

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING  
2 APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION  
3 BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY  
4 SPRING ROADS, ON THURSDAY, JANUARY 27, 2011 AT 9:00 A.M., NOTICE  
5 HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH  
6 JANUARY 6, 2011 AND JANUARY 13, 2011.

7

Members Present: Helen E. Harris, Chairman  
Robert Witte, Vice Chairman  
Lindsay Bruce  
James W. Nunnally

Members Absent: R. A. Wright

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

8

9

10 Ms. Harris - Good morning. Welcome to the Thursday, January  
11 27, 2011 meeting of the Board of Zoning Appeals for Henrico County. Please  
12 stand and say the **Pledge of Allegiance**.

13

14 Mr. Blankinship, would you read the rules that govern this meeting?

15

16 Mr. Blankinship - Good morning, Madam Chairman, members of the  
17 Board, ladies and gentlemen. The rules for this meeting are as follows. Acting as  
18 secretary, I will call each case. And as I'm speaking, the applicant should come  
19 down to the podium. We will ask the applicant to be sworn in and the applicant  
20 will then present their testimony. Since there are no members of the public here  
21 we don't anticipate any opposition, so there won't be any need for rebuttal.  
22 Please state your name and please spell your last name so we have it clearly in  
23 the record. This meeting is being recorded so we'll ask you to speak directly into  
24 the microphone on the podium.

25

26 Mr. Joyce, I hope that you are familiar with the conditions that have been  
27 recommended. Mr. Wright is not feeling well today he was not able to attend the  
28 meeting. If you wish to be heard by a full five-member Board, then you should  
29 request that.

30

31 Other than that, Madam Chairman, we do not have any requests for deferral or  
32 withdrawal. With your permission, I'll call the first case.

33

34 *Deferred from Previous Meeting*

35 **VAR2010-00002** **LIBERTY HOMES, INC.** requests a variance from  
36 Sections 24-95(t), 24-95(u)(1)b and 24-95(c)(4) of the County Code to build a  
37 one-family dwelling at 11510 Greenwood Road (Lakeview) (Parcel 772-774-  
38 9333), zoned A-1, Agricultural District (Brookland). The total lot area  
39 requirement, rear yard setback, and front yard setback are not met. The  
40 applicant proposes 8,085 square feet lot area outside the floodplain, 25 feet front  
41 yard setback, and 10 feet rear yard setback, where the Code requires 30,000  
42 square feet lot area, 35 feet front yard setback and 20 feet rear yard setback.  
43 The applicant requests a variance of 21,915 square feet lot area, 10 feet front  
44 yard setback, and 20 feet rear yard setback. **(A-002-10)**

45  
46 Ms. Harris - All persons who wish to speak to this case please  
47 stand and raise your right hand.

48  
49 Mr. Blankinship - Do you swear the testimony you're about to give is  
50 the truth and nothing but the truth so help you God?

51  
52 Ms. Harris - Please come forward, state your name, and spell your  
53 last name, please.

54  
55 Mr. Baker - My name is Mark Baker—B-a-k-e-r—with Baker  
56 Development Resources. I'm here speaking on behalf of Liberty Homes. I am  
57 prepared to discuss this case today; however, without the full compliment of  
58 Board members I respectfully request a continuance.

59  
60 Ms. Harris - The applicant wishes to defer this case until the next  
61 meeting. Can I have a motion on this?

62  
63 Mr. Bruce - So move.

64  
65 Mr. Witte - Second.

66  
67 Ms. Harris - It's been properly seconded that we defer this case  
68 until the next meeting. Are there any questions on the motion? All in favor say  
69 aye. All opposed say no. The ayes have it; the motion passes.

70  
71 After an advertised public hearing and on a motion by Mr. Bruce, seconded by  
72 Mr. Witte, **VAR2010-00002, Liberty Homes, Inc.**, has been deferred until the  
73 February 24, 2011 meeting.

