only to the public street frontage requirement for one
1186 dwelling only. All other applicable regulations of the County Code shall remain in
1187 force.
1188

1189 2. Only the improvements shown on the plot plan and building design filed with
1190 the application may be constructed pursuant to this approval. Any additional
1191 improvements shall comply with the applicable regulations of the County Code.
1192 Any substantial changes or additions to the design or location of the
1193 improvements will require a new variance.
1194

1195 3. Approval of this request does not imply that a building permit will be issued.
1196 Building permit approval is contingent on Health Department requirements,
1197 including, but not limited to, soil evaluation for a septic drainfield and reserve
1198 area, and approval of a well location.
1199

1200 4. At the time of building permit application, the applicant shall submit the
1201 necessary information to the Department of Public Works to ensure compliance
1202 with the requirements of the Chesapeake Bay Preservation Act and the code
1203 requirements for water quality standards.
1204

1205 5. At the time of building permit application the owner shall demonstrate that the
1206 parcel created by this division has been conveyed to members of the immediate
1207 family, and the subdivision ordinance has not been circumvented. Ownership of
1208 the parcel shall remain in the immediate family for a minimum of five years.
1209

1210 6. The applicant shall present proof with the building permit application that a
1211 legal access to the property has been obtained.
1212

1213 7. The owners of the property, and their heirs or assigns, shall accept
1214 responsibility for maintaining access to the property until such a time as the
1215 access is improved to County standards and accepted into the County road
1216 system for maintenance.
1217

1218 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1220 Negative: 0
1221 Absent: 0
1222

1223
1224 **[At this point, the transcript continues with the public hearing on the next**
1225 **two cases.]**
1226

1227 Mr. Blankinship - The next two are also companion cases, Mr.
1228 Chairman. Shall I call them together?

1229
1230 Mr. Wright - All right.

1231
1232 **VAR2014-00004** **DOMINION LAND & DEVELOPMENT CORP.**
1233 requests a variance from Section 24-9 of the County Code to build a one-family
1234 dwelling at 8630 Gibbs Lane (Parcel 818-681-7630) zoned A-1, Agricultural
1235 District (Varina). The public street frontage requirement is not met. The applicant
1236 proposes 0 feet public street frontage, where the Code requires 50 feet public
1237 street frontage. The applicant requests a variance of 50 feet public street
1238 frontage.

1239
1240 **VAR2014-00005** **DOMINION LAND & DEVELOPMENT CORP.**
1241 requests a variance from Section 24-9 of the County Code to build a one-family
1242 dwelling at 8640 Gibbs Lane (Parcel 818-681-2912) zoned A-1, Agricultural
1243 District (Varina). The public street frontage requirement is not met. The applicant
1244 proposes 0 feet public street frontage, where the Code requires 50 feet public
1245 street frontage. The applicant requests a variance of 50 feet public street
1246 frontage.

1247
1248 Mr. Wright - Everyone desiring to speak with reference to these
1249 cases, please stand and be sworn.

1250
1251 Mr. Blankinship - Would you raise your right hand, sir. Do you swear
1252 the testimony you're about to give is the truth and nothing but the truth so help
1253 you God?

1254
1255 Mr. Gibson Wright - I do.

1256
1257 Mr. Wright - Yes sir. Please state your name for the record and
1258 present your case.

1259
1260 Mr. Gibson Wright - My name is Gibson M. Wright with Dominion Land
1261 Development Corporation. These lots were before you a number of years ago.
1262 We received variances and the conditions on them limited them to two years.
1263 During that time, the market has gone down, and we were not able to sell them.
1264 So we are coming back to try to resurrect those variances. We do have a
1265 purchaser for the property. There is a road maintenance agreement in place, an
1266 easement. There has been a road built, but you've probably seen in the
1267 photograph that it hasn't been maintained because nobody goes down there. It's
1268 all gravel under there that has to be re-spread. Part of the purchase price is
1269 going to take care of paying that, paving that, and cleaning it up. We do have a
1270 buyer who wants the property and is ready to go ahead and build on it.

1271
1272 Mr. Wright - So that road will be repaired?