74  
75 Affirmative: Harris, Witte, Bruce, Nunnally 4  
76 Negative: 0  
77 Absent: Wright 1

78  
79 Mr. Baker - Thank you.

80

81 Ms. Harris - Please call the next case, Mr. Blankinship.

82

83 **UP-024-10** **HUGH A. JOYCE** requests a conditional use permit  
84 pursuant to Section 24-95(i)(4) of the County Code to allow solar panels in the  
85 front yard at 8201 Hungary Road (Laurel Heights) (Parcel 767-759-1185), zoned  
86 R-2, One-Family Residence District (Brookland). (**CUP2010-00024**)

87

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

90

91 Mr. Blankinship - Ma'am, may I ask which case you're here to  
92 represent? Oh, all right. Well welcome. Mr. Joyce, do you swear the testimony  
93 you're about to give is the truth and nothing but the truth so help you God?

94

95 Ms. Harris - Come forward, state your name, and please spell  
96 your last name. Thank you.

97

98 Mr. Joyce - Good morning everyone. My name is Hugh Joyce—  
99 H-u-g-h J-o-y-c-e. I'm here this morning to talk about 8201 Hungary Road.

100

101 Ms. Harris - Please present your case.

102

103 Mr. Joyce - Thank you for seeing me this morning. This project is  
104 one we're very excited about. It's a house we purchased on the corner of  
105 Hungary Road and Staples Mill Road, which would be on the southwest corner  
106 kind of facing catty-corner there. It's on an odd little lot. The reason it's that way is  
107 due to the fact that Staples Mill cut half of the lot off.

108

109 We're here today to talk about a Conditional Use Permit to put a solar panel  
110 system array in the front yard. I just wanted to walk through why we're doing that  
111 to give you a feel for the project and what we're trying to accomplish here.  
112 Hopefully it will meet with your approval and you'll like the plan. The goal is for  
113 the end product to be very, very nice in the County.

114

115 This is what the house looked like when we bought it a few months ago.  
116 Somewhat blighted with asbestos siding. The goal is to go in and re-green this  
117 as I've done on other projects that you all have seen. This one is a little bit  
118 unique. They actually moved the house on the lot. At some point when they did  
119 the road, the house was—I don't know if you've been there; all the houses are  
120 kind of close to Hungary. This house was actually moved back to the back of the  
121 lot when they changed the road around, which is why we have a no-back-yard  
122 situation on this particular house. So that's what it looked like when we bought it.  
123 Front and back views.

124

125 Obviously as we've talked about before, the concept here is to take an old  
126 1940's house and really bring it to 2011 energy construction and durability

127 standards. Our target for this is LEED Platinum again in terms of its efficiency  
128 and durability. We're doing everything that we did on a similar project nearby  
129 with envelope design, foam insulation, LED lightings, and super high-efficiency  
130 heat pump equipment. Kind of the heart of making this project score at the LEED  
131 Platinum level and be as efficient as it possibly can be is installing a solar electric  
132 generating system. Unfortunately, since the house was moved way back and the  
133 lot backs up right to nice tree buffer between the house and the new subdivision  
134 that was built behind it, it makes it very difficult to put the solar panels anywhere  
135 but in the front yard.

136  
137 This is a little progress photo of the house. We're testing some colors there so  
138 that's not the color scheme, but I just wanted to give you a feel of where we're  
139 trying to take this property. This is really going to be a nifty little cottage when we  
140 get done. Really, really sharp. We're real excited about it. I hope you like the  
141 color; it's going to be that—we spent a lot of time on the color. Not that that's up  
142 for discussion, but I'll just share with you it's going to be the yellow in the corner  
143 with black shutters, black door. We think it's going to look really, really sharp.  
144 That's just a little elevation in the back to kind of give you a feel for what it used  
145 to look like and what it looks like now.

146  
147 We've talked about LEED and you know what that is.

148  
149 What am I doing? We're going to see this house. My goal here was to really  
150 make this a showplace because it's such a high-profile house. It's right there on  
151 the corner. It is in the face of 40,000 people a day. And it was ugly and funky and  
152 it sits on the lot in a funky way. My fault was I think I can turn this into a diamond.  
153 So that was the goal here. Plus we wanted to continue to prove the relevance of  
154 the solar approach, the green energy approach. And what I really want to do and  
155 what I'm hoping is that people will see this one and see the other one and say,  
156 "Wow, I can do that on other houses in the County." And hopefully they'll get  
157 folks to do it because I think this is a real wave of the future in taking these older  
158 homes and making them super cool and super efficient.

159  
160 Just as a point of interest, we spent a lot of time on the inside of this one really  
161 maximizing the space to kind of create something that a new, you know,  
162 upwardly mobile person would want to spend some money on.

163  
164 The location? Why is it in the front yard? This is the only place it will work. There  
165 are existing trees; we have the neighbor's trees, so there's really no way to get a  
166 view of the southern exposure. And like I talked about there's that unique  
167 location of the lot and the fact that they moved the house to back corner. The  
168 goal here and my mission is we all want to look good on this one; this is critical  
169 that this—when people go by they say this looks good, it's appropriate, it's cool. I  
170 certainly realize that sometimes this application might not be appropriate. Like  
171 I've talked about before, every one that we do we want to be appropriate.

172

173 I have a couple of concept photos. This is showing the panels in reverse. This is  
174 not exactly what they're going to look like, but this is a Photoshop as close as I  
175 can get so that you can get a feel for what we're going to do. The panels will sit  
176 on the ground and they're going to be surrounded by some vegetation. I am  
177 aware of the height restriction. There was two feet—

178  
179 Mr. Blankinship - Two feet, six inches.

180  
181 Mr. Joyce - Two feet, six inches. I think that's all for the curb. I'm  
182 actually envisioning excavating down about six inches to take things down. We  
183 can do that with our grading and our landscaping. We'll just take this down just a  
184 nip. Again, we want you to see the house and the beautiful project and we don't  
185 want people really focusing on our little front enclave there.

186  
187 That is really what the panels are going to look like; however, I had purposely put  
188 them higher than the vegetation just so you can get a feel. Those panels are  
189 going to be sitting flatter than that, but in the Photoshop process I can only get  
190 them but so flat. When you go by, you're going to kind of see the bushes. You  
191 may see a little bit of them, but you're going to have to look hard to do it. This is  
192 just another concept. I just wanted to kind of give you a feel for what some folks  
193 are doing with panels. And if you can imagine vegetation around that, you're not  
194 going to see those and they're going to blend in in a nice way.

195  
196 Our concept will be in this format with vegetation around it. Just to the right of the  
197 panels there is a giant stoplight post and a big box. That's out of my setback, but  
198 let me chitchat with somebody and see if we can't vegetate that a little bit just to  
199 kind of soften it up. This house is on 33; it's high profile and we want it to look  
200 really sharp. That's the goal.

201  
202 We talked about the technical aspects. I'm hoping, again, we can promote these  
203 strategies. We really want to work in a team fashion on this particular project with  
204 the County because we certainly understand that every house that is constructed  
205 out there we want to look good, look cool, look sharp. That's our mission. We  
206 hope that you'll approve the plan.

207  
208 I'd like to open up for any questions or comments.

209  
210 Ms. Harris - How far is this project from the last case that you  
211 presented to us with the solar panels?

212  
213 Mr. Joyce - It's approximately a quarter of a mile. It would be the  
214 next stoplight down. I guess it's north on Staples Mill.

215  
216 Ms. Harris - The panels that we saw before, did it not have a  
217 radius that they could cover?