1273
1274 Mr. Gibson Wright - Yes sir.
1275
1276 Mr. Wright - And brought up to some sort of standard so it's
1277 accessible?
1278
1279 Mr. Gibson Wright - Yes sir.
1280
1281 Mr. Wright - Have you read the conditions that have been
1282 proposed by the staff for these cases?
1283
1284 Mr. Gibson Wright - Yes sir.
1285
1286 Mr. Wright - And you're in accord with them.
1287
1288 Mr. Gibson Wright - Yes sir.
1289
1290 Mr. Nunnally - Did you say you're going to build on one and hold off
1291 on the second lot?
1292
1293 Mr. Gibson Wright - Yes.
1294
1295 Mr. Nunnally - Do you have any idea how long that's going to be?
1296
1297 Mr. Gibson Wright - It's up to the purchaser. If he doesn't build on it, then
1298 he's going to have to come back and do the same thing.
1299
1300 Mr. Blankinship - So the same person is going to purchase both lots?
1301
1302 Mr. Gibson Wright - Yes. He might combine them or he might give it to a
1303 family member or something. I'm not sure.
1304
1305 Mr. Wright - Any questions from members of the Board?
1306
1307 Mr. Baka - Beyond the variance request for these two lots are
1308 there any other lots that have access to this private easement that might also be
1309 the same type of candidate for a variance in the future? Any other vacant lots?
1310
1311 Mr. Gibson Wright - This is at the end of the road. Those others have
1312 existing houses already. So I believe they use the easement as well.
1313
1314 Mr. Blankinship - Go back to the aerial, Paul. You can see there are
1315 some undeveloped parcels. At least one undeveloped parcel in addition to that
1316 lot.
1317
1318 Mr. Baka - I think someone else wants to speak, Mr. Chairman.

1319
1320 Mr. Wright - Any further—
1321
1322 Mr. Nicholson - [Off microphone; inaudible.]
1323
1324 Mr. Wright - Excuse me. You need to come to the—
1325
1326 Mr. Nicholson - [Off microphone.] Okay.
1327
1328 Mr. Wright - And identify yourself, please, for the record.
1329
1330 Mr. Nicholson - I'm David Nicholson, Nicholson Holdings. N-i-c-h-o-l-
1331 s-o-n. I own the parcel to the north of the yellow dotted line.
1332
1333 Mr. Wright - Do you have any objections?
1334
1335 Mr. Nicholson - No. We had gotten an variance as well back in '05 or
1336 '06, and ours expired as well too. So I was just coming to support this one as
1337 well.
1338
1339 Mr. Wright - Is that road—it looks like it's in pretty bad shape. Is
1340 that a legal access, I mean by law or by agreement or something established in
1341 that easement?
1342
1343 Mr. Nicholson - Yes.
1344
1345 Mr. Blankinship - Mr. Wright should probably—
1346
1347 Mr. Wright - Mr. Wright, would you come up and address that. I
1348 just wondered what the legal right was to use it.
1349
1350 Mr. Gibson Wright - It is a recorded easement and we have a title binder
1351 on the property. It's subject to that easement and it's valid—
1352
1353 Mr. Wright - So you do have a title binder.
1354
1355 Mr. Gibson Wright - Yes, yes.
1356
1357 Mr. Wright - Okay. You couldn't get that without having a legal
1358 right.
1359
1360 Mr. Blankinship - Is there a maintenance agreement?
1361
1362 Mr. Gibson Wright - Yes.
1363
1364 Mr. Blankinship - Recorded?

1365

1366 Mr. Gibson Wright - Yes sir.

1367

1368 Mr. Blankinship - I thought there was.

1369

1370 Mr. Wright - Yes. That's good. All right. Any further questions from
1371 members of the Board? Anyone here in opposition to this request? Hearing none,
1372 that concludes the case. Thank you very much for appearing.

1373

1374 Mr. Wright - Do I hear a motion on this case?

1375

1376 Mr. Nunnally - Yes. I move we approve it. The variance will not be a
1377 detriment to adjacent property and the character of the district will not be
1378 changed. I move we approve it.