218

219 Mr. Joyce - Yes. That's actually the most optimal way to do it, but  
220 these panels on this job are not moving. They are fixed, low on the ground,  
221 actually on the ground. This is a little different concept. On this job they're fixed  
222 on the ground and we're actually having more panels because you lose about  
223 40% production when you don't follow the sun like we did on the other project.  
224

225 Ms. Harris - My concern, even with that other case, was that it  
226 occupies a lot of air space. It kind of blocks the vision. I see you got around it  
227 here, but I thought that that was supposed to cover maybe blocks so if the other  
228 person's panels use the same solar power they would have access to that.  
229

230 Mr. Joyce - It does. When I'm not using the power, it kind of  
231 bleeds to the stoplight and to my neighbor. However, that panel is only enough  
232 power for that particular house. If we're going to do a solar concept we would  
233 need these additional panels for this house.  
234

235 Ms. Harris - What I'm concerned about is suppose two neighbors  
236 down the street want the same thing. We setting a precedent here of blocking air  
237 space.  
238

239 Mr. Joyce - I certainly understand that. Remember, these are  
240 going to be tight, tight, tight to the ground. They're not on a pole. We're really  
241 more of a landscape approach on this one. And this was in a more residential  
242 neighborhood. I would rather have it on a pole, but on this one—the other job we  
243 were in that heavy commercial area, there were already five other poles in the  
244 yard. We really wanted to maximize production over there. After having all the  
245 discussion I wasn't coming back in and asking for another pole. So we've gone  
246 back and really re-thought our concept with going on the ground.  
247

248 Every one of these projects is a little bit different. I think we talked before about  
249 that my feeling was we need to look at every project when we go out of the  
250 acceptable areas and judge them. My fault would be if my neighbor wanted to do  
251 it, we would ask them to do it this same way. I think this is going to be a very  
252 good approach. We're not in the air. Let me walk out here and kinda of just—  
253 [blank section; off microphone] [0:16:04]\*. I've already been given that two-foot  
254 six-inch maximum elevation of my vegetation and my panels from the curb  
255 height. The lot is already kind of doing this number, so we have a spot we can  
256 landscape in.  
257

258 Ms. Harris - What's the width?

259  
260 Mr. Joyce - The width of the area? Well, they're actually kind of  
261 going in a little triangle. Ben, do you have the—  
262

263 Mr. Blankinship - The plan is in your packets.  
264

265 Ms. Harris - I was just trying to see the footage. We know the  
266 height. Would there be a need for a neighbor to get this same installation if they  
267 wanted the green power or could they pull from the resources of this particular  
268 site?

269  
270 Mr. Joyce - No. They would have to do their own individual set of  
271 power. My next three neighbors, they could all do theirs in the backyard; they're  
272 golden. Their houses are farther out. This one is a little bit complicated because  
273 it was moved way to the back of the lot. When they widened Staples Mill, they  
274 literally picked this house up and—I did not know that when I bought it, but some  
275 of the neighbors confirmed the fact that the house was moved back.

276  
277 Mr. Blankinship - Yes. We couldn't figure that out at first because the  
278 date the house was built was before the date that Staples Mill Road was put  
279 there and yet the house was clearly put where it was to allow for the widening of  
280 the road.

281  
282 Mr. Joyce - We couldn't either. The house had a really good set  
283 of bones under it. You know, the foundation was good and the footings were  
284 good. It was better than a 1942 foundation. Finally some neighbor came by and  
285 told us, "Oh yes, they moved that house when they widened the road."

286  
287 Mr. Witte - Mr. Joyce, looking at this configuration, would it be  
288 feasible to move it to the side yard instead of the very front yard?

289  
290 Mr. Joyce - It seems when we start moving it back we get shaded  
291 from the trees. If you could pull up—see how the trees are shadowing the back  
292 and side yard? If you look at the tree in the front, I've trimmed him way, way  
293 back. But you see you have a bank of trees all the way across the back. If I start  
294 moving it back, we shade the panels. I would certainly prefer to have it back, but  
295 we're doing a little garden in front of it so I think we have it pretty well disguised.

296  
297 Ms. Harris - Were you able to sell the other house?

298  
299 Mr. Joyce - We are working on that. We're not aggressively  
300 marketing that one. We're aggressively marketing this particular property. As a  
301 matter of fact, we had a big green real estate tour on these two, as well as the  
302 Augusta project in Richmond, which is another LEED Platinum green home. We  
303 are aggressively promoting these projects, but as you know, the housing market  
304 is not as vibrant as I'd like it to be.

305  
306 Ms. Harris - Any other questions from Board members? All right,  
307 we thank you for coming.

308  
309 Mr. Joyce - Thank you.

310

311 Mr. Blankinship - Madam Chairman, since another person has  
312 attended, we should probably call and see.

313  
314 Ms. Harris - Is there anyone else who wishes to speak to this  
315 case? That concludes the case. Are we ready to vote? Is there a motion?

316  
317 Mr. Bruce - I move to approve.

318  
319 Mr. Witte - I'll second that.

320  
321 Ms. Harris - Motion by Mr. Bruce, seconded by Mr. Witte that we  
322 approve the case. Are there any questions on this motion?

323  
324 Mr. Witte- I would like to say that I don't think this affects the  
325 health, safety, or welfare of any of the citizens. As long as they meet the height  
326 requirements I don't think it'll be an issue for traffic. I think it's a very isolated  
327 incident because of the house being moved. I don't see where it's going to affect  
328 anybody else in the neighborhood.

329  
330 Ms. Harris - Any more comments? I did go by to see the other  
331 house because I really wanted to get a feel for the green concept. It's a very  
332 attractive house. Maybe this is a wave of the future. I imagine the panels are  
333 going to get smaller and smaller as we progress into this green power concept.

334  
335 Are we ready to vote? All in favor say aye. All opposed say no. The ayes have it;  
336 the motion passes.

337  
338 After an advertised public hearing and on a motion by Mr. Bruce, seconded by  
339 Mr. Witte, the Board **approved** application **UP-024-10 (CUP2010-00024), Hugh**  
340 **A. Joyce's** request for a conditional use permit pursuant to Section 24-95(i)(4) of  
341 the County Code to allow solar panels in the front yard at 8201 Hungary Road  
342 (Laurel Heights) (Parcel 767-759-1185), zoned R-2, One-Family Residence  
343 District (Brookland). The Board approved the use permit subject to the following  
344 conditions:

345  
346 1. Only the solar panels shown on the plot plan filed with the application may be  
347 constructed pursuant to this approval. Any additional improvements shall comply  
348 with the applicable regulations of the County Code. Any substantial changes or  
349 additions to the design or location of the improvements will require a new use  
350 permit.

351  
352 2. The solar panels shall be set back at least three feet from the right-of-way of  
353 Staples Mill Road.

354



355 3. The owner shall maintain the front yard such that no structure, landscape  
356 planting, sign, or any other object obstructs vision between a height of two feet,  
357 six inches and a height of eight feet above the established curb grade.

358

359

360 Affirmative: Harris, Witte, Bruce, Nunnally 4

361 Negative: 0

362 Absent: Wright 1

363

364

365 Ms. Harris - Let's look at the minutes. Are there any corrections to  
366 the minutes from December 16, 2010?

367

368 Ms. Harris - On page 40 I have a correction. Line 1795. "To go  
369 without taking a break." I don't know. I think I have "to continue," and the word  
370 "partly" probably needs to be deleted.

371

372 Mr. Blankinship - Which word?

373

374 Ms. Harris - Delete the word "partly," p-a-r-t-l-y, and insert the  
375 word "to" before the word "continue." I was speaking to the Board members  
376 because of the weather at the last meeting. Any more corrections? A motion is  
377 in order that we accept these minutes.

378

379 Mr. Witte - I make a motion that we accept them.

380

381 Ms. Harris - Is there a second?

382

383 Mr. Bruce - I second.

384

385 Ms. Harris - Moved by Mr. Witte and seconded by Mr. Bruce that  
386 the minutes be accepted. Any questions on the minutes? All in favor say aye. All  
387 opposed say no. The ayes have it; the motion passes.