1379

1380 Mr. Wright - All right. Motion's made. Is there a second?

1381

1382 Mr. Baka - Second.

1383

1384 Mr. Wright - Motion's made and seconded. Any discussion?

1385

1386 Ms. Harris - I do have a concern about cases like this because we
1387 do have a lot of land-locked properties in the Varina district. I imagine if we
1388 approve this we are setting a precedent, you know, for this type of case coming
1389 before us. That's my only reservation here.

1390

1391 Mr. Wright - All right. Is there any further discussion? All in favor
1392 say aye. All opposed say no. The ayes have it; the motion passes.

1393

1394 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
1395 Mr. Baka, the Board **approved** application **VAR2014-00004, DOMINION LAND**
1396 **& DEVELOPMENT CORP's** request for a variance from Section 24-9 of the
1397 County Code to build a one-family dwelling at 8630 Gibbs Lane (Parcel 818-681-
1398 7630) zoned A-1, Agricultural District (Varina). The public street frontage
1399 requirement is not met. The Board approved the variance subject to the
1400 following conditions:

1401

1402 1. This variance applies only to the public street frontage requirement for one
1403 dwelling only. All other applicable regulations of the County Code shall remain in
1404 force.

1405

1406 2. Approval of this request does not imply that a building permit will be issued.
1407 Building permit approval is contingent on Health Department requirements,
1408 including, but not limited to, soil evaluation for a septic drainfield and reserve
1409 area, and approval of a well location.

1410

- 1411 3. At the time of building permit application, the applicant shall submit the
 1412 necessary information to the Department of Public Works to ensure compliance
 1413 with the requirements of the Chesapeake Bay Preservation Act and the code
 1414 requirements for water quality standards.
 1415
- 1416 4. The applicant shall present proof with the building permit application that a
 1417 legal access to the property has been obtained.
 1418
- 1419 5. The owners of the property, and their heirs or assigns, shall accept
 1420 responsibility for maintaining access to the property until such a time as the
 1421 access is improved to County standards and accepted into the County road
 1422 system for maintenance.
 1423

1424			
1425	Affirmative:	Baka, Bell, Harris, Nunnally, Wright	5
1426	Negative:		0
1427	Absent:		0

1428

1429

1430 Mr. Wright - And VAR2014-00005, do I hear a motion on this
 1431 case?

1432

1433 Mr. Nunnally - I move we approve it for the same reasons as its
 1434 companion case.

1435

1436 Mr. Wright - Motion's made. Is there a second?

1437

1438 Mr. Baka - Second.

1439

1440 Mr. Wright - Seconded. Any discussion? Hearing none, all in favor
 1441 say aye. All opposed say no. The ayes have it; the motion passes.
 1442

1443 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
 1444 Mr. Baka, the Board **approved** application **VAR2014-00005, DOMINION LAND**
 1445 **& DEVELOPMENT CORP's** request for a variance from Section 24-9 of the
 1446 County Code to build a one-family dwelling at 8640 Gibbs Lane (Parcel 818-681-
 1447 2912) zoned A-1, Agricultural District (Varina). The public street frontage
 1448 requirement is not met. The Board approved the variance subject to the
 1449 following conditions:

1450

1451 1. This variance applies only to the public street frontage requirement for one
 1452 dwelling only. All other applicable regulations of the County Code shall remain in
 1453 force.
 1454

1455 2. Approval of this request does not imply that a building permit will be issued.
 1456 Building permit approval is contingent on Health Department requirements,

1457 including, but not limited to, soil evaluation for a septic drainfield and reserve
1458 area, and approval of a well location.

1459
1460 3. At the time of building permit application, the applicant shall submit the
1461 necessary information to the Department of Public Works to ensure compliance
1462 with the requirements of the Chesapeake Bay Preservation Act and the code
1463 requirements for water quality standards.

1464
1465 4. The applicant shall present proof with the building permit application that a
1466 legal access to the property has been obtained.

1467
1468 5. The owners of the property, and their heirs or assigns, shall accept
1469 responsibility for maintaining access to the property until such a time as the
1470 access is improved to County standards and accepted into the County road
1471 system for maintenance.

1472
1473
1474 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1475 Negative: 0
1476 Absent: 0

1477
1478
1479 Mr. Wright - That completes the docket, Mr. Secretary. We're
1480 ready for the minutes. We have the minutes before us. That was one long case
1481 wasn't it?

1482
1483 Mr. Baka - Yes.

1484
1485 Ms. Harris - That really was.

1486
1487 Mr. Wright - Okay.

1488
1489 Mr. Bell - I copyrighted it.

1490
1491 Mr. Wright - Have there been any ramifications, Mr. Blankinship?
1492 Have you heard anything? They haven't appealed it, have they?

1493
1494 Mr. Blankinship - No, there has not been an appeal, that we've been
1495 notified of at least.

1496
1497 Mr. Wright - The time has passed for the appeal.

1498
1499 Mr. Blankinship - It should have, yes. There could be an appeal that
1500 just hasn't filtered down to us yet

1501

1502 Mr. Wright - Do you all go out and check to see if they're following
1503 up and removing those vehicles?
1504
1505 Mr. Blankinship - We will, yes sir.
1506
1507 Mr. Wright - You might check down the street. There were some
1508 terrible looking vehicles down the street. Okay, the minutes are before us. Page
1509 23, line 987. Let's see if I got that right. Something got left out there. I asked if
1510 there were any further questions. He says no. And I said before we hear the
1511 opposition. And then he addresses something. Did you all find that that was kind
1512 of—I don't understand.
1513
1514 Mr. Nunnally - What line are you talking about?
1515
1516 Mr. Wright - I'm looking at the bottom of page 22, line 986. I said
1517 before we hear the opposition. I thought there was a question or something.
1518
1519 Mr. Blankinship - We can go back and check the recording.
1520
1521 Mr. Wright - He says, "Sure. I appreciate your attention about it." I
1522 don't how—
1523
1524 Mr. Baka - Oh, yes.
1525
1526 Mr. Wright - It doesn't make any sense.
1527
1528 Mr. Baka - Maybe one phrase missing from another person.
1529
1530 Mr. Blankinship - We'll go back and check the recording.
1531
1532 Mr. Wright - Okay, that was my only thing. Reading it left me kind
1533 of hanging.
1534
1535 Ms. Harris - Was this the rebut of this particular case?
1536
1537 Mr. Baka - At that point, yes.
1538
1539 Ms. Harris - Maybe that was—was there any opposition?
1540
1541 Mr. Wright - No, I said before we hear the opposition.
1542
1543 Ms. Harris - Right. If there was no opposition, then he would come
1544 back, I guess, and make his final statement even though he had nothing to rebut.
1545 I'm not sure either. Maybe we need to check the tape.
1546

1547 Mr. Baka - Maybe your statement at 985 goes at the end of 981,
1548 but I guess that will be clear when they hear the tape again.

1549
1550 Mr. Wright - Okay. Well anyhow. Any other corrections to the
1551 minutes? Do I hear a motion that we approve the minutes as submitted?

1552
1553 Ms. Harris - I move that we approve the minutes as submitted.

1554
1555 Mr. Wright - Is there a second?

1556
1557 Mr. Baka - Second.

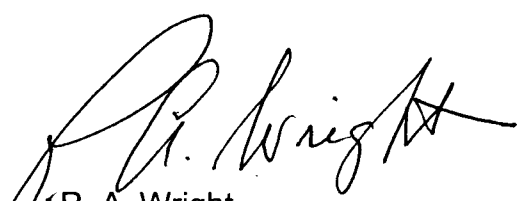
1558
1559 Mr. Wright - Seconded. Any discussion? Hearing none, all in favor
1560 say aye. All opposed say no. The ayes have it; the motion passes. The minutes
1561 are approved.

1562
1563 On a motion by Ms. Harris, seconded by Mr. Baka, the Board **approved as**
1564 **submitted the Minutes of the January 23, 2014** Henrico County Board of
1565 Zoning Appeals meeting.

1566
1567
1568 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1569 Negative: 0
1570 Absent: 0

1571
1572
1573 Meeting is adjourned.

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R. A. Wright
Chairman


Benjamin Blankinship, AICP
Secretary