388

389 On a motion by Mr. Witte, second by Mr. Bruce, the Board **approved as**  
390 **corrected** the **Minutes of the December 16, 2010** Henrico County Board of  
391 Zoning Appeals meeting.

392

393 Affirmative: Harris, Witte, Bruce, Nunnally 4

394 Negative: 0

395 Absent: Wright 1

396

397 Ms. Harris - Do we have any announcements?

398

399 Mr. Blankinship - Yes. Madam Chairman, I have two things I would like  
400 to discuss. First, I left on your table in front of you a copy of the pleading filed by

401 the East End Landfill. They have appealed your denial of their use permit to  
402 deposit coal ash at the landfill there. No one is surprised by that. The State  
403 Code has changed so you'll see that the appeal is styled differently from the way  
404 they used to be. It used to look like a lawsuit. It was the applicant versus the  
405 BZA. They changed that because that's really not what's going on. So now it's in  
406 regards to your decision. But the suit is really between the applicant and the  
407 County. So the County Manager has authorized the County Attorney to represent  
408 the County in this matter defending and upholding the Board's decision. Of  
409 course the Board doesn't need to be present and doesn't need to be represented  
410 by council directly. I will let you know when the court date gets set.

411  
412 The other thing is we are continuing to advance our computer technology and we  
413 have a County-wide tracking system called Tidemark that tracks building permits  
414 and plans of development in all different kinds of cases. Beginning next month  
415 we're going to begin tracking Board of Zoning Appeals cases. The impact that's  
416 going to have on you is the new case number, which you've already noticed. It  
417 just changed the format of your case number. At the same time that we're  
418 making those changes, we're also going to make some changes to the format of  
419 the staff report. It will be all the same words in all the same order, but the fonts  
420 will be different and things will be justified differently in order to make them more  
421 consistent with the other reports issued by the County. So you'll see a couple of  
422 small changes in your staff report. If you have any questions or any comments  
423 about that feel free to—

424  
425 Mr. Witte - Will tracking the cases make it easier for us to find  
426 specific areas that are more acceptable to zoning appeal cases?

427  
428 Mr. Blankinship - I'm not sure I understand your question.

429  
430 Mr. Witte - Will there be some type of chart or map that will say  
431 these cases are in this area and we don't have any in this area so that possibly  
432 the Board of Supervisors can make a decision on how these variances can  
433 maybe be satisfied prior to getting here by making Board changes?

434  
435 Mr. Blankinship - Yes, it would allow us to do a little bit more in that  
436 area. We do some of that now, but it would allow us to do a little bit more.

437  
438 Mr. Witte - I know areas like Highland Springs with the lot sizes  
439 are hot areas.

440  
441 Mr. Blankinship - Right, right.

442  
443 Mr. Witte - Haven't seen many down in the Tuckahoe area.

444  
445 Mr. Blankinship - Yes, it would give us a little bit more reporting power.

446

447 Mr. Witte - Excellent.  
 448  
 449 Mr. Blankinship - That's all I have, Madam Chairman.  
 450  
 451 Ms. Harris - Thank you. Any more business before this body this  
 452 morning?  
 453  
 454 Mr. Witte - Motion we adjourn.  
 455  
 456 Mr. Bruce - Second.  
 457  
 458 Ms. Harris - Motion by Mr. Witte, second by Mr. Bruce that we  
 459 adjourn the meeting. All in favor say aye. All opposed say no. The ayes have it;  
 460 the meeting is adjourned.  
 461  
 462 Affirmative: Harris, Witte, Bruce, Nunnally 4  
 463 Negative: 0  
 464 Absent: Wright 1  
 465  
 466 *Helen E. Harris*  
 467 Helen E. Harris  
 468 Chairman  
 469  
 470  
 471 *BW Blankinship*  
 472 Benjamin Blankinship, AICP  
 473 Secretary  
 474  
 475  
 476  
 